

Completed acquisition by Global Radio Services Limited of Semper Veritas Holding S.à.r.l.

Decision on relevant merger situation and substantial lessening of competition

ME/6786/18

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

SUMMARY

1. On 15 November 2018, Global Radio Services Limited, a subsidiary of Global Media & Entertainment Limited (**Global**), acquired Semper Veritas Holding S.à.r.l., the holding company of Exterion Media (**Exterion**) (the **Merger**). Global and Exterion are together referred to as the Parties.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Global and Exterion is an enterprise; that these enterprises have ceased to be distinct as a result of the Merger; and that the turnover test is met. The four-month period for a decision, as extended, has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in out-of-home (**OOH**) advertising in the UK. Global is active in OOH advertising via two OOH advertising providers that it acquired in 2018, namely Primesight and Outdoor Plus. For the purpose of its assessment, the CMA has adopted the procurement of OOH advertising sites and the supply of OOH advertising as the appropriate product frames of reference (but has taken account of non-OOH advertising media as an out-of-market constraint in the supply of OOH advertising where appropriate).
4. The Parties both supply OOH advertising on a national basis across the UK. The CMA believes that for certain campaigns there may be limited substitutability from a geographic perspective and there may exist local or

regional geographic frames of reference for the supply of OOH advertising. In this regard, the Parties have estimated that London accounts for approximately 50% of all OOH advertising spend in the UK. The CMA has also received submissions from third parties indicating that the London audience is unique because it consumes less television and other broadcast media than non-London audiences, and that OOH advertising in London is considered essential for some campaigns. As such, the CMA has used both the UK and London as geographic frames of reference for the purposes of its assessment in relation to the supply of OOH advertising. With regard to the procurement of OOH advertising sites, the CMA believes that conditions of competition for London OOH advertising sites are very similar to those at the national level and has not used London as a separate geographic frame of reference.

5. The CMA has assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition (**SLC**) in relation to horizontal unilateral effects arising on a national basis and/or in London as a result of:
 - (a) the loss of direct competition in the procurement of OOH advertising sites;
 - (b) the loss of direct competition in the supply of OOH advertising;
 - (c) the foreclosure of OOH competitors through bundling/tying Exterior's OOH products with Primesight and Outdoor Plus's OOH products; and
 - (d) the loss of competition arising from the combination of the Parties' datasets.
6. The CMA has also assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC due to conglomerate effects arising as a result of the foreclosure of OOH competitors through bundling/tying Global's radio advertising products with Exterior's OOH products.
7. Regarding the loss of direct competition in the procurement of OOH advertising sites in the UK, the CMA has found that the Parties are not close competitors for the procurement of OOH advertising sites, in particular because they are focused on procuring different types of sites (and therefore there is little evidence of head-to-head competition between them in practice). In addition, the Parties are each constrained by other providers of OOH advertising, in particular JCDecaux and Clear Channel, which are consistently identified as the Parties' most significant competitors in their internal documents and by third parties.

8. Regarding the loss of direct competition in the supply of OOH advertising in both London and the UK, the CMA notes that the Parties' propositions are differentiated (on the basis of format and environment) and that the available evidence indicates that the Parties are not particularly close competitors in practice. Both Parties tend to compete more closely with JCDecaux and Clear Channel, with smaller competitors (such as Ocean Outdoor) also exercising a competitive constraint for certain advertising campaigns. The CMA also believes that the Parties will be constrained, at least to some extent, by the ability of customers to move advertising spend into non-OOH media. Lastly, the CMA believes that the structure of demand within OOH advertising (in particular, the role of specialist buyers and their tendency to multi-source from more than one OOH advertising provider) facilitates the ability of customers to switch demand to alternative OOH advertising providers.
9. Regarding the foreclosure of OOH competitors in London or the UK through bundling/tying Exterior's OOH products, in particular its tube car panel advertising,¹ with Primesight and Outdoor Plus's OOH products, the CMA has found that the merged entity would not have the ability to foreclose competitors. In particular, the CMA believes that: (i) there is limited evidence of complementarity between tube car panels and other OOH advertising; (ii) there is limited evidence of significant customer preferences for one-stop shopping; and (iii) as tube car panels only play an important role in certain campaigns and represent a small proportion of total OOH advertising spend, they do not enable the Parties to foreclose OOH competitors through bundling or tying.
10. The CMA has also considered whether there could be any loss of competition in the supply of OOH advertising as a result of the combination of key datasets held by Exterior, Primesight and Outdoor Plus. However, the CMA has found that no competition concerns arise as only Exterior has access to data which is not commercially available to third parties and so the Merger does not lead to any additional concentration of proprietary data.
11. Lastly, the CMA has considered whether the Merger could give rise to conglomerate effects. Specifically, the CMA has considered whether the Parties could engage in a bundling/tying strategy (between Global's radio advertising products and Exterior's OOH products) that would lead to the foreclosure of OOH competitors. However, the CMA believes that the Parties do not have the ability to foreclose OOH competitors on this basis. In particular, the CMA believes that: (i) there is limited complementarity between

¹ The CMA has considered tube car panels specifically in light of evidence which indicated that tube car panels may be a unique product that, for some advertising campaigns at least, is important and/or difficult to substitute.

Global's radio advertising and Exterior's OOH products; and (ii) customer preferences for one-stop shopping are not such as to give the Parties the ability to foreclose OOH competitors, especially because a large proportion of customers use a separate channel (the specialists) for the purchase of OOH advertising.

12. The CMA believes that the constraints set out above, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of an SLC on the basis of horizontal or conglomerate effects.
13. The Merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

14. Global, headquartered in London, is a UK media and entertainment group. Global operates eight main commercial radio brands in the UK and has an international festivals management business [X]. Global is also active in the supply of OOH advertising, following the acquisition of Outdoor Plus and Primesight in August and September 2018 respectively. The turnover of Global in the year ending 31 March 2018 was approximately £[X] worldwide and approximately £[X] in the UK.²
15. Exterior is headquartered in London, though the registered office of its holding company, Semper Veritas Holding S.à.r.l., is in Luxembourg. Exterior is a European supplier of OOH advertising. Exterior is active in France, the Netherlands, the Republic of Ireland, Spain and the UK. The turnover of Exterior in 2017 was approximately £[X] worldwide and approximately £[X] in the UK.

Transaction

16. Global agreed to acquire Exterior pursuant to a share purchase agreement dated 2 November 2018 for approximately £[X]. The Merger was completed on 15 November 2018.

² Global's turnover in the year ending 31 March 2018 does not include Outdoor Plus or Primesight. The turnover of Outdoor Plus in 2017 was approximately £[X] in the UK and the turnover of Primesight in 2017 was approximately £[X] in the UK. Neither Outdoor Plus nor Primesight had any turnover outside the UK.

17. Global submitted that its experience in the management and sale of radio advertising is transferable to OOH advertising. In particular, Global submitted that its strategy in OOH advertising is [REDACTED].
18. As noted above, Global's diversification into OOH advertising began with the acquisitions of Outdoor Plus and Primesight in August and September 2018. Global submitted that a fringe benefit from diversification into OOH via Outdoor Plus and Primesight is the opportunity to offer a dual OOH and radio advertising platform proposition to advertisers.
19. Global submitted that Exterior's national footprint and focus on developing its digital and data capabilities means that it is complementary to Primesight and Outdoor Plus and a good fit with Global's strategy for OOH advertising [REDACTED].
20. Global's submission on the rationale for its diversification into OOH advertising is supported by Global's internal documents.³

Procedure

21. The Merger was considered at a Case Review Meeting.⁴

Jurisdiction

22. Each of Global and Exterior is an enterprise. As a result of the Merger, these enterprises have ceased to be distinct.
23. The UK turnover of Exterior exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied.
24. The Merger completed on 15 November 2018 and the CMA was informed on the same day that completion had taken place. The four-month deadline for a decision under section 24 of the Act is 1 May 2019, following extension under section 25(2) of the Act.
25. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
26. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 20 February 2019 and the statutory 40 working day deadline for a decision is therefore 16 April 2019.

³ eg Appendix 21 and Appendix 22 to the Parties' Merger Notice.

⁴ See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, from paragraph 7.34.

Counterfactual

27. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers, the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.⁵
28. In this case, there is no evidence supporting a different counterfactual, and Global and third parties have not put forward arguments suggesting an alternative counterfactual. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

Background

29. OOH advertising is also known as outdoor advertising (the terminology used in previous decisions in this sector and in the 2011 outdoor advertising market study undertaken by the Office of Fair Trading (**OFT**) (the **OFT 2011 Market Study**)).⁶ UK OOH advertising spend in 2017 was estimated at approximately £1.1bn, which accounted for approximately 6% of all advertising spend in the UK. While television and print advertising has declined in recent years, OOH advertising has had a compound annual growth rate of approximately 3% and OOH advertising as a proportion of total advertising spend in the UK has remained relatively stable.⁷

OOH advertising formats and environments

30. OOH advertising is available in a wide variety of contexts, eg roadside billboards, bus shelters, phone kiosks, railway stations, trains, buses, taxis, airports, supermarkets, shopping malls, cinemas, iconic locations (eg the Waterloo IMAX) and many other locations.

⁵ *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

⁶ https://webarchive.nationalarchives.gov.uk/20140402184832/http://oft.gov.uk/shared_oft/market-studies/oft1304.pdf

⁷ Appendix 22 to the Parties' Merger Notice, page 4.

31. The CMA's investigation has found that four main dimensions are important in OOH advertising and different combinations of these dimensions may be appropriate for different advertising campaigns:⁸
- (a) environment (eg roadside, transport and retail);
 - (b) format (typically categorised by the size of the advertising – eg 6-sheet, 12-sheet, 16-sheet, 48-sheet, 96-sheet, but also phone kiosks, banners, tube car panels, escalator panels, bus t-sides and supersides, wrapped buses, etc);
 - (c) location (eg region, city, proximity to a specific shop or restaurant); and
 - (d) technology (ie digital or non-digital (**classic**); some digital OOH advertising sites are also able to display full motion advertising).

OOH supply chain

32. The OOH advertising supply chain includes a number of different industry participants. Most OOH advertising sites are owned by landlords known as **site owners** (eg local authorities, transport authorities, supermarkets, shopping malls, airports, cinemas and other private landowners, or public bodies).⁹
33. Site owners lease the space to **OOH media owners** such as the Parties.¹⁰ Media owners compete both for the acquisition of the right to use sites and for the sale of OOH advertising space.
34. **Advertisers** seeking to run an advertising campaign often engage **media agencies** to assist with formulating the campaign and to advise on the best combination of advertising media to use (eg OOH, television, newsprint, radio, online etc). If it is decided that OOH advertising will be used, media agencies typically engage OOH **specialists**: (i) to advise on the most appropriate OOH advertising format(s), environment(s) and location(s) for the campaign (in

⁸ See paragraphs 3.20 to 3.22 of the OFT 2011 Market Study.

⁹ Based on findings in the OFT 2011 Market Study, the Parties submitted that less than 20% of OOH advertising sites are owned outright by OOH media owners (rather than leased from site owners).

¹⁰ In some cases, the OOH media owner owns the advertising display asset situated on the site owner's land (eg the bus shelter) and is responsible for its installation and upkeep, while in others the display asset is the property of the site owner and the media owner is responsible only for the selling and marketing of the advertising space.

addition to whether digital and/or classic advertising panels should be used) and; (ii) to purchase the OOH advertising.

Sale of OOH advertising

35. The price of OOH advertising is determined on a campaign-by-campaign basis. The price of a particular campaign depends on a number of different factors, including the format and environment to be used, the location of the panels, whether the panels are digital or classic, the duration and timing of the campaign, and supply and demand dynamics (eg campaigns in the run up to Christmas are likely to be more expensive as there is a higher demand for advertising).
36. Media agencies and specialists receive commission from OOH media owners for each campaign and this commission is a percentage of the amount paid by the advertiser. In addition to this commission, specialists also receive volume rebates from OOH media owners which are based on reaching specific agreed volume thresholds. These volume rebates are agreed between specialists and OOH media owners on an annual basis and are applicable across all OOH advertising spend generated by a specialist in the relevant period (ie by reference to all advertisers and their campaigns).
37. The OFT 2011 Market Study found that a small group of specialists accounted for 85% of OOH advertising spend in the UK and the Parties submitted that the position is similar today (with four specialists accounting for between 70 – 90% of the Parties' respective OOH advertising revenues). The remainder of OOH advertising revenues are generated by a small proportion of advertisers and media agencies that choose to purchase OOH advertising directly from OOH media owners without going through a specialist.

Other OOH media owners

38. In addition to the Parties, the following companies are active in the supply of OOH advertising in the UK.

JCDecaux

39. JCDecaux is active across the UK in each of the three main OOH environments, ie transport (including rail and airports), roadside (focusing in particular on billboards and street furniture) and retail (including malls and supermarkets). JCDecaux offers a wide range of digital and classic OOH advertising formats, from small format sites (eg bus shelters) to large format digital panels. JCDecaux holds several significant franchise contracts for OOH advertising sites, including the Network Rail Managed Stations contract

(which covers OOH advertising within the rail stations managed by Network Rail) and the TfL bus shelter contract in London.

Clear Channel

40. Clear Channel is active across the UK in the retail and roadside environments and offers both digital and classic formats. For example, with regard to retail, Clear Channel holds the contracts for OOH advertising on a national level at certain supermarket chains. With regard to roadside, Clear Channel has (inter alia) a national network of roadside 6-sheet panels, in addition to a national roadside billboard offering. In 2013, Clear Channel launched 'Storm', a brand which focuses on large format digital panels in London, Glasgow, Leeds, Liverpool and Manchester.¹¹

Ocean Outdoor

41. Ocean Outdoor is focused in particular on large format digital panels and operates a number of panels in iconic locations (for example, the Waterloo IMAX and the Piccadilly Lights in London). Ocean Outdoor also holds the contracts for exterior digital OOH advertising panels at the Westfield shopping centres. In addition to London, Ocean Outdoor is present in a number of other cities across the UK (eg Edinburgh, Birmingham, Manchester).¹² In 2018, Ocean Outdoor acquired Forrest Media, an OOH media owner focused on digital OOH advertising in Scotland.

8 Outdoor

42. 8 Outdoor entered the UK OOH advertising sector in September 2015 and is focused on digital roadside 48-sheets and large format digital panels. 8 Outdoor is active in London and other cities across the UK (eg Birmingham, Manchester, Liverpool).¹³ 8 Outdoor is owned by SIS Digital, a supplier of digital OOH advertising panels.

¹¹ <https://www.clearchannel.co.uk/our-products/storm/>

¹² <https://oceanoutdoor.com/locations/>

¹³ <https://www.8outdoor.com/>

Other OOH media owners

43. In addition to the OOH media owners listed above, there are a variety of other OOH media owners active in the UK, many of which have particular specialisms within the OOH advertising sector. For example:
- (a) companies such as Verifone and Ubiquitous offer OOH advertising on taxis;
 - (b) BlowUp Media offers giant posters (ie panels that are much larger than standard large format billboards);
 - (c) City Outdoor offers large format digital panels;
 - (d) KBH offers in-train advertising; and
 - (e) Adverta offers OOH advertising on buses.

Frame of reference

44. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.¹⁴

Product scope

OOH advertising

45. The Parties overlap in OOH advertising. Within OOH advertising, competition takes place: (i) for the supply of OOH advertising to advertisers (whether directly or indirectly, eg through specialists); and (ii) for the procurement of OOH advertising sites. For the purpose of its assessment, the CMA has considered upstream procurement and downstream supply within separate frames of reference.

¹⁴ [Merger Assessment Guidelines](#), paragraph 5.2.2.

46. Global is active in OOH advertising through its recent acquisitions of Primesight and Outdoor Plus.
- (a) Primesight is primarily present in large format roadside advertising across the UK and the majority of its frames are classic (ie non-digital). In addition to large format panels, Primesight also offers smaller roadside formats, specifically 6-sheet panels (classic and digital), phone kiosks (classic) and advertising on 'InLink' structures (digital). Primesight is also present in the transport environment (specifically in airports) and the retail environment (specifically in cinemas). Approximately [X] of Primesight's revenue is generated in London.
- (b) Outdoor Plus is similarly primarily present in roadside advertising though its roadside presence is limited to London. The majority of Outdoor Plus's roadside revenue comes from its large format digital panels in iconic locations. Outdoor Plus is also present in the retail environment as it provides OOH advertising in seven shopping malls across the UK.
47. Exterior is primarily present in the transport environment and OOH advertising on the London Underground accounts for the majority of its revenues. Within transport, Exterior is also present in buses and rail across the UK. Exterior also has a limited presence in the roadside environment (through [X] roadside panels) and the retail environment (Exterior has [X] digital panels in London designer outlet shopping malls and, until October 2018, was the provider of OOH advertising in the Westfield shopping malls). Over [X] of Exterior's revenue is generated within London.

Segmentation within OOH advertising

48. Global submitted, in relation to the supply of OOH advertising, that the narrowest candidate frame of reference is OOH advertising and that a narrower product frame of reference by environment, format or technology (ie digital or classic) would be arbitrary. In support of this proposition, Global cited a previous statement by the OFT in the 2010 *JCDecaux/Titan* decision that the 'boundaries of any candidate market delineation within outdoor advertising appear somewhat blurred'.¹⁵ In that decision, the OFT considered a number of different candidate frames of reference in its competitive assessment, ranging

¹⁵ OFT Decision ME/4470/10 *Completed acquisition by J C Decaux UK Limited of Titan Outdoor Advertising Limited*, paragraph 22.

from supermarket 6-sheets (as the narrowest possible delineation) to all OOH advertising (as the widest).

49. In this investigation, evidence from the Parties' customers and competitors consistently indicated that OOH advertising campaigns are frequently bought on the basis of targeting specific audience groups.¹⁶ For instance, the brief for an OOH advertising campaign could be to target (as illustrative examples): teenage girls, commuters, or men falling within certain demographic classifications (eg ABC1). This target audience will inform which combination of OOH environment, format and technology is most appropriate.
50. Many customers told the CMA that the relevant target audience for a campaign can often be delivered using a number of different environment, format and/or technology combinations. For example, campaigns that advertise on the sides of buses (classified as a transport environment) are capable of reaching the same audience as campaigns that advertise on bus shelters (classified as a roadside environment).
51. However, customers also consistently informed the CMA that certain advertising campaigns may need to use specific OOH formats, environments and/or technology which cannot easily be substituted with other types of OOH advertising. Customers indicated that the nature of any specific 'must have' OOH advertising sites will vary from campaign to campaign: for example, for some advertisers it is very important to have their adverts displayed on iconic OOH advertising panels (such as the Waterloo IMAX) while others may require specific environments or formats. As described below in paragraphs 165 and 166, some customers identified the London Underground (and, in particular, tube car panels) as a type of OOH advertising that cannot easily be substituted with other OOH advertising sites.
52. However, absent such requirements (which are highly specific to individual campaigns), customers in general felt that there is a significant degree of substitutability within OOH advertising as a whole, with some specialists noting for example that 'almost everything is substitutable' and 'nothing is a must have'.
53. Based on all the evidence that the CMA has received regarding the degree of substitutability for advertisers within OOH advertising, the CMA has, on balance, assessed the effects of the Merger using OOH advertising as the relevant frame of reference. However, the CMA has left open the question of whether there may exist narrower candidate frames of reference within OOH advertising, given that the evidence from customers indicates that particular

¹⁶ This can also be seen in the Parties' internal documents, [REDACTED].

types of OOH advertising may be less substitutable with other types of OOH advertising, in certain circumstances.

54. In relation to the procurement of OOH advertising sites, OOH media owners are in general able to compete for sites regardless of their environment, format and technology, although the experience and business focus of each OOH media owner may influence the sites for which each of them decides to tender.
55. In any event, it was not necessary for the CMA to reach a conclusion on the precise product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Wider product frame of reference beyond OOH advertising

56. The CMA has also considered whether the product frame of reference for the supply of OOH advertising should be widened to include other types of advertising (eg television, radio, newsprint, online).
57. Some OOH media owners told the CMA that the relevant frame of reference should encompass other types of advertising media. A specialist also indicated that OOH advertising itself is substitutable with other types of advertising media and some advertisers/media agencies told the CMA that they would consider replacing OOH advertising with other advertising media in the event of a post-Merger price increase. However, the evidence provided in this regard was limited and the Parties' internal documents indicate that different types of advertising media play different roles within an advertising campaign (and therefore should generally be characterised as being complementary in nature). For example, [redacted].¹⁷
58. The CMA therefore believes that OOH advertising is sufficiently distinct from other types of advertising to constitute a separate product frame of reference for the purposes of its assessment of the Merger. The CMA has considered the extent of any constraint exercised by non-OOH advertising media where appropriate in its competitive assessment.

Geographic scope

59. The Parties submitted that the relevant frame of reference is national in scope, noting that the conditions of competition are materially the same at a national or sub-national level. The Parties also submitted that, at most, a

¹⁷ Appendix 80 to the Parties' Merger Notice, pages 19 – 20.

London/non-London distinction could be helpful, given that Exterior's presence in London includes the London Underground.

60. In relation to the supply of OOH advertising, the Parties both operate at a national level and evidence from specialists and media agencies indicates that the majority of their OOH spend relates to national advertising campaigns.¹⁸ However, the same evidence also indicates that the majority of advertising campaigns (ie by number) are either single- or multi-region campaigns.¹⁹
61. In the course of the CMA's investigation, a large number of third parties identified London as a distinct geographic area in which the Parties hold a large proportion of the OOH advertising inventory. One customer noted that the London audience is 'unique,' as it consumes less TV and other broadcast media, meaning that OOH advertising plays a more important role in London than elsewhere in the UK (and so substituting OOH advertising with other media is more challenging). A small number of third parties also noted that London is a 'must have', or important, location for OOH advertising.
62. As noted above, the Parties estimate that London accounts for approximately 50% of all OOH advertising spend in the UK. Given the commercial importance of the London audience, third party evidence regarding the significance of the Parties' OOH assets in London, and the fact that the Parties' combined share²⁰ of OOH advertising is greatest in London, the CMA has considered the impact of the Merger within a separate frame of reference in relation to London.
63. In addition, given that much of OOH advertising spend relates to national campaigns and the interaction between OOH media owners and customers (for example, in relation to rebates) relates to national spend, the CMA has also considered the impact of the Merger in the UK as a whole.
64. With regard to the procurement of OOH advertising sites, the Parties and their main competitors compete for site contracts across the UK, although there are a limited number of smaller OOH media owners that are more regionally focused. For the purpose of its assessment of a potential loss of direct competition in the procurement of OOH advertising sites, the CMA has considered the impact of the Merger on a national basis only and it has not considered London as a separate frame of reference. This is on the basis that

¹⁸ Ie campaigns which cover 8 or more UK television regions.

¹⁹ The evidence received from advertisers was more mixed but the CMA believes that data from specialists is more representative as specialists work for a number of different advertisers and account for the vast majority of OOH advertising spend in the UK.

²⁰ See Table 1 below.

the evidence indicates that the conditions of competition for London OOH advertising sites are very similar to those at the national level. Furthermore, in the competitive assessment, the CMA took into account the particular competitive dynamics relating to specific site tenders, where appropriate.

65. The CMA has left open the question of whether there may be further relevant local or regional frames of reference (other than London) within OOH advertising. It was not necessary for the CMA to reach a conclusion on the precise geographic frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Conclusion on frame of reference

66. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:
- (a) the procurement of OOH advertising sites in the UK;
 - (b) the supply of OOH advertising in London; and
 - (c) the supply of OOH advertising in the UK.

Related frame of reference: commercial radio advertising

67. Global operates a commercial radio business which provides radio advertising services. Although the Parties do not overlap in the supply of radio advertising, the CMA has assessed whether the Merger gives rise to conglomerate effects as a result of the presence of Global in these services (see paragraph 187 onwards below).
68. In line with previous decisional practice, the CMA has considered that the appropriate product frame of reference, for the purpose of the assessment of the conglomerate effects of this Merger, is the supply of commercial radio advertising both at national level and in London.

Competitive assessment

69. The CMA has assessed horizontal and conglomerate theories of harm.²¹
70. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the

²¹ The CMA has also considered whether the Merger may give rise to vertical theories of harm, in particular: (i) the foreclosure of OOH competitors as a result of Global ceasing to purchase OOH advertising from other

merged firm profitably to raise prices, or degrade quality, of its products; or reduce the prices paid to its suppliers. Such horizontal unilateral effects are more likely when the merging parties are close competitors. Horizontal unilateral effects are those resulting from the merging parties' own actions, which do not require coordination with rivals.

71. The CMA has assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to OOH advertising on a national basis and/or in London as a result of:
- (a) the loss of direct competition in the procurement of OOH advertising sites;
 - (b) the loss of direct competition in the supply of OOH advertising;
 - (c) the foreclosure of OOH competitors through bundling/tying Exterior's OOH products with Primesight and Outdoor Plus's OOH products; and
 - (d) the loss of competition arising from the combination of the Parties' datasets.
72. The CMA has also assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC due to conglomerate effects arising as a result of the foreclosure of OOH competitors through bundling/tying Global's radio advertising products with Exterior's OOH products.

Horizontal unilateral effects

Loss of direct competition in the procurement of OOH advertising sites

73. As explained above, OOH media owners procure OOH advertising sites from site owners. Some site owners select the media owner with which they wish to contract following a tender process, while other site owners engage in bilateral negotiations with OOH media owners. Tender processes are typically run by sophisticated site owners with high value contracts (some of which are

OOH media owners for its radio and festivals brands; and (ii) the foreclosure of radio competitors as a result of the merged entity refusing to supply OOH advertising to Global's radio competitors. The CMA believes that the Parties do not have the ability to foreclose competitors on either of these bases. Specifically, Global's spend on OOH advertising accounts for a negligible proportion of total OOH advertising spend in the UK (<1% according to the Parties' estimates) and radio competitors are able to advertise their brands using other OOH media owners and non-OOH advertising media. As such, the CMA has found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the supply of OOH advertising in London and the UK.

subject to public procurement regulations), though some landlords with smaller portfolios also run tender processes for their sites.

74. The CMA has assessed whether the Merger could lead to less competitive commercial terms being offered to site owners by the Parties and whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC on this basis.
75. In making this assessment, the CMA has considered evidence in relation to:
- (a) the closeness of competition between the Parties; and
 - (b) the competitive constraints provided by other OOH media owners.

Closeness of competition

- *Parties' submissions*

76. The Parties estimate that the top seven OOH advertising franchises in the UK²² account for approximately 35% of annual UK OOH advertising revenues and that a considerable proportion of contracts for OOH advertising sites are awarded by a tender process.²³ The Parties submitted that contracts for OOH advertising sites vary in length but are typically long-term (ie over 5 years).
77. The Parties submitted that they have not been close competitors in bidding processes and have only competed against each other in a limited number of tender processes. The Parties also submitted that Exterior, Primesight and Outdoor Plus are focused on acquiring sites in different environments.

- *Tender data*

78. The Parties provided the CMA with details of the tenders they have participated in since 1 January 2015. The CMA analysed this tender data, which indicates that the Parties have typically sought to acquire different types of advertising sites. Specifically, since 1 January 2015:
- (a) Exterior has bid for or expressed interest in [REDACTED];
 - (b) Primesight has bid for or expressed interest in [REDACTED]; and

²² [REDACTED].

²³ The Parties submitted that tendered contracts account for the majority of Primesight's and Exterior's revenues ([REDACTED]% for Primesight and [REDACTED]% for Exterior, of which [REDACTED]), and that Outdoor Plus estimates that 50% of landlords award their contracts using tender processes.

(c) all of the tenders [REDACTED].

79. The tender data also indicates that the Parties are not close competitors and have competed against each other in only a very limited number of tenders in recent years. Since 1 January 2015, the Parties (specifically Exterion and Primesight) have bid against each other [REDACTED] in:

(a) the Strathclyde Partnership for Transport (**SPT**) Glasgow Subway tender in 2017;²⁴ [REDACTED].

80. The data further indicates that, since 1 January 2015, there have been [REDACTED] instances in which one Party expressed an interest (but did not submit a bid) in a tender process in which the other Party submitted a bid:

[REDACTED].

81. While the Parties did not submit equivalent data relating to non-tendered sites, the CMA contacted a number of site owners identified as non-tender site owners by the Parties. These site owners did not identify any further instances in which the Parties have competed directly with each other for the procurement of OOH advertising sites.

- *Internal documents*

82. The Parties' internal documents do not indicate that they are close competitors for the procurement of OOH sites. [REDACTED].²⁵

83. Exterion's internal documents support the proposition that it is primarily interested in [REDACTED],²⁶ [REDACTED].²⁷ While Exterion and Primesight both bid for the SPT Glasgow Subway contract [REDACTED].²⁸

- *Third party views*

84. The site owners contacted during the course of the CMA's investigation included both site owners identified by the Parties as tender site owners and those identified as non-tender site owners.

²⁴ Only Primesight and Exterion submitted compliant responses to the invitation to tender for this contract. The scoring in this tender indicates that Primesight's bid was not ranked as a close second to Exterion and the contract was ultimately awarded to Exterion. Furthermore, other OOH media owners initially expressed interest in this tender and attended a site visit.

²⁵ Eg Appendix 45 to the Parties' Merger Notice, page 4.

²⁶ Eg Appendix 10 to the Parties' Merger Notice, page 58; [REDACTED].

²⁷ Appendix 42 to the Parties' Merger Notice, page 6.

²⁸ Appendix 117 to the Parties' Merger Notice, page 5.

85. More than half of the respondent site owners did not identify the Parties (specifically Exterior and Primesight) as within each other's top five competitors for the procurement of OOH advertising sites and only one site owner identified Exterior and Primesight as each other's closest competitors. No site owners identified Exterior and Outdoor Plus as within each other's top five competitors.
86. Several site owners also noted that the Parties have typically focused on acquiring sites in different environments, with Exterior focused on transport where Primesight is not active (save for its involvement in the Glasgow Subway tender and in airports).
87. A majority of competitors who responded to the CMA's investigation did not identify the Parties as among each other's top five competitors for the procurement of OOH advertising sites and no competitors identified the Parties as each other's closest competitors for the procurement of OOH advertising sites.

- *Conclusion on closeness of competition*

88. On the basis of the evidence set out above, the CMA believes that, while the Parties compete in the procurement of OOH advertising sites, they are not close competitors. In particular, the evidence indicates that the Parties are typically interested in procuring different types of sites, and that there have been very few instances of competition for the same tender.

Competitive constraints

- *Parties' submissions*

89. The Parties submitted that the merged entity will continue to compete for the procurement of OOH advertising sites against a wide competitor set, including established players (such as JCDecaux and Clear Channel) in addition to smaller players and new entrants.

- *Internal documents*

90. Exterior's internal documents indicate that Exterior considers JCDecaux to be its main competitor for the procurement of OOH advertising sites. For example:

- (a) a 2015 'Franchise' presentation sets out a 'competitive pipeline' of franchise contracts and JCDecaux is most frequently listed as the

incumbent supplier. Primesight is only listed once (in connection with the SPT Glasgow Subway contract) and Outdoor Plus is not listed at all.²⁹

(b) a 2016 document indicates that JCDecaux was considered to be Exterior's main competitor for the Network Rail Managed Stations contract as a result of its incumbent position. The document also noted that 'other large competitors such as Clear Channel are expected to bid', though Primesight is not mentioned.³⁰

(c) Exterior's 2019 budget refers only to JCDecaux in connection with retaining and winning franchise contracts, all of which are in the transport environment.³¹

91. Global's internal documents also indicate that Primesight competes with JCDecaux for the procurement of OOH advertising sites. For example, [REDACTED].³²

- *Third party views*

92. In response to the CMA's investigation, site owners most frequently identified JCDecaux as the closest competitor to each of Exterior, Primesight and Outdoor Plus for the procurement of OOH advertising sites. Clear Channel was also identified as among the Parties' top five competitors more frequently than the Parties were identified as among each other's top five competitors.

93. In addition, site owners identified a number of smaller OOH media owners as among one or more of the Parties' top five competitors for the procurement of OOH advertising sites. Ocean Outdoor in particular was cited by several site owners and identified as a competitor of each of Exterior, Primesight and Outdoor Plus. Similarly, 8 Outdoor was cited by a smaller number of site owners and identified as a competitor of Primesight and Outdoor Plus.

94. Competitors who responded to the CMA's investigation similarly most frequently identified JCDecaux and Clear Channel as the Parties' first or second closest competitors for the procurement of OOH advertising sites. Smaller competitors were also identified as among the Parties' top five competitors for the procurement of OOH advertising sites. For example, consistent with the site owner responses, Ocean Outdoor was identified as a competitor to each of Exterior, Primesight and Outdoor Plus, while 8 Outdoor was identified as a competitor of Primesight and Outdoor Plus.

²⁹ [REDACTED].

³⁰ Appendix 18 to the Parties' Merger Notice, page 129.

³¹ Appendix 10 to the Parties' Merger Notice, page 58.

³² [REDACTED].

- *CMA conclusion on competitive constraints*

95. On the basis of the evidence set out above, the CMA believes that each of the Parties faces constraints in the procurement of OOH advertising from other OOH media owners. In particular, the CMA believes that JCDecaux exercises a significant competitive constraint on the Parties and that the Parties are also constrained by competition from Clear Channel. The CMA believes these OOH media owners will continue to constrain the merged entity going forward with regard to the procurement of OOH advertising sites.
96. No site owners expressed concerns about the Merger, though one site owner expressed reservations about the fact that the Merger would reduce the number of potential bidders for its sites. In this regard, the CMA is aware of [redacted] in which the Parties (ie Exterior and Primesight) were the only bidders for an OOH advertising site contract. Further expressions of interest were received [redacted] and the CMA believes that there remain sufficient alternative OOH media owners other than the Parties who could submit a bid when the contract is next retendered.

Conclusion on loss of direct competition in the procurement of OOH advertising sites

97. For the reasons set out above, the CMA believes that:
- (a) the Parties are not close competitors in the procurement of OOH advertising sites. They typically seek to acquire different types of sites and have competed against each other in only a very limited number of tenders; and
 - (b) the Parties face strong competition from other OOH media owners in the procurement of OOH advertising sites, in particular JCDecaux and Clear Channel, and will continue to do so going forward.
98. For these reasons, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of the loss of direct competition in relation to the procurement of OOH advertising sites in the UK.

Loss of direct competition in the supply of OOH advertising

99. OOH media owners, such as the Parties, supply OOH advertising to advertisers (whether directly, or indirectly, through media agencies and specialists). The CMA has assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to the

loss of direct competition in the supply of OOH advertising in the UK and in London.

100. In making this assessment, the CMA has considered:

- (a) shares of supply;
- (b) closeness of competition between the Parties; and
- (c) competitive constraints faced by the Parties.

Shares of supply

101. The Parties submitted shares of supply based on data collected by an industry body, Outsmart, from OOH media owners. While the Parties estimated the revenues attributable to other OOH media owners, the CMA has obtained actual data from OOH media owners based on their submissions to Outsmart. The shares of supply calculated by the CMA are provided in the table below.

102. Outsmart does not track data relating to London separately from data relating to the UK. As such, in order to calculate shares of supply for London, the CMA has relied on the Parties' estimate of the total amount of OOH advertising revenue generated in London and other OOH media owners' estimates of the proportion of their revenue that is generated in London.

Table 1: Shares of Supply – OOH Advertising (by revenue, 2017)

OOH media owner	Share of Supply (London)	Share of supply (UK)
Global	[10-20]% ³³	[10-20]%
<i>Primesight</i>	[0-5]%	[5-10]%
<i>Outdoor Plus</i>	[5-10]%	[0-5]%
Exterion	[30-40]%	[20-30]%
Parties Combined	[40-50]%	[30-40]%
JCDecaux	[40-50]%	[30-40]%
Clear Channel UK	[5-10]%	[10-20]%
Ocean Outdoor	[0-5]%	[5-10]%
8 Outdoor	[0-5]%	[0-5]%
Others	[5-10]%	[10-20]%

Source: Parties' estimates and CMA estimates based on third party data.

³³ All figures have been rounded to the nearest percent and therefore Global's share of supply is listed as [10-20]% while the sum of the individual stated shares of supply for Primesight and Outdoor Plus is [10-20]%.

103. The shares of supply provided in Table 1 have been calculated on the basis of revenue. The OOH advertising industry also uses ‘impacts’ (ie the number of individuals who see a specific OOH advertising site) as a relevant metric and the impacts attributable to individual OOH advertising sites are calculated by an industry body, Route. The Parties also provided share of supply estimates on the basis of ‘impacts’ but submitted that revenue is a more appropriate metric for competitive assessment, as it takes into account the different value of highly differentiated sites.³⁴
104. The CMA believes that revenue is an appropriate metric for the calculation of shares of supply in OOH advertising as it reflects the value attributed by customers to different types of sites which would not be reflected in shares of supply by the number of ‘impacts’ alone (as ‘impacts’ measure only the number of individuals who see a specific OOH advertising site).
105. The shares of supply in Table 1 indicate that, on a national basis, the Parties have a combined share of supply of [30-40]% (with an increment of [10-20]% brought about by the Merger). JCDecaux has a similar share of [30-40]%, while Clear Channel has a share of [10-20]%. Ocean Outdoor is the only other OOH media owner with a national share above 5%. With regard to London specifically, the Parties have a combined share of [40-50]% (with an increment of [10-20]% brought about by the Merger). Similar to the position at national level, JCDecaux has a similar share of supply to the Parties of [40-50]% though the shares of supply of Clear Channel and Ocean Outdoor are lower in London than on a national basis ([5-10]% and [0-5]% respectively). The Parties will therefore account for a significant share of supply, in both London and in the UK, post-Merger.
106. However, the CMA believes that shares of supply are of limited value to the CMA’s assessment of this Merger because OOH advertising products are highly differentiated and the substitutability of different OOH products varies between campaigns (see paragraphs 50 and 51 above).³⁵ The Parties’ OOH advertising propositions can be distinguished on the basis of a number of different factors, including environment, format, location and the digital/non-digital nature of their sites.³⁶

³⁴ The Parties also submitted that Route data is used principally as post-campaign rationalisation for how an advertiser’s budget was spent and is not the sole factor in deciding how the budget should be allocated during the planning and design of a campaign.

³⁵ See paragraph 5.3.2 of the CMA’s [Merger Assessment Guidelines](#) which states that, when interpreting information on market shares and concentration, regard should be given to the extent to which products are differentiated, and cautions against an over-reliance on concentration measures to indicate changes in market power, in particular where products are differentiated.

³⁶ Although the CMA believes that shares of supply are of limited value in this case, an assessment of the Parties’ shares by environment and format confirms that the Parties’ product offerings are differentiated (in particular on the basis of environment) in light of the limited increments in most segments.

107. In addition, shares of supply in OOH advertising provide a static overview at a particular point in time and do not reflect the fact that the win or loss of a franchise site contract can lead to significant fluctuations in short order.
108. The CMA therefore believes that relatively limited weight should be placed on shares of supply for the purposes of the present case and has therefore primarily focused its assessment on the closeness of competition between the Parties and relevant competitive constraints (as described further below).

Closeness of competition

109. In assessing the closeness of competition between the Parties on a national basis and in London, the CMA has considered the Parties' submissions, evidence from internal documents and the views of third parties.
- *Parties' submissions*
110. The Parties submitted that they are not close competitors and that their offerings are 'highly differentiated' on the basis that Exterior is focused on the transport environment while Primesight and Outdoor Plus are focused on roadside OOH advertising. The Parties believe that environment is a relatively strong differentiating factor as consumers' dwell time (ie how long they spend looking at a panel) and state of mind can vary significantly depending on the environment in which they view an advertisement.
111. The Parties submitted that Exterior is focused on the transport environment, which accounts for approximately [X]% of its revenues ([X] of which are attributable to the TfL rail contract (which, as noted above, includes the London Underground)). Conversely, Primesight is primarily focused on roadside advertising, which accounts for approximately [X]% of its revenues (Primesight is also present to a limited extent in the transport segment (by virtue of its presence in airports) and in certain cinemas). Lastly, Outdoor Plus is also primarily present in the roadside environment which accounts for approximately [X]% of its revenues. The remainder is attributable to Outdoor Plus's presence in the retail environment (specifically seven shopping malls across the UK).
112. The Parties further submitted that their offerings are highly differentiated on the basis of specific formats. To the extent that the Parties do offer the same OOH advertising formats, the Parties submitted that there are likely to be low levels of diversion between them both on a national basis and within London in light of the presence of much closer competitors and the fact that generally advertising in the same format and environment is likely to be a greater constraint. In support of the submission that the Parties' products are highly

differentiated, the Parties provided an analysis of the potential diversion between the Parties to support the proposition that the Parties are not each other's closest constraints.

113. The Parties also submitted an example of one specialist, [REDACTED], switching spend away from [REDACTED] following a disagreement in [REDACTED] about the level of the volume rebate provided by [REDACTED] to [REDACTED]. [REDACTED]. The Parties told the CMA that [REDACTED] switching expenditure [REDACTED].
114. The Parties also provided an analysis of lost opportunities which suggests that a small proportion ([REDACTED]) of Exterior's known lost opportunities in London with specialists were won by Primesight within the sample period and no lost opportunities were won by Outdoor Plus. The Parties' analysis indicates that no known lost opportunities in London from Primesight or Outdoor Plus were won by Exterior.
115. The CMA notes that only limited weight can be placed on much of the evidence submitted by the Parties. In particular:
 - (a) only limited weight can be attached to lost opportunities analysis of this type due to the uncertainties inherent in identifying where lost business may have ended up;
 - (b) only limited weight can be placed on the Parties' assessment of potential diversion between the Parties because this assessment of potential diversion was not based on objective evidence of past customer behaviour; and
 - (c) only limited weight can be placed on [REDACTED] example which is anecdotal in nature (in addition, as the example is based only on evidence relating to the change in OOH advertising spend [REDACTED], it is unclear how representative this example may be of the competitive interaction between the Parties more generally).
116. The CMA notes, however, that this evidence generally points in the same direction as evidence received from internal documents and third parties. The CMA therefore considers that this evidence is broadly consistent with (and provides some support to) the position advanced by the Parties that there are limits to the extent of competitive interaction between the Parties.
 - *Internal documents*
117. The CMA notes that the Parties' internal documents are, in the round, consistent with there being a degree of competitive interaction between OOH advertising propositions in different environments, and between the Parties.

The CMA also notes, however, that these documents indicate that the Parties do not compete particularly closely with each other and instead each compete more closely with other OOH media owners. For example:

(a) [redacted],³⁷ [redacted].³⁸ [redacted].³⁹

(b) [redacted].⁴⁰

(c) [redacted].⁴¹

(d) [redacted].⁴²

- *Third party views*

118. The CMA received mixed third-party evidence with regard to the extent of competition between the Parties. Some customers felt it would be unusual for the Parties to be in direct competition given the differences in the environments and formats that each offers. However, a limited number of customers indicated that the Parties compete for campaigns requiring broad audience reach (which could for example be achieved using roadside billboards or bus advertising) and, in addition, campaigns which seek to target a London audience.

119. Several customers identified the Parties as among each other's main five competitors both on a national basis and in London. However, no customers identified the Parties as each other's closest competitors in London or the UK.

120. Most competitors identified the Parties as among each other's main five competitors in both London and the UK and several identified Primesight and Exterion as each other's closest competitors in London.

- *Conclusion on closeness of competition*

121. On the basis of the evidence outlined above, the CMA considers that there is some competitive interaction between the Parties (notwithstanding differences in their offering) but that the Parties compete more closely with other OOH media owners than with each other. The extent of the competitive constraint

³⁷ Eg Appendix 41 to the Parties' Merger Notice, page 56.

³⁸ Eg Appendix 18 to the Parties' Merger Notice, page 156; Appendix 45 to the Parties' Merger Notice, page 3.

³⁹ Eg Appendix 51 to the Parties' Merger Notice, page 3; Appendix 52 to the Parties' Merger Notice, page 4.

⁴⁰ Appendix 80 to the Parties' Merger Notice, page 39.

⁴¹ Eg Appendix 120 to the Parties' Merger Notice, page 3; Appendix 110 to the Parties' Merger Notice, page 15.

⁴² Appendix 151 to the Parties' Merger Notice; Appendix 162 to the Parties' Merger Notice.

exercised by these competitors and any further constraints faced by the Parties are considered further below.

Competitive constraints

122. In assessing the Parties' competitive constraints, the CMA has considered the Parties' submissions, evidence from internal documents, and the views of third parties.

- *Parties' submissions*

123. The Parties identified the following OOH media owners as significant competitors: JCDecaux, Clear Channel, Ocean Outdoor, 8 Outdoor and BlowUp Media. In addition, the Parties also said that they face competition from a fringe of smaller players and potential new entrants (e.g. Bay Media, Ubiquitous, City Outdoor, Fernbank, Google and others).

124. The Parties also submitted that they face substantial out-of-market constraints, in particular in London where the 'Metro', 'London Evening Standard', Facebook and Google represent a significant constraint on Exterion's London Underground advertising.

125. The Parties submitted that competition for the supply of OOH advertising to advertisers is typically intermediated by both media agencies and by a small and powerful group of specialists, with four specialists accounting for approximately 85% of all OOH advertising spend in the UK. The Parties cited statements made in OFT 2011 Market Study regarding specialists having considerable discretion over where to place marginal spend, with competition between OOH media owners being reflected in the substantial volume rebates paid to specialists by OOH media owners. The Parties submitted that, while the OFT's statements were made in 2011, the position remains the same today.

126. The Parties submitted that these specialists have substantial buyer power and have the ability easily to switch spend away to other OOH media owners. The Parties told the CMA that the specialists' buyer power is particularly pronounced on account of:

- (a) large amounts of unsold inventory among OOH media owners ([✂]);
- (b) an information asymmetry between specialists and OOH media owners because OOH media owners typically do not know against whom they are competing so will compete aggressively to win as large a share of a campaign as possible; and

(c) the repeated nature of the interactions between the specialists and OOH media owners.

127. As noted above at paragraph 113, the Parties also provided an example of [X] switching spend [X].

- *Internal documents*

128. As noted above at paragraph 117, the Parties' internal documents indicate that they monitor other OOH media owners in addition to, and more closely than, each other. While these documents indicate that the Parties compete particularly closely with [X] and [X], a number of smaller competitors are regularly included in the Parties' competitive assessments. For example, [X].⁴³

129. [X].⁴⁴

130. While the Parties' internal documents generally do not provide separate analyses of competitive dynamics in London, a number of Exterior documents contain specific references to London. These documents indicate that [X] in particular is a competitive constraint in London. While Exterior's documents do mention Primesight and/or Outdoor Plus, other players (notably [X] and [X]) are also specifically referenced in relation to London.⁴⁵

131. The Parties' internal documents also indicate that non-OOH advertising media is considered to be a competitive threat. For example, [X].⁴⁶

132. The Parties' internal documents also generally support the proposition that specialists hold significant bargaining power in their dealings with OOH media owners. Some documents indicate, for example, [X].⁴⁷ [X].⁴⁸

133. The Parties' internal documents contain mixed evidence on the role of specialists in OOH advertising going forward. For example, [X],⁴⁹ [X].⁵⁰ (The role of specialists is considered further below in paragraphs 147 to 152.)

⁴³ Appendix 110 to the Parties' Merger Notice, pages 16 and 17.

⁴⁴ Appendix 20 to the Parties' Merger Notice, pages 43 – 47.

⁴⁵ Appendix 80 to the Parties' Merger Notice, page 39; Appendix 18 to the Parties' Merger Notice, page 162; Appendix 86 to the Parties' Merger Notice, page 7.

⁴⁶ Appendix 43 to the Parties' Merger Notice, page 65.

⁴⁷ Eg Appendix 10 to the Parties' Merger Notice, page 7; Appendix 29 to the Parties' Merger Notice, pages 16 and 18; Appendix 110 to the Parties' Merger Notice, page 20.

⁴⁸ Annex B to the Parties' response to the CMA's RFI dated 25 March 2019, pages 37 and 38.

⁴⁹ Appendix 47 to the Parties' Merger Notice, page 8.

⁵⁰ Appendix 22 to the Parties' Merger Notice, page 9.

- *Third party views*

134. As noted above, the CMA's investigation indicated that the extent to which OOH media owners compete with each other is liable to depend on the specific requirements of an individual OOH advertising campaign. Customers across all three customer groups (specialists, media agencies and advertisers) frequently identified JCDecaux and Clear Channel as the closest competitors to each of Exterior, Primesight and Outdoor Plus, both in London and in the UK. In addition, customers identified a number of smaller OOH media owners with which Outdoor Plus and Primesight (and, to a much lesser extent, Exterior) compete. In particular, customers regularly identified Ocean Outdoor and 8 Outdoor as among Outdoor Plus and Primesight's main five competitors both in London and in the UK.
135. Similarly, competitors identified a wide range of competitors to the Parties. JCDecaux and Clear Channel were frequently identified as the Parties' closest competitors in both London and the UK. In addition, competitors identified a range of smaller OOH media owners in both London and the UK, including Ocean Outdoor and 8 Outdoor who were identified as among the main five competitors of Outdoor Plus and Primesight (and, to a lesser extent, Exterior). KBH (which offers in-train OOH advertising) and Ubiquitous (which offers taxi advertising) were further identified as among Exterior's main five competitors by some respondents. Some competitors also identified non-OOH advertising media as a close alternative to the Parties.
136. With regard to the extent of the constraint exercised by the specialists, one specialist acknowledged that specialists have 'clout' in negotiations with OOH media owners on account of there being a highly concentrated buyer base. Specialists also referred to the auditing process undertaken by many of their clients which require the specialists to ensure that OOH advertising is purchased at competitive rates.
137. Evidence received by the CMA from customers across all groups (specialists, media agencies and advertisers) indicates that the vast majority of respondents usually multi-source OOH advertising from a number of different OOH media owners for the same campaign in order to obtain the most appropriate coverage and audience delivery. One specialist noted that, to the extent that OOH advertising campaigns are single-sourced from just one OOH media owner, this typically indicates that the campaign requires a precise geographic location.
138. Furthermore, specialists told the CMA that they would be prepared to switch away from the merged entity to other OOH media owners in the event of a

price increase,⁵¹ with one specialist referring in particular to JCDecaux and Clear Channel as alternative suppliers with comprehensive offerings in terms of geography and audience delivery.

139. Evidence received from media agencies and advertisers also indicated a willingness to switch away from the Parties in the event of a price increase, with many also indicating that a switch to non-OOH advertising channels would be considered as well.

CMA Assessment

140. The degree of constraint on the merged entity from other OOH media owners, non-OOH advertising media, and specialist purchasers is considered further below.

- *OOH media owners*

- *National*

141. Based on the evidence set out above, the CMA believes that Exterior, JCDecaux and Clear Channel are currently part of a competitive set of three large OOH media owners active across the UK.
142. Primesight is also active on a national basis but evidence from the Parties' internal documents and third parties indicates that it is considered to be a more distant competitor. The CMA believes that Primesight competes predominantly with other OOH media owners offering roadside OOH advertising, in particular JCDecaux and Clear Channel, rather than Exterior, which is focused on transport OOH advertising.
143. The CMA believes that the merged entity will face strong competition from JCDecaux and Clear Channel going forward. In addition, third party evidence indicates that customers have a high propensity to multi-source their OOH advertising requirements across a range of OOH media owners and the CMA therefore believes that smaller media owners (including Ocean Outdoor, 8 Outdoor and other players who are often focused on niche areas of OOH advertising) are able to compete effectively for certain campaigns and will continue to do so post-Merger.

⁵¹ As noted above, some OOH environments, formats or specific sites may be considered essential to a specific campaign. One specialist noted that, to the extent that an advertiser has a genuine 'must have' requirement, it may need to absorb a price increase. However, the definition of 'must have' will be specific to each relevant campaign and the CMA has received no indication that the Merger will result in the combination of specifically identified 'must have' assets.

○ *London*

144. As noted above, third parties indicated that the merged entity will hold a large proportion of the OOH advertising inventory in London. [REDACTED] of Exterior's revenue is generated in London and its presence in the capital is driven by TfL's rail estate and London buses. Outdoor Plus is focused almost exclusively on digital roadside panels in London and Primesight is also present in the London roadside environment.
145. Based on evidence from internal documents and third parties, the CMA believes that the merged entity will be constrained by a number of other OOH media owners in relation to the supply of OOH advertising in London. In particular:
- (a) The CMA believes that the merged entity will face strong competition from JCDecaux. As described above at paragraph 39, JCDecaux has a strong proposition in London, inter alia as a result of holding the Network Rail Managed Stations contract and TfL bus shelter contract, and is present across each of the three main environments.
- (b) The CMA also believes that the merged entity will face strong competition from Clear Channel in London, notwithstanding that its relative position is currently considerably smaller than that of the merged entity or JCDecaux (see Table 1). As described above at paragraph 40, Clear Channel offers retail and roadside OOH advertising in London and was frequently identified by third parties as among the Parties' top two competitors in London. In addition to roadside advertising in the form of phone kiosks and billboards which are similar to Primesight's product proposition, the CMA also believes that Clear Channel is able to compete effectively with the types of products offered by Outdoor Plus through Clear Channel's 'Storm' brand which focuses on large format digital panels. Although Clear Channel lost the TfL bus shelter contract to JCDecaux in 2016, [REDACTED]⁵² As noted above, the CMA believes that Clear Channel is also well placed to compete effectively for OOH advertising sites going forward, the successful procurement of which would further strengthen its position in London.
- (c) While JCDecaux, Clear Channel and the merged entity will have the most comprehensive offerings in London, the CMA believes that smaller media owners focused on specific types of OOH advertising will still be able to compete effectively with the merged entity in respect of certain campaigns. As noted above, the fact that the vast majority of OOH

⁵² Appendix 20 the Parties' Merger Notice, page 28.

campaigns are multi-sourced indicates smaller media owners will be able to exercise a competitive constraint on the merged entity. In particular, the CMA believes that Ocean Outdoor (which, as described above, is focused on large format digital panels in premium London locations) is a strong competitor. However, the CMA believes that the ability of customers to build campaigns using OOH advertising inventory from a number of different OOH media owners and customers' willingness to switch between suppliers means that even much smaller competitors are able to compete with and constrain the merged entity for certain campaigns.

- *Non-OOH advertising media*

146. In addition to strong competition from OOH media owners, the CMA believes that the merged entity will also be constrained to a degree by the ability of customers to move advertising spend into non-OOH media (on both a national basis and in London specifically). Evidence from media agencies and advertisers indicates that these customers would consider moving spend away from OOH advertising in the event of a price increase by the Parties. This view is also supported by some of the Parties' internal documents.

- *Purchasing dynamics*

147. Based on the evidence set out above, the CMA believes that the specialist purchasers that account for the vast majority of OOH advertising spend in the UK currently hold significant bargaining power. The CMA's investigation has shown that specialists frequently multi-source their OOH requirements across multiple OOH media owners and would generally be readily able to switch demand to an alternative supplier if necessary as target audiences can often be delivered in multiple different ways.

148. Specialists in general welcomed the Merger, though one non-specialist raised concerns about the close relationship between specialists and OOH media buyers and the impact of the volume rebates described above at paragraph 36 on specialists' purchasing decisions. The evidence received by the CMA during its investigation indicates, however, that the vast majority of the rebates are passed on by specialists to their clients and are not retained (and therefore should not distort the incentives of the specialists to switch to alternative suppliers for a more competitive offer).⁵³

⁵³ For completeness, the CMA notes that the OFT 2011 Market Study found that 'While the majority of rebates may pass through to advertisers, some advertisers may not be getting the best deals for their campaigns. However, most advertisers are in a position to take steps to ensure they get a good deal, for example by seeking

149. The CMA also considered whether the development of automated purchasing within OOH advertising may lead to the disintermediation of the OOH advertising supply chain and, in turn, decreased negotiating strength for the specialists. In particular, as noted above at paragraph 133, [REDACTED].⁵⁴
150. At the issues meeting, a representative of the Parties submitted that this was [REDACTED] (described as [REDACTED]) included in a report prepared by a third-party consultant [REDACTED]. The Parties subsequently told the CMA that [REDACTED] did not reflect the considered assessment of the third-party consultant, [REDACTED]. No further evidence was provided, however, to support the position that this was [REDACTED].⁵⁵
151. The Parties told the CMA that less than 1% of OOH advertising is currently bought using automated trading and that this technology is still at a very early stage of evolution. The Parties further submitted that the development of automation in the purchase of OOH advertising is in fact being pursued (among others) by three of the four main specialist buyers, each of whom is in the process of developing a trading platform.
152. The CMA believes that there is evidence that the OOH advertising sector will continue evolving going forward and automated trading may play a significant role in shaping the industry going forward. For example, the CMA notes that JCDecaux has recently launched an automated planning and buying platform, 'VIOOH', which aims to help OOH advertising compete with the functionality offered by online advertising.⁵⁶ However, on balance, the CMA does not believe that the evolution of the OOH advertising sector will necessarily lead to disintermediation and a reduction in the negotiating strength exercised by specialists. Additionally, the CMA notes that any reduced role of specialists in purchasing OOH advertising would not, by itself, materially reduce the ability of media agencies to move advertising to other OOH media owners and other advertising media. The CMA therefore believes the ready ability of customers to use alternative OOH media owners will continue to constrain the merged entity in the foreseeable future.

greater transparency and taking rebates into account when negotiating contracts.' (paragraph 1.27). The OFT provided specific recommendations in its market study.

⁵⁴ Appendix 22 to the Parties' Merger Notice, page 9.

⁵⁵ For the reasons set out in detail in this decision, the CMA considers that the available evidence, in the round, supports the position that the specialists play a significant role in competitive dynamics within OOH advertising (and will continue to do so for the foreseeable future). [REDACTED]. The CMA notes [REDACTED] that positions expressed in a contemporaneous report to the board of a business involved in merger proceedings will typically be given more weight over un evidenced assertions made in the course of CMA proceedings (and, moreover, that it is an offence, pursuant to section 117 of the Act, to provide false or misleading information to the CMA in the course of its investigation).

⁵⁶ <https://www.jcdecaux.com/press-releases/jcdecaux-launches-viooh-global-independent-automated-planning-and-trading-platform>

- *CMA's conclusion on competitive constraints*

153. On the basis of the evidence set out above, the CMA believes that the merged entity will face sufficient competitive constraints in both London and the UK from other OOH media owners, from non-OOH advertising media, and from specialists (in light of the purchasing dynamics of the OOH advertising sector).

Conclusion on loss of direct competition in the supply of OOH advertising

154. For the reasons set out above, the CMA believes that:

- (a) while there is some competitive interaction between the Parties, their products are differentiated and they are not particularly close competitors. The Parties each compete more closely with other OOH media owners, in both London and the UK as a whole, than with each other;
- (b) the merged entity will continue to face significant competitive constraints in both London and the UK from other OOH media owners, in particular JCDecaux, Clear Channel and Ocean Outdoor;
- (c) the merged entity will also continue to be constrained, at least to some extent, by the possibility of advertisers moving spend away from OOH advertising to other types of advertising media;
- (d) purchasing dynamics in the OOH advertising sector (in particular the role that specialists play, in multi-sourcing their OOH requirements across multiple OOH media owners and facilitating switching to alternative suppliers) will support the constraints on the Parties in the foreseeable future.

155. Accordingly, the CMA has found that the Merger does not give rise to a realistic prospect of an SLC as a result of the loss of direct competition in relation to the supply of OOH advertising in the UK and/or in London.

Leveraging of Exterion's OOH products to foreclose OOH competitors

156. As set out above, OOH advertising is available in different environments, formats, locations and technologies (eg digital and classic) and the most appropriate combination of these factors will depend on the requirements of individual advertising campaigns. This heterogeneity in OOH, and the fact that customers often source their requirements for a specific campaign across more than one OOH media owner, means that it is possible for certain OOH

products to be substitutable in connection with one campaign and complementary in connection with another.

157. As explained below, some customers identified the London Underground (and, in particular, tube car panels), as being less substitutable with other OOH advertising environments.
158. As such, the CMA has considered whether the Parties could bundle or tie Exterior's OOH products (in particular the London Underground and tube car panels) with the OOH products offered by Primesight and Outdoor Plus (whether within London or in other geographic areas) resulting in the foreclosure of OOH competitors. The CMA has considered whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC on this basis.
159. The CMA's approach to assessing foreclosure theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive of it to do so, and (c) the overall effect of the strategy on competition.
160. In assessing this theory of harm, the CMA has considered the views of third parties, internal documents and the Parties' submissions.

Parties' submissions

161. The Parties submitted that Exterior currently does not offer standard 'bundles' of OOH assets (ie standardised combinations of different advertising assets for a particular price, or cross-format discounts). The Parties submitted that, instead, the combination of advertising assets offered by Exterior depends on the customer. Some customers have specific requirements in mind while others invite Exterior to propose a suitable combination based on the campaign's objectives. In the latter scenario, customers may select which elements of Exterior's proposal they would like to purchase and are not obliged to purchase the entire combination.
162. The Parties also submitted that the London Underground is not a 'must have' in OOH advertising campaigns, noting that [REDACTED]. The Parties acknowledged that tube car panels are unique ([REDACTED]) but disputed any conclusion that they are 'must have' products. The Parties submitted that tube car panels are a [REDACTED] medium which advertisers assess against other media on a [REDACTED] basis. This means that tube car panels face substantial constraints from other media advertising, in particular newsprint ([REDACTED]) and online media advertising.
163. The Parties dismissed the prospect of the foreclosure of OOH competitors as the result of a tying or bundling strategy. The Parties submitted that any such strategy would be 'highly pro-competitive', at least in the short term, as rivals

would be incentivised to price more aggressively to maintain their share as their capacity is fixed and variable costs are low. The Parties also said that any subsequent attempt by Global to raise prices in the long term would be defeated as long as rivals' capacity remained in the market or is able to re-enter. The Parties submitted that there is no plausible basis on which competitors could be foreclosed such that their capacity would leave the market and not be able to re-enter.

Internal documents

164. The Parties' internal documents support the proposition that tube car panels are a unique format, offering significantly higher 'dwell times' than other formats. For example:

(a) [REDACTED].⁵⁷

(b) [REDACTED].⁵⁸

Third party views

165. While customers generally indicated that there is a significant degree of substitutability between different types of OOH advertising, the London Underground was identified by some customers as being less substitutable with other OOH advertising environments (as noted above). Customers referred, in particular, to the fact that the London Underground offers considerable 'dwell time' through the nature of commuter behaviour (as individuals spend longer looking at the advertisements). Specialists also indicated that the London Underground is of particular importance to advertisers in the music and entertainment industries, and that there is a cultural significance to the London Underground as it is effectively used as 'London's noticeboard'.
166. A number of third parties referred specifically to the qualities of London Underground tube car panels when considering the extent of substitutability within OOH advertising. A specialist and a media agency group indicated that London Underground tube car panels in particular are specifically requested by advertisers or media agencies. This view was shared by one advertiser, which indicated a strong preference for tube car panels and described them as 'integral' to its OOH advertising campaigns on the basis that more advertising copy can be displayed on the panels and they offer a significant

⁵⁷ Appendix 153 to the Parties' Merger Notice, page 10.

⁵⁸ [REDACTED].

amount of 'dwell time'. A further advertiser and media agency group also referred specifically to the high dwell time offered by tube car panels.

167. As noted above, the vast majority of customers indicated that they multi-source OOH advertising from a number of different OOH media owners for the same campaign in order to obtain the most appropriate coverage and audience delivery. Customers noted that multi-sourcing is necessary in order to optimise audience reach (which may require the use of a combination of OOH environments and/or formats).
168. A number of third parties expressly addressed the possibility of the Parties engaging in a bundling/tying strategy across their OOH products. In particular:
- (a) one complainant expressed concern about the prospect of the Parties making the sale of OOH advertising on the London Underground conditional on the purchase of OOH advertising held by Primesight or Outdoor Plus (whether within London or elsewhere);
 - (b) one customer noted that the Parties may seek to 'push' more comprehensive deals in London in order to sell inventory that has traditionally been struggling (though the customer felt that the Parties would be constrained in this regard by the fact that specialists are highly resistant to price increases); and
 - (c) a further customer noted that, while Exterior's ability to engage in conditional selling in London is currently limited as it only holds transport inventory, this ability may increase a result of the combination of Exterior with Primesight's and Outdoor Plus's roadside inventory (though the customer did not express concerns about the Merger).
169. A number of competitors also raised concerns about the impact of the Merger on their ability to compete, noting for example that:
- (a) the merged entity's enhanced offering will allow it to leverage its products and strengthen its trading arrangements with customers;
 - (b) following the Merger, Global and JCDecaux will control the majority of the 'London audience', making it harder for smaller competitors to compete; and
 - (c) the Merger will make the purchase of OOH advertising more convenient and less time-consuming for customers, meaning it will be harder for smaller OOH media owners to grow their share.

CMA's assessment

170. As mentioned above, the CMA assesses foreclosure by analysing: (a) the ability of the merged entity to foreclose competitors; (b) the incentive of it to do so; and (c) the overall effect of the strategy on competition. The CMA only regards foreclosure as anti-competitive where it results or may result in a realistic prospect of an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors. In the present case, the CMA has considered whether the Parties have the ability to foreclose other OOH competitors by tying/bundling Exterior's tube car panels with Primesight and Outdoor Plus's OOH products. Specifically, the CMA has considered tube car panels in light of the evidence set out above, which indicates that tube car panels may be a unique product that, for some advertising campaigns at least, is important and/or difficult to substitute. The CMA believes that other formats offered by Exterior on the London Underground are not considered to be similarly unique in nature and have characteristics that are similar to other types of OOH advertising found outside the London Underground.⁵⁹

- *Ability*

171. In its assessment of whether the merged entity would have the ability to undertake a foreclosure strategy of the type described above, such that it would give rise to a realistic prospect of an SLC, the CMA has taken into account, in particular:

- (a) the extent to which the leveraging product (tube car panels) and the leveraged products (other OOH advertising) are complements (so that a fall in the price of one product increases the customer's demand for another);
- (b) whether customers exhibit preferences for one-stop shopping; and
- (c) whether the leveraging product is sufficiently important (eg in that it is a key input for individual campaigns and represents a significant proportion of total OOH advertising spend) such that bundling/tying it with the leveraged product would enable the Parties to foreclose competitor.

172. With regard to complementarity, in the present case the CMA does not believe that there is a significant degree of complementarity between tube car panels and other OOH advertising such that they could be considered to be

⁵⁹ [redacted], see Appendix 153 to the Parties' Merger Notice, pages 8 and 10.

genuine complements (in the sense that a fall in the price of tube car panels increases demand for other OOH advertising and vice versa).

173. Similarly, the CMA has not seen evidence that customers exhibit significant preferences for one-stop shopping. As noted above, the vast majority of customers indicated that they usually multi-source OOH advertising from a number of different OOH media owners for the same campaign. In addition, the Parties submitted that only a small proportion (c. [5-10]%)⁶⁰ of OOH campaigns use only one OOH media owner. The CMA believes that this indicates that there do not exist significant preferences for one-stop shopping within OOH advertising and the CMA received no evidence that there exist customer preferences for one-stop shopping for tube car panels and other OOH advertising in particular.
174. With regard to the importance of tube car panels and the potential foreclosure of OOH competitors, the CMA notes that Exterior holds the TfL rail contract and therefore is the only OOH media owner able to offer OOH advertising using tube car panels on the London Underground. The evidence set out above indicates that some campaigns may struggle to find appropriate substitutes for Exterior's tube car panels on the London Underground as it is difficult to replicate the length of dwell time offered by this format using other OOH sites. However, the CMA has also received evidence that many customers would be able to buy around the Parties' products as there are a number of alternative OOH providers available, including smaller players which often have specialised or niche offerings (eg Ocean Outdoor and 8 Outdoor which are focused on digital roadside advertising, Ubiquitous which is focused on taxi advertising, and KBH which is focused on in-train advertising).
175. The CMA therefore believes that tube car panels are just one of many OOH advertising formats and constitute a small product area within the overall OOH advertising sector (both in London and within the UK as a whole). Campaign data provided by Exterior indicates that tube car panels were only included in a very small proportion ([X]%) of Exterior's campaigns in 2018 (accounting for approximately [X]%) of its revenue) and tube car panels therefore represent an even smaller proportion of the total OOH advertising sector. Furthermore, the evidence received by the CMA in its merger investigation indicates that tube car panels play an important role only for certain campaigns.
176. The CMA therefore believes that competitors, including specialised or niche competitors, would still be able to compete effectively with the merged entity

⁶⁰ [X].

as each advertiser has different requirements and the most appropriate combination of OOH advertising environments/formats (and therefore the most appropriate combination of OOH media owners) is determined on a campaign by campaign basis. As such, the CMA believes that Exterior's position with regard to tube car panels does not give Exterior sufficient market power to foreclose OOH competitors through any bundling/tying strategy.

177. The CMA therefore believes that the Parties do not have the ability to leverage Exterior's OOH products to foreclose OOH competitors in London or in the UK through a bundling or tying strategy.

- *Incentive and effect*

178. As the CMA has concluded that the Parties do not have the ability to foreclose OOH competitors, the CMA has not needed to conclude on the Parties' incentives to foreclose and the overall effect of a foreclosure strategy on competition.

Conclusion on leveraging Exterior's OOH products to foreclose OOH competitors

179. For the reasons set out above, the CMA believes that the Parties do not have the ability to foreclose OOH competitors in London or the UK by bundling/tying Exterior's OOH products with those of Primesight and/or Outdoor Plus. Accordingly, the CMA has found that the Merger does not give rise to a realistic prospect of an SLC in the supply of OOH advertising in London and/or in the UK as a result of leveraging Exterior's OOH products to foreclose OOH competitors.

Loss of competition arising through the combination of the Parties' datasets

180. The CMA has considered whether the combination of the datasets held by Exterior with those of Primesight and/or Outdoor Plus has resulted or may be expected to result in an SLC in the supply of OOH advertising in the UK and/or in London.

181. The CMA has considered whether, as a result of the Merger, the merged entity would have access to additional proprietary data that is valuable to customers (ie valuable in itself and/or by enabling the creation of an improved product).

182. Evidence received both from the Parties' internal documents⁶¹ and third parties indicates that data is increasingly important within OOH advertising. Data is important in particular as a way of measuring delivery of a campaign's relevant target audience and in order to help 'sell' OOH advertising against other advertising media (eg online advertising, where it is easier to track who has seen an advert).
183. However, evidence from customers was mixed as to the importance of data as a parameter of competition among OOH media owners. Some customers felt that the quality of data provided by a media owner could be a differentiating factor in choosing which OOH media owner to use, while others indicated that it was not a pre-requisite and one noted that data supplied by OOH media owners is typically viewed by customers with a degree of caution in any event. The CMA noted that the Parties' main customers (specialists) are all very sophisticated purchasers of OOH advertising and cultivate their own datasets (based on publicly available data, eg Route, or other proprietary data).
184. The Parties provided details of the datasets to which each of Exterior, Primesight and Outdoor Plus have access. Exterior has access to a number of datasets which are not available to third parties. [REDACTED].
185. By contrast, the Parties told the CMA that all of the datasets ([REDACTED]) to which Outdoor Plus and Primesight have access are not proprietary and are commercially available to third parties.
186. On this basis, the CMA believes that the Merger will not result in the combination of any key datasets as only Exterior is in receipt of data which is not commercially available to third parties and so the Merger does not lead to any additional concentration of proprietary data. The CMA therefore believes that the Merger does not give rise to a realistic prospect of an SLC as a result of the combination of key datasets in relation to the supply of OOH advertising in the UK and/or in London.

Conglomerate effects

187. Conglomerate effects may arise in mergers of firms that are active in the supply of goods or services that do not form part of the same market but which are nevertheless related in some way, either because their products are complements (so that a fall in the price of one good increases the customer's

⁶¹ eg Appendix 80 to the Parties' Merger Notice.

demand for another) or because there are economies of scale in purchasing them (so that customers buy them together).⁶²

188. Most non-horizontal mergers are considered to be benign or even efficiency-enhancing (when they involve complementary products) and do not raise competition concerns. However, in certain circumstances, a conglomerate merger can result in the merged entity foreclosing rivals, including through a tying or bundling strategy. The CMA only regards such foreclosure to be anti-competitive where it results in an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors.
189. The CMA's approach to assessing conglomerate theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive of it to do so, and (c) the overall effect of the strategy on competition.⁶³ In assessing this theory of harm, the CMA has considered the Parties' submissions, internal documents and the views of third parties.

Parties' submissions

190. The Parties estimated that Global's share of UK radio revenues is [40-50]% and that its share of London radio revenues is [50-60]%.⁶⁴
191. The Parties submitted that there is no risk of the merged entity foreclosing competitors through bundling radio and OOH advertising on the basis that:
- (a) the merged entity cannot be said to have market power in OOH and will need to continue to compete aggressively against a range of other players;
 - (b) OOH and radio advertising are purchased through different channels. Specialists (which account for the vast majority of OOH advertising spend) do not purchase radio advertising and would have the ability and incentive to direct OOH advertising spend away from the Parties;
 - (c) only a small proportion of campaigns include both radio and OOH advertising. The Parties submitted data indicating that, of those advertisers that purchase (whether directly or indirectly) either radio or OOH advertising, only [5-10]% of advertisers purchase both radio and OOH advertising; and

⁶² [Merger Assessment Guidelines](#), paragraph 5.6.2.

⁶³ [Merger Assessment Guidelines](#), paragraph 5.6.6.

⁶⁴ UK share of supply based on Radiocentre data for the year ending 31 March 2018; London share of supply based on Nielsen AdDynamix data for 2018 (Global's London share remains the same whether based on London stations only or including the London share of advertising on national stations).

(d) synergies from the ability to offer a dual OOH and radio platform package are a peripheral benefit to Global's diversification into OOH advertising and the Parties' internal documents do not indicate that the Parties intend to 'force' customers to buy bundled products.

192. The Parties further submitted that, even if customers were to switch away from other OOH media owners, the ability of other OOH media owners to compete is not affected (at least in the short term) as their capacity is fixed and they would have the incentive to price aggressively in response to a reduction in demand. The Parties submitted that any subsequent attempt by Global to raise prices in the long term would be defeated as long as rivals' capacity remained in the market or rivals were able to re-enter. The Parties submitted that there is no plausible basis on which competitors could be foreclosed such that their capacity would leave the market and not be able to re-enter.

Internal documents

193. A Global internal document prepared in the context of the Primesight and Outdoor Plus acquisitions [REDACTED].⁶⁵ [REDACTED].⁶⁶ [REDACTED].

194. [REDACTED].⁶⁷

Third party views

195. The CMA's investigation indicated that offering a combined radio and OOH advertising proposition may be attractive to both advertisers and to the media agencies that plan their campaigns (notwithstanding that the actual purchase of OOH and radio advertising is currently undertaken by separate channels). Media agencies and advertisers told the CMA that radio and OOH advertising are capable of targeting the same audiences and the vast majority indicated they would be willing to buy radio and OOH advertising from the same supplier.⁶⁸

196. No advertisers raised any concerns about the combination of Global's radio and OOH advertising businesses. Several media agencies indicated to the CMA that the two advertising channels are complementary and could be used together in a multi-channel campaign. One media agency group expressed concern at the possibility of Global leveraging its radio and OOH advertising

⁶⁵ Appendix 21 to the Parties' Merger Notice, page 66. [REDACTED].

⁶⁶ Appendix 21 to the Parties' Merger Notice, page 56.

⁶⁷ Appendix 18 to the Parties' Merger Notice page 143.

⁶⁸ Approximately half of respondent advertisers indicated that they have purchased (directly or indirectly) both radio and OOH advertising from Global since Global's acquisition of Primesight and Outdoor Plus.

propositions but also stated that this would be difficult for Global to achieve in practice given the presence of different radio and OOH purchasing channels. A further media agency considered that Global could leverage its position by bundling radio and OOH together but felt that Global would be constrained in this regard by the presence of different purchasing channels. No other media agencies raised comments or concerns about the combination of Global's radio and OOH advertising businesses.

197. On the whole, specialists told the CMA that there is limited scope to integrate radio and OOH advertising (or to require customers to buy both) as they are bought through different channels. Furthermore, they explained that media agencies may in any event not see radio and OOH advertising as a logical combination for most advertisers. Some specialists noted that it may be possible for Global to leverage its radio and OOH advertising products to command better commercial terms and that Global may be at an advantage from a negotiation perspective on account of its significant position in the supply of both OOH advertising and radio advertising in London. However, specialists ultimately did not express any concerns about the combination of Global's radio and OOH advertising businesses.
198. A number of OOH competitors that responded to the CMA's questionnaire raised concerns (as did a further interested third party). These concerns included that:
- (a) Global will have a significant audience share and will be able to leverage radio and OOH against each other for a larger share of media budgets;
 - (b) customers are likely to move spend away from smaller media owners when faced with a multi-platform proposition; and
 - (c) radio and/or OOH advertising is needed to plan an ideal London campaign and, if Global has a significant presence in both, it could engage in aggressive pricing or conditional selling.

CMA's assessment

199. In assessing whether the Merger could give rise to an SLC as a result of conglomerate effects, the CMA has considered in particular whether the merged entity would be able to leverage Global's radio advertising products⁶⁹

⁶⁹ Global has a significant share of supply of commercial radio advertising ([50-60]% in London and [40-50]% nationally). In its assessment of whether the Merger would give rise to a realistic prospect of an SLC as a result of conglomerate effects, the CMA has not considered in detail the extent to which Global has market power in the supply of commercial radio advertising as this point has not been necessary, in this case, to conclude on whether the Parties would have the ability to foreclose competition.

to increase sales of Exterior's OOH products with the effect of foreclosing OOH competitors in London and the UK. The CMA does not believe that the Parties would be able to leverage Exterior's OOH products to increase radio advertising sales since, as discussed elsewhere in this decision, the Parties have close OOH competitors such as JCDecaux and Clear Channel.

200. The CMA considers that there are a number of foreclosure strategies that the merged entity could potentially engage in as a result of the Merger:
- (a) Pure bundling: the merged entity could only offer Global's radio advertising and Exterior's OOH products together and would not offer these products separately.
 - (b) Mixed bundling: Global's radio advertising and Exterior's OOH products would be available as standalone products or as a bundled product, but the sum of the standalone prices would be higher than the bundled price; and
 - (c) Tying: the sale of Global's radio advertising would be contingent on the purchase of Exterior's OOH products, though Exterior's OOH products could also be purchased on a standalone basis.
201. Both Global and Exterior are well-established players in radio and OOH advertising respectively and the CMA does not believe that it is credible, within the context of the market dynamics at issue, to assume that the merged entity would cease to make both Global's radio advertising and Exterior's OOH products available for purchase on a standalone basis going forward or make the sale of radio advertising contingent on the purchase of Exterior's OOH products. The CMA has therefore focused its assessment on the possibility of a foreclosure strategy based on mixed bundling.
202. The CMA's *Merger Assessment Guidelines* state that conglomerate mergers can raise concerns that the merged firm might increase the selling price of one of its products (in this case radio advertising) when sold on a stand-alone basis, but might not do so if customers buy both of the merged firm's products; this would give customers an incentive to buy the second product (in this case OOH advertising) from the merged firm as well, putting rivals in the second product market at a disadvantage.⁷⁰ However, the CMA also notes that concerns could arise even if the merged firm did not increase the individual selling price of either product but instead reduced the price of the bundled product and this led to sufficient foreclosure of competitors such that the merged firm could subsequently raise its price and recoup initial losses. In

⁷⁰ [Merger Assessment Guidelines](#), paragraph 5.6.13.

the present case, the CMA has not considered this latter possibility further since the CMA does not believe any such potential foreclosure strategy would be capable of foreclosing large competitors, such as JCDecaux and Clear Channel, and these entities would therefore be capable of constraining the merged firm from subsequently raising prices.

203. As noted above, the CMA's approach to assessing conglomerate theories of harm is to analyse (a) the ability of the merged entity to foreclose competitors, (b) the incentive of it to do so, and (c) the overall effect of the strategy on competition.

Ability

204. In its assessment of whether the merged entity would have the ability to undertake a foreclosure strategy of the type described above, such that it would give rise to a realistic prospect of an SLC, the CMA has taken into account, in particular, the extent to which:

- (a) customers have a demand for more than one of the products, and whether the products are complements (so that a fall in the price of one increases the customer's demand for another); or
- (b) customers exhibit preferences for variety and one-stop shopping; and the costs to rivals of providing variety and one-stop shopping at a scale to enable them to compete effectively with the merged firm.⁷¹

- *Customer demand and complementarity*

205. Data provided by the Parties indicates that only a small proportion of advertisers purchase (whether directly or indirectly) both radio and OOH advertising. While the data also indicates that those advertisers that purchase both radio and OOH advertising account for a significant proportion of total OOH and radio advertising spend ([60-70]% and [50-60]% respectively), it does not indicate whether the relevant advertisers were purchasing radio and OOH as part of the same, or separate, advertising campaigns.⁷²

206. While advertisers accounting for a substantial proportion of radio and OOH advertising have a demand for more than one of the products, the CMA does not believe that there exists a significant degree of complementarity between radio advertising and OOH advertising such that they can be considered to be

⁷¹ [Merger Assessment Guidelines](#), paragraph 5.6.13.

⁷² This data also does not distinguish whether OOH and radio advertising was purchased by the same or different intermediaries (eg radio advertising may have been bought by a media agency and OOH advertising by a specialist).

genuine complements (in that a fall in the price of one increases the customer's demand for the other). For example, while media agencies and advertisers indicated that they would consider buying radio and OOH advertising together for the same campaign, they also indicated that they considered them capable of targeting the same audiences. This suggests that, for some campaigns, advertisers and media agencies may consider using either radio or OOH advertising, while for other campaigns they may consider using both (or neither). The most appropriate composition of advertising media may therefore vary from advertiser to advertiser and from campaign to campaign depending on the brief.

207. Furthermore, the CMA does not believe there exists a significant degree of complementarity between Global's radio advertising and Exterior's OOH advertising specifically. The internal documents that [redacted].⁷³ The CMA does not believe that this indicates that there is a significant degree of complementarity between Global's radio advertising and Exterior's OOH products.
208. The CMA therefore believes that the complementarity of Global's radio advertising and Exterior's OOH products is limited and not sufficient to give Global the ability to foreclose competition. As noted above, the CMA only regards foreclosure to be anti-competitive where it results in a realistic prospect of an SLC in the foreclosed market(s), not merely where it disadvantages one or more competitors (ie the CMA has focused its analysis on harm to competition, rather than competitors).

- *Customer preferences for one-stop shopping*

209. Most radio and OOH advertising is bought through media agencies. As noted above, media agencies typically engage specialists to procure OOH advertising and specialists account for approximately 85% of all OOH advertising spend in the UK.⁷⁴ The evidence from media agencies did not indicate that they would switch advertising to the merged entity simply because of the advantages of dealing with one rather than two suppliers and customers in general indicated that the presence of separate purchasing channels is likely to inhibit Global from being able to offer a combined radio and OOH advertising proposition effectively.

⁷³ Appendix 21 to the Parties' Merger Notice, page 66.

⁷⁴ As noted above in paragraphs 149 and 150, the OOH advertising sector may evolve to become more disintermediated such that media agencies may increasingly purchase both radio and OOH advertising (directly) going forward. However, on balance, the CMA does not believe that the evolution of the OOH advertising sector will necessarily lead to disintermediation in the foreseeable future and the CMA believes these separate purchasing channels do inhibit the Parties' ability to foreclose OOH competitors through bundling/tying radio advertising with Exterior's OOH products.

210. In any event, even if media agencies did not engage specialists for the procurement of OOH advertising, media agencies would retain the ability to negotiate with separate radio and OOH suppliers, as well as the merged entity (in the same way as media agencies currently do when purchasing other types of advertising across a range of different media).
211. Some OOH advertising is bought by advertisers directly from OOH suppliers rather than through agencies. The evidence similarly did not indicate that direct advertisers required a one-stop shop for radio and OOH advertising.⁷⁵
212. The CMA therefore believes that customer preferences for one-stop shopping are not such as to give the Parties the ability to foreclose competition. On this basis, the CMA has not considered further the costs to rivals of providing one-stop shopping at a scale to enable them to compete effectively with the merged firm.

Conclusion on ability

213. For these reasons, the CMA believes that the Parties do not have the ability to leverage Global's radio products to foreclose OOH competitors. The CMA's analysis of the Parties' ability to foreclose OOH competitors does not vary on the basis of alternative geographic frames of reference. Even in London, where the merged entity will have a higher share of supply in both radio and OOH advertising than nationally, for the reasons set out above, the CMA does not believe that the Parties will have the ability to foreclose competition.

Incentive and effect

214. As the CMA has concluded that the Parties do not have the ability to foreclose OOH competitors, the CMA has not needed to conclude on the Parties' incentives to foreclose and the overall effect of a foreclosure strategy on competition.

Conclusion on conglomerate effects

215. Accordingly, the CMA has found that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in relation to the supply of OOH advertising in London and/or in the UK.

⁷⁵ While some advertisers indicated that they have purchased both radio and OOH advertising from Global since the acquisitions of Primesight and Outdoor Plus, they indicated that the purchases have not been linked.

Barriers to entry and expansion

216. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.⁷⁶
217. The Parties submitted that they face competition from a number of smaller players and potential new entrants. The majority of site owners indicated to the CMA that they would be prepared to award a contract for OOH advertising sites to a smaller OOH media owner or to a new entrant, although several noted that this would be subject to satisfying the site owner's usual procurement criteria which can involve demonstrating the necessary capability and satisfying other technical and commercial requirements.
218. Competitors provided mixed evidence with regard to barriers to entry and expansion. Some competitors indicated that there are no significant barriers to entry and identified a number of recent new entrants, while others indicated that the costs associated with entry and expansion are significant and barriers are high.
219. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Third party views

220. The CMA contacted third parties falling within five categories: (i) specialists; (ii) media agencies; (iii) advertisers; (iv) site owners; and (v) competitors. The CMA received comments from several further interested third parties who expressed concerns.
221. Among specialists, media agencies, advertisers and site owners, very few parties raised concerns about the Merger. Among competitors, the majority of respondents expressed concerns about the Merger.
222. Third party comments have been taken into account where appropriate in the competitive assessment above.
223. The CMA also received a comment which was not considered to be merger-specific; specifically, one party expressed concern that the merger may trigger other mergers, leading to further consolidation within the OOH advertising

⁷⁶ [Merger Assessment Guidelines](#), from paragraph 5.8.1.

industry. This was not considered as a merger-specific concern as, where appropriate, further mergers would be subject to review by the CMA (in accordance with its powers under the Act) or by other competition regulators.

Decision

224. Consequently, the CMA does not believe that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.

225. The Merger will therefore **not be referred** under section 22(1) of the Act.

Colin Raftery

Senior Director, Mergers

Competition and Markets Authority

16 April 2019