

# Anticipated acquisition by Iconex LLC of Hansol Denmark ApS and R+S Group GmbH

## Decision on relevant merger situation and substantial lessening of competition

**ME/6798/19**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 10 June 2019. Full text of the decision published on 8 July 2019.

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. Iconex LLC (**Iconex**) has agreed to acquire Hansol Denmark ApS (including its subsidiary, Schades A/S (**Schades**)) and R+S Group GmbH (**R+S**) (together, the **Target**) (the **Merger**). Iconex and the Target are together referred to as the **Parties** and, after the Merger, as the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Iconex and the Target is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the share of supply test is met. Accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. The Parties overlap in the supply of light weight thermal paper (**LWTP**) rolls and labels in the UK. Both products are manufactured using LWTP jumbo rolls which are then cut down into smaller products (a process known as 'slitting' or 'converting') and sold to resellers or to end users. The resulting smaller rolls of paper or labels are known respectively as **converted rolls** and **converted labels**.
4. The CMA has focused its assessment of the Merger on the supply of converted rolls in the UK and has not considered in detail the supply of

converted labels, as the Parties have a very limited share of supply in respect of converted labels (less than 5% in both the UK and the European Economic Area (**EEA**)) which does not give rise to competition concerns.

5. The CMA has found that the Parties are very close competitors for the supply of converted rolls in the UK (in fact closest to each other than to any other competitor) and will have a high combined share of supply of [40-50]% (with an increment of [10-20]%). The CMA believes that the Merged Entity will be subject to limited competitive constraints from alternative suppliers, in particular as the evidence obtained by the CMA indicates that:
  - (a) the Parties operate within a limited competitive set of alternative suppliers of converted rolls in the UK, where there are very few large suppliers;
  - (b) within this limited competitive set, not all suppliers are able or willing to meet the demands of large customers which have significant volume requirements, and for which security of supply is paramount; thus, the choice of alternative supplier is therefore even further restricted for these customers;
  - (c) while suppliers from outside the UK are in principle able to supply customers in the UK, the presence of non-UK suppliers is currently limited and factors such as increased transport costs, customer preferences for UK suppliers and currency risks mean that non-UK suppliers do not exercise a strong competitive constraint on the Parties; and
  - (d) while there is spare capacity among other manufacturers of converted rolls, the CMA has not seen evidence which indicates that utilisation of such spare capacity is likely or that it will be sufficient to prevent a realistic prospect of a substantial lessening of competition (**SLC**).
6. The CMA therefore believes that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of converted rolls in the UK.
7. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until 17 June 2019 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.

## ASSESSMENT

### Parties

8. Iconex produces and sells LWTP converted rolls and labels, inking products, cartridges (toners) and cleaning products. Within the UK, the majority of Iconex's sales relate to converted rolls and Iconex has two converted roll manufacturing plants within the EEA, located in Peterborough (UK) and Amboise (France). The turnover of Iconex in 2017 was approximately [REDACTED] worldwide and [REDACTED] in the UK.
9. Schades and R+S are both ultimately owned by Hansol Paper Co, Ltd and Mirae Asset Daewoo Hunters Private Equity Fund (the **Sellers**). Schades and R+S each produce and sell LWTP converted rolls and labels. Schades has three manufacturing plants for converted rolls, located in Ripley (UK), Skive (Denmark) and Heilbad Heiligenstadt (Germany), and one manufacturing plant for labels in Bordeaux (France). R+S has one manufacturing plant for converted rolls, located in Hannover (Germany). The turnover of Schades in 2017 was approximately [REDACTED] worldwide and [REDACTED] in the UK. The turnover of R+S in 2017 was approximately [REDACTED] worldwide and [REDACTED] in the UK.

### Transaction

10. Iconex has agreed to purchase the entire issued share capital of Schades and R+S from the Sellers pursuant to a share purchase agreement dated 5 November 2018 for approximately [REDACTED].
11. The Merger is also the subject of review by the European Commission, following a referral from competition authorities in Germany and France under Article 22 of Regulation (EC) 139/2004 (the **EUMR**).<sup>1</sup> The CMA has jurisdiction over of the assessment of the effects of the Merger in the UK and the European Commission has jurisdiction over the effects of the Merger in the remainder of the EEA. The CMA and the European Commission collaborated closely throughout their respective merger investigations. In particular, the European Commission and the CMA cooperated in sending out joint questionnaires to third parties for the sake of efficiency and to avoid third parties receiving the same questions from two different authorities. Subsequently, the CMA sent out additional questions to third parties in relation to the UK.

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<sup>1</sup> On 27 February 2019, the CMA also submitted a request to the European Commission pursuant to Article 22 of the EUMR which was subsequently withdrawn on 13 March 2019.

12. On 13 May 2019, the European Commission announced that it had approved the Merger pursuant to Article 6(1)(b) of the EUMR: European Commission, Case M.9293 – Iconex/Hansol Denmark/R+S Group (the **European Commission Decision**).

## Procedure

13. The Merger was considered at a Case Review Meeting.<sup>2</sup>

## Jurisdiction

14. Each of Iconex and the Target is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.
15. The Parties overlap in the supply of converted rolls in the UK, with a combined share of supply by value of [40-50]% (increment of [10-20]%), based on the CMA's estimates in Table 1 below. The CMA therefore believes that the share of supply test in section 23 of the Act is met.
16. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
17. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 10 April 2019 and the statutory 40 working day deadline for a decision is therefore 10 June 2019.

## Counterfactual

18. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing 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.<sup>3</sup>

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<sup>2</sup> See *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, from paragraph 7.34.

<sup>3</sup> *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).

19. In the Merger Notice, the Parties submitted that they ‘do not consider that the CMA should assess a counterfactual other than the pre-existing competitive situation’.<sup>4</sup> However, at a later stage during the course of the CMA’s investigation, Iconex submitted that, [X].

#### *Conclusion on the counterfactual*

20. On the basis of the evidence available to it, the CMA believes that the prospect of the prevailing conditions continuing is realistic. In light of the CMA’s finding that [X], the CMA has, in line with its Merger Assessment Guidelines, assessed the Merger against the prevailing conditions of competition.

### **Frame of reference**

21. 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.<sup>5</sup>
22. While the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone,<sup>6</sup> the CMA may also consider supply-side substitution in determining the scope of the relevant market.
23. As noted above at paragraph 3, the Parties overlap in the supply of converted rolls and converted labels. Iconex supplies converted rolls in a variety of different permutations (for example, based on size, paper type and printed or unprinted options) for use in point-of-sale (**POS**) devices, credit card devices and ATMs. Similarly, Iconex supplies converted labels which are also available in a variety of different permutations (for example based on label dimensions and the quantity of labels on a roll).
24. The Target also supplies converted rolls in a variety of different permutations, primarily for use in POS devices, credit card devices and ATMs. In addition, the Target supplies converted rolls for lottery tickets. The Target also supplies

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<sup>5</sup> [Merger Assessment Guidelines](#), paragraph 5.2.2.

<sup>6</sup> [Merger Assessment Guidelines](#), paragraph 5.2.17.

converted labels which are available in a variety of different permutations (for example based on label dimensions and quantities, as noted above).

### ***Product scope***

25. The Parties submitted that the narrowest candidate frames of reference are the supply of: (i) converted rolls; and (ii) converted labels. Although both products are manufactured using broadly the same process (ie converting LWTP jumbo rolls into smaller products), the Parties submitted that converted rolls and converted labels are made using different machinery, meaning that there is no supply-side substitution between the products, and that they should be considered as separate frames of reference.
26. UK customers and competitors that responded to the CMA's merger investigation<sup>7</sup> confirmed that there is no supply-side substitutability between converted rolls and converted labels. Customers and competitors also indicated that there is no demand-side substitutability between converted rolls and converted labels as they are used for different purposes. As such, the CMA believes there to be separate frames of reference for these two products.

### *Converted rolls*

#### *Parties' submissions*

27. The Parties submitted that, within the frame of reference for the supply of converted rolls, there should be no further segmentation by different types of converted rolls.
28. The Parties submitted that converted rolls have two main variables: (i) paper thickness (ie weight); and (ii) dimension (ie width), and these variables result in different types of converted rolls being suitable for different end-uses. For example, as noted above, the Parties each supply converted rolls for the following three end-uses:
  - (a) POS rolls – converted rolls for POS devices are typically 80mm wide on 48gsm (grams per square metre) thermal paper;
  - (b) Credit card rolls – converted rolls for credit card devices are typically narrower than POS rolls (57mm wide). In addition, the rolls themselves

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<sup>7</sup> References within this decision to third parties contacted by the CMA include third parties contacted by the European Commission during the course of its review of the Merger.

are typically shorter because they must fit into smaller handheld credit card devices; and

(c) ATM rolls – converted rolls for ATMs are typically made of thicker paper than POS or credit card rolls. ATM rolls are also typically greater in length because they are used in machines that are not continuously attended by a member of staff who is able to change the roll.

29. The Parties submitted that the various weights and widths of paper are not substitutable from a demand-side perspective (ie an ATM roll could not be used for a credit card device and vice versa) but that there exists supply-side substitution between different types of converted rolls. The machines used to convert LWTP jumbo rolls into converted rolls can be used to produce rolls in a variety of weight and width permutations. The Parties submitted that changing the width of a converted roll produced by a machine is a matter of adjusting the settings on the relevant machine, which takes as little as one hour, and the machines are capable of handling different weights of paper. Therefore, the Parties submitted that manufacturers can switch production quickly and easily to meet customer demand for specific products. The Parties also submitted that manufacturers do not specialise in producing particular sizes or weights of converted rolls and that the competing suppliers supply the same products under the same competitive conditions.
30. As such, the Parties submitted that supply-side substitution exists between the POS rolls, credit card rolls and ATM rolls (often collectively referred to as receipt rolls) manufactured by each of the Parties. However, the Parties submitted that this substitution does not extend to converted rolls used for transportation tickets, lottery tickets or queuing tickets as these require different converting machinery. The Parties submitted that only the Target supplies tickets. While the machinery used to make receipt rolls could be modified to make transportation tickets, lottery tickets or queuing tickets, the Parties submitted that this would require time and capital investment.

#### *CMA's assessment*

31. The CMA has considered whether narrower candidate frames of reference exist for different types of converted rolls on the basis of their end-use applications (ie POS rolls, credit card rolls or ATM rolls).
32. Several UK customers indicated that they are not able to switch between using different types of converted rolls (for example, because they require rolls with specific dimensions for a particular end-use application such as a POS device or ATM).

33. However, the CMA may take into account supply-side factors where (i) firms can use the same production assets to supply a range of products that are not demand-side substitutes, and have the ability and incentive to quickly shift capacity between these products; and (ii) the same firms compete to supply these different products and the conditions of competition between the firms are the same for each product.<sup>8</sup>
34. Competitors indicated that they can (and do) manufacture POS rolls, credit card rolls, and ATM rolls using the same machinery, and can (and do) switch between manufacturing these products cheaply and quickly, even several times a day. The Parties and most of their converted roll competitors are active in POS rolls, credit card rolls and ATM rolls.
35. On the basis of supply-side substitutability, the CMA therefore believes that the appropriate frame of reference is converted rolls for use in POS devices, credit card devices and ATMs (with no further segmentation). For the purposes of its assessment, the CMA has not included transportation tickets, lottery tickets and queuing tickets within the relevant product frame of reference in light of no demand-side substitution and limited supply-side substitutability between those products and converted rolls. The CMA notes that the Parties do not overlap in the supply of these products.
36. The CMA notes that requirements and competitive conditions may differ for large customers of converted rolls (with relatively high volume requirements), compared to smaller customers. The CMA has considered these differences, to the extent relevant, in its competitive assessment section below.

### *Converted labels*

#### *Parties submissions*

37. Converted labels (like converted rolls) are produced in a variety of different permutations, for example based on the dimensions of the label (in terms of its length or width) and the number of labels on the roll. The Parties submitted that, as with converted rolls, the machines used to produce converted labels are all capable of producing different types of label sizes and weights depending on customer requirements. As such, the Parties submitted that the narrowest relevant frame of reference is converted labels and there should be no further segmentation by type, size or weight of label.

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<sup>8</sup> [Merger Assessment Guidelines](#), paragraph 5.2.17 et seq.



### *CMA's assessment*

38. The CMA agrees with the Parties that, as with converted rolls, the appropriate product frame of reference is converted labels with no further segmentation.

### **Geographic scope**

#### *Converted rolls*

##### *Parties' submissions*

39. The Parties submitted that the relevant geographic frame of reference for the supply of converted rolls is at least EEA-wide. In particular, the Parties submitted that they and their competitors routinely ship converted rolls across the whole of Europe (and beyond) and that there are numerous examples of customers in the UK sourcing converted rolls from other countries.
40. For example, the Parties submitted that:
- (a) Iconex [REDACTED] in 2017 and 2018. Iconex submitted that Fortoak imports converted rolls for resale from outside the UK, including from Poland, China and Turkey.
  - (b) Iconex [REDACTED] in 2017 [REDACTED].
  - (c) The Target [REDACTED] in 2017 [REDACTED].
41. The Parties further submitted that it is not necessary to have a manufacturing plant or significant sales or support presence in a particular country in order to sell into it. The Parties indicated that both Iconex and the Target do not have localised sales support in the majority of the EEA countries into which they supply converted rolls. The Parties submitted that their competitors similarly sell into countries in which they do not have manufacturing plants and provided examples including: Franz Veit (Germany), Rotolifico Bergamasco (Italy), Fesa (Spain), IS Botella (Spain) and Omeko (Poland).
42. The Parties submitted that customers can (and do) switch between different EEA suppliers quickly and at a negligible cost. Iconex provided the example of a German customer contacting Iconex [REDACTED], notwithstanding that Iconex has no presence and [REDACTED] in Germany.
43. The Parties further submitted that there are no barriers to entry that isolate a supplier in one Member State from the competitive pressures of suppliers located outside that Member State.

- *Transport costs*

44. The Parties also submitted that transport costs do not have a meaningful impact on where converted rolls can be shipped and the Parties provided an analysis of Iconex's transport costs to the CMA. This analysis set out the transport costs of printed and unprinted 80mm x 80mm converted rolls (as a proportion of production cost, excluding transport costs) based on the products being shipped from Iconex's plants in each of the UK and France to other European destinations.
45. The Parties submitted that this analysis indicates that transport costs are a small percentage of overall production cost (with a median of between [0-5]% and [0-5]% and that the incremental cost of shipping across longer distances is small and in no way prohibitive. The Parties submitted that such transport costs (as a percentage of production cost) will be similar for other suppliers of converted rolls and that this supports the Parties' submissions that all competitors can (and do) compete for customer demand throughout the EEA.
46. The Parties provided further examples of converted rolls being shipped across Europe from the UK, including the Target servicing [X] from Schades' plant in the UK and Iconex servicing customers [X] from Iconex's UK plant.
47. The Parties acknowledged that transport costs from Continental Europe to the UK (and vice versa) may well be higher than for shipments that do not involve a sea crossing. However, they submitted that any higher transport costs of shipping converted rolls across Europe into the UK are mitigated by lower input costs resulting from the fact that the plants of European manufacturers of converted rolls are located closer to the plants of the paper mills which produce LWTP jumbo rolls. As there are no paper mills in the UK which produce LWTP jumbo rolls, manufacturers of converted rolls in the UK must first import LWTP jumbo rolls from outside the UK.

- *Shipment data*

48. The Parties also provided shipment data illustrating:
  - (a) the volume of converted rolls transported from each of their UK manufacturing plants to: (i) the UK; and (ii) a different country; and
  - (b) the straight-line distance over which those sales of converted rolls are made.
49. In particular, the Parties submitted that this shipment data is not consistent with a national frame of reference as it shows that:

- (a) approximately [0-50]% of Iconex's shipments from its UK plant are supplied to customers outside the UK; and
- (b) shipments across long distances are economically feasible as the furthest customer from Iconex's UK plant is approximately [1,000-2,000] miles away and, to the extent that there exist narrower catchment areas around manufacturing plants, this is a result of the Parties having multiple manufacturing sites and/or regional sales focuses and does not justify a national frame of reference.

- *Country clusters*

50. As noted above, the Parties submitted that the relevant geographic frame of reference for the supply of converted rolls is (at least) EEA-wide, though the Parties also considered that it is theoretically possible that the countries in which the Parties have a combined share of supply of over 20% in converted rolls and in which the Parties' plants are primarily located (ie the UK, Germany and France) could form a 'country cluster' for the purpose of the CMA's assessment. The Parties also considered that it is theoretically possible that there could exist an 'enlarged country cluster' which includes Belgium, the Netherlands and Luxembourg (in addition to the UK, Germany and France).

*CMA's assessment*

51. Based on all of the available evidence, the CMA has assessed the impact of the Merger in the UK. However, it has taken into account the competitive constraint from non-UK suppliers in its competitive assessment.
52. While the Parties provided limited examples of bids lost to suppliers of converted rolls based outside the UK, the CMA has received evidence from non-UK suppliers which indicates that they typically supply customers located in their domestic territories and potentially in neighbouring countries (ie countries with a shared land border), but not usually further afield.
53. This is consistent with the limited shares of supply attributed to non-UK suppliers based on both the Parties' and the CMA's estimates set out in Table 1 below. Suppliers from outside the UK (ie without a UK manufacturing capability or sales presence) account for approximately [0-10%] of all supplies within the UK.<sup>9</sup> Specifically,

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<sup>9</sup> The CMA understands that [REDACTED].

- (a) Franz Veit (Germany) is estimated by the CMA to have a share of approximately [0-5%];
  - (b) Omeko (Poland) is estimated by the CMA to have a share of approximately [0-5%]; and
  - (c) other non-UK suppliers (e.g. Pasaco (Poland) and APP (China)) are estimated by the Parties to have shares of less than 5%.
54. Although the Parties referred to Fortoak as an importer active in the UK, the CMA has considered Fortoak (a UK-based supplier with a UK sales force) to be a UK supplier. [REDACTED].<sup>10</sup>
55. The limited presence of non-UK suppliers in the UK is also consistent with evidence from UK customers:
- (a) Several UK customers stated that a supplier's proximity to the customer's location is important as distance has an impact on transport costs, the supplier's ability to respond to volume requirements and delivery times. For example, one UK customer said that using a supplier located far away could lead to long delivery times and 'problems for business continuity'.
  - (b) Some UK customers also expressed a preference for UK-based suppliers specifically due to factors such as transport costs, surety of supply and non-UK suppliers being subject to GBP / EUR currency fluctuations.
  - (c) Although most UK customers expressed a willingness to consider sourcing converted rolls from outside the UK in response to a 5-10% price rise, only a small number currently do so.
56. Evidence from non-UK suppliers similarly suggested that there are UK-specific factors that differentiate competitive conditions in the UK from the rest of the EEA, although the responses were somewhat mixed:
- (a) Some non-UK suppliers of converted rolls indicated that competitive conditions with regard to UK customers differ to those for other EEA customers, for example on account of the relatively high transport costs associated with the UK, risks associated with the GBP / EUR exchange rate and the preference of UK customers for UK-based suppliers. One non-UK supplier told the CMA the competitive landscape in the UK is different to the EEA as UK customers favour UK suppliers.

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<sup>10</sup> [REDACTED].

- (b) Other non-UK suppliers did not identify any UK-specific factors that differentiate competitive conditions between UK and EEA customers.
- (c) However, the CMA notes that two suppliers provided answers to the European Commission that appear to conflict with their answers to the CMA on these issues.<sup>11</sup>

57. Tender data provided by the Parties (described in paragraph 82 and 85 below) also indicates that the vast majority of competitors met by Iconex and Schades in UK tenders have UK-based production facilities or sales functions and that Iconex and Schades have met only a very small number of non-UK suppliers in UK tenders, and on an infrequent basis.<sup>12</sup>

- *Transport costs*

58. While the Parties have submitted that transport costs have no meaningful impact on the locations to which converted rolls can be supplied, the CMA believes that the transport cost data provided by the Parties indicates that there is a significant increase in transport costs when products are imported from Continental Europe to the UK (and vice versa).
59. Specifically, the Parties' data indicates that, while transport costs from Iconex's UK plant to another UK location represent approximately [0-5]%-[0-5]% of the product's production cost, transport costs from Iconex's plant in France to a UK location represent approximately [0-5]%-[0-5]% of the product's production costs. The data also indicates that exporting products from France to the UK results in a more significant increase in transport costs than exporting from France to other European countries. The CMA believes that this may be attributed to the difference between a land border and a sea border in terms of transport.
60. The Parties' analysis of transport costs for exports leaving the UK similarly indicates that transport costs (at least) nearly double (as a share of total production cost) when products are exported outside the UK. For example, transport costs increase from [0-5]% of production cost (when delivered within the UK) to: (i) [0-5]% when exported to Belgium and the Netherlands; (ii) [0-5]% when exported to Germany; (iii) [0-5]% when exported to France; (iv) [0-5]% when exported to Italy; and (v) [0-5]% when exported to Spain (indicating that transport costs increase [X] when converted rolls are delivered from the UK to Spain compared to within the UK).

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<sup>11</sup> [X].

<sup>12</sup> Namely, Franz Veit and Umur. In addition, the CMA has been unable to confirm whether or not Dataspeed (mentioned Iconex's UK tender data at Table 2) is a UK supplier.

61. Furthermore, LWTP jumbo rolls (the main input for converted rolls) account for a large proportion of the costs of converted rolls ([70-80]% based on the Parties' estimates) and LWTP jumbo rolls are likely to represent a broadly similar proportion of costs across other suppliers. The CMA has therefore considered transport costs in the context of an industry with relatively small profit margins. The Parties told the CMA that Schades' gross profit margin for its UK plant was [0-10]% in 2017.<sup>13</sup> The Parties also noted that within the industry, EBITDA is typically a small single digit percentage.<sup>14</sup> In that context, the CMA believes that an increase in transport costs of [0-5] percentage points of production costs represents a large proportion of margin.
62. In addition, the CMA has received evidence from other suppliers of converted rolls that transport costs are an important factor in their competitive offering and often determine whether or not a supplier will bid to supply a particular customer. For example, one supplier indicated that transporting converted rolls over longer distances is viable for them only if a large amount of the relevant product can be transported at once. Another supplier indicated that supplying products to locations over 1,000 km from the production facility is not considered profitable. Contrary to the Parties' submissions, some suppliers (both UK and non-UK suppliers) also indicated that transport costs account for a far greater proportion of costs than is the case for the Parties (eg 5-10% or even 10-20% of the total value of converted rolls). One supplier told the CMA that it would not be economic to increase supply to the UK at current prices due to high transport costs, but they would if they rose by 5-10%.

- *Shipment data*

63. The CMA has also analysed the shipment and catchment area data provided by the Parties (described in paragraph 48). The data shows that a significant percentage of UK-manufactured converted roll volumes are sold to customers within the UK: [90-100]% for Schades and [70-80]% for Iconex.<sup>15</sup> The remainder of sales from Iconex's UK plant are made to customers in Spain ([10-20]%), France ([0-10]%), Germany ([0-10]%), the Netherlands ([0-10]%) and Norway ([0-10]%). The Parties submit that this implies that Iconex's plant has a wide catchment area that is not consistent with a national frame of reference. The CMA notes that although Iconex's shipment data indicates a

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<sup>13</sup> This gross profit margin is taken from Annex 25 to the Parties' Merger Notice (an internal Target document). The CMA has not undertaken a margin analysis and cannot confirm this figure.

<sup>14</sup> Parties' Merger Notice dated 8 April 2019, paragraph 115.

<sup>15</sup> Based on the CMA's analysis of the Parties' data. The Parties submitted that [70-80]% of sales from Iconex's UK plant are made to customers in the UK.

higher percentage of UK exports than Schades, a significant percentage of both Parties' volumes are sold to UK customers. However, for the geographic frame of reference the CMA believes that the extent of imports to the UK – reflected in the limited shares of supply discussed at paragraph 53 above – is more relevant than the extent of exports from the UK.<sup>16</sup>

#### *Conclusion on geographic frame of reference*

64. For the reasons set out above, and on a cautious basis, the CMA has assessed the impact of the Merger on the supply of converted rolls in the UK. The CMA's findings in this regard are consistent with the European Commission's market investigation which showed that 'the competitive landscape in the UK appears to be different from Continental Europe, mainly because transport costs are higher and there are risks associated to the exchange rate, as a result of which UK customers tend to prefer UK suppliers'.<sup>17</sup> However, the CMA has taken into account the competitive constraint from non-UK suppliers in its competitive assessment.

#### *Converted labels*

##### *Parties submission*

65. The Parties submitted that, as with converted rolls, the relevant geographic frame of reference for the supply of converted labels is at least EEA-wide. The Parties submitted that converters of converted labels can and do ship across the EEA, transport costs are not prohibitive and customers easily switch to suppliers in other countries.
66. In any event, the Parties estimated that their combined share of supply of converted labels in both the UK and the EEA is less than 5%.

##### *CMA assessment*

67. The geographic frame of reference for converted labels can be left open as the Merger does not give rise to a realistic prospect of an SLC on either basis due to the Parties' low combined share of supply of less than 5% in both the UK and the EEA. Converted labels are therefore not considered further in this decision.

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<sup>16</sup> [Merger Assessment Guidelines](#), paragraph 5.2.23.

<sup>17</sup> European Commission Decision, paragraph 38.

## ***Conclusion on frame of reference***

68. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of converted rolls in the UK. The CMA has taken into account the competitive constraint from overseas suppliers in its competitive assessment.

## **Competitive assessment**

### ***Horizontal unilateral effects***

69. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.<sup>18</sup> Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA 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 horizontal unilateral effects in the supply of converted rolls in the UK.
70. 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***

71. The Parties submitted share of supply data to the CMA on the basis of volume (tonnage) and value for the year 2017, noting that the figures for 2018 are not expected to be materially different. The share of supply data was based on Iconex's best estimates using internal information and commercial insights gained in respect of competitors' relative sizes and production output, publicly available revenue information and third-party data sources such as Eurostat. However, no pre-existing information on total UK market size was available.
72. The Parties estimated that they would have a combined share of supply of [40-50]% (in terms of volume) and [30-40]% (in terms of value), with an increment of respectively [10-20]% and [10-20]%. These estimates included at

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<sup>18</sup> [Merger Assessment Guidelines](#), from paragraph 5.4.1.



least 11 companies in addition to the Parties and a significant category of ‘other’ competitors.

73. The CMA obtained revenue data from many of the Parties’ competitors and excluded from the share of supply data any suppliers that were not named by any third party as an alternative to the Parties.<sup>19</sup> This resulted in the estimated shares of supply as set out in Table 1 below.

**Table 1: UK shares of supply estimated by the Parties and the CMA**

	Merger Notice		CMA calculations
Company name	Share of Supply (Volume)	Share of Supply (Value)	Shares of Supply (Value)
Iconex	[10-20]%	[10-20]%	[10-20]%
Schades	[30-40]%	[20-30]%	[20-30]%
R+S	[0-5]%	[0-5]%	[0-5]%
<b>Combined</b>	<b>[40-50]%</b>	<b>[30-40]%</b>	<b>[40-50]%</b>
Premier Vanguard	[10-20]%	[10-20]%	[10-20]%
Merley Paper	[5-10]%	[5-10]%	[10-20]%
Tayrol	[5-10]%	[5-10]%	[5-10]%
Fortoak <sup>20</sup>	N/A	N/A	[5-10]%
Franz Veit	[0-5]%	[0-5]%	[0-5]%
Royce	[0-5]%	[0-5]%	[0-5]%
BPC	[0-5]%	[0-5]%	[5-10]%
Omeko, Pasaco <sup>21</sup>	[0-5]%	[0-5]%	[0-5]%
Reel Stock <sup>22</sup>	[0-5]%	[0-5]%	N/A
Ticket Media	[0-5]%	[0-5]%	[5-10]%
Others with (0-5)% or less <sup>23</sup>	[10-20]%	[10-20]%	N/A
Total	100%	100%	100%

Source: Parties’ Merger Notice and CMA analysis of data provided by the Parties and third parties

Note: Suppliers with 2% or less share of supply have been aggregated in the last row of the columns for the Parties’ estimates; some of the relevant suppliers were not identified explicitly in the Parties’ Merger Notice. The Parties’ estimates include manufacturers of converted rolls only, though the CMA has included Fortoak (a UK supplier that imports converted rolls [⊗]) in its estimates as well. It is possible that the shares include some double-counting of converted rolls sold from one supplier to another.

74. Both the Parties’ and the CMA’s estimates indicate that the Parties will have a significant combined presence in the UK post-Merger (and that the Merger will

<sup>19</sup> Each of these suppliers was estimated by the Parties to have [0-5]% or less share of supply.

<sup>20</sup> Fortoak was included in ‘others’ by the Parties.

<sup>21</sup> The CMA understands that Omeko and Pasaco are two independent Polish manufacturers of converted rolls. While the Parties have combined Omeko and Pasaco for the purpose of estimating shares of supply, the CMA’s estimate of [0-5%] relates to Omeko only. Pasaco was not mentioned by any third party as an alternative supplier in the UK.

<sup>22</sup> The CMA did not include Reel Stock in its estimates as it was not named by any third party as an alternative to the Parties.

<sup>23</sup> Others include what the Parties described as ‘Various suppliers selling via ecommerce’, ‘Various suppliers’ and ‘All other (Label Houses, Small Converters, etc)’.

result in a material increment in share) with the Parties being the largest and third-largest suppliers by revenue.

75. The CMA believes that the Parties' combined share of supply is high enough to give rise to prima facie competition concerns. The share of supply estimates also indicate that the Merged Entity will be the largest supplier of converted rolls in the UK by a significant order of magnitude, specifically the Parties will have a combined share of [40-50]% based on the CMA's estimates of share of supply by value, while the next largest suppliers (Premier Vanguard and Merley) have shares of [10-20]% and [10-20]%, respectively.<sup>24</sup>

#### *Closeness of competition*

76. In assessing the closeness of competition between the Parties in the supply of converted rolls in the UK, the CMA has considered:
- (a) the Parties' submissions;
  - (b) evidence from internal documents;
  - (c) tender data submitted by the Parties;
  - (d) switching data submitted by the Parties; and
  - (e) the views of third parties.

#### *Parties' submissions*

77. The Parties noted that the European Commission has found that 'the vast majority of customers that replied mentioned a number of converted rolls suppliers and did not see the Parties as the closest competitors' and that 'the vast majority of the customers that replied to the market investigation indicated that the most important criterion to select a supplier of converted rolls is price'.<sup>25</sup> The Parties submitted that the UK marketplace does not exhibit any unique characteristics that would justify a different finding by the CMA.

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<sup>24</sup> The CMA notes that a number of the Parties' internal documents indicated higher shares of supply than the shares of supply submitted by the Parties in the Merger Notice. However, the CMA considers the estimated shares of supply in Table 1 to be more accurate as these are based on the Parties' and third parties' revenue submissions.

<sup>25</sup> Iconex's Supplementary Submission dated 15 May 2019, citing the European Commission Decision, paragraphs 50 and 51.

78. The Parties further submitted that Schades' switching data (described in further detail in paragraph 88 below) indicates that, in the majority of instances in which Schades lost business in 2016 to 2018, the business was not lost to Iconex.

*Internal documents*

79. The CMA believes that the internal documents submitted by the Parties indicate that they (in particular Iconex and Schades) monitor each other most intensely within a limited set of other competitors and consider each other to be very close competitors in the UK.

80. For example:

(a) An Iconex [redacted] dated April 2019 indicates that Iconex [redacted].<sup>26</sup>

(b) An Iconex [redacted] dated May 2018 [redacted].<sup>27</sup>

(c) A [redacted] dated September 2016 includes 2015 market share estimates for the UK [redacted].<sup>28, 29</sup>

(d) A Target [redacted] dated August 2017 which states that [redacted].<sup>30</sup>

(e) A further Target [redacted] dated February 2018 [redacted].<sup>31</sup>

81. Internal documents relating to competition for specific UK customers similarly indicate that the Parties are close competitors in the UK. For example:

(a) [redacted] in an Iconex [redacted] document dated July 2018 [redacted].<sup>32</sup>

(b) [redacted]:

(i) a [redacted] document dated August 2018 indicates that [redacted],<sup>33</sup> and

(ii) a [redacted] dated March 2019 indicates that [redacted].<sup>34</sup>

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<sup>26</sup> Annex 41 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>27</sup> Annex 21 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>28</sup> Annex 5 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>29</sup> Meriden Paper Limited was a UK manufacturer of converted rolls which appointed administrators in June 2017 and is now in liquidation.

<sup>30</sup> 'Schades\_R+S\_Sales\_meeting\_2017\_Aug.pdf', provided in response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>31</sup> 'Schades\_R+S\_Sales\_meeting\_Feb 2018', provided in response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>32</sup> Annex 26 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019. [redacted].

<sup>33</sup> Annex 28 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>34</sup> Annex 48 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

*Tender data*

82. The Parties submitted Iconex’s tender data for 2017 and 2018. The data lists Iconex’s ‘EU Quoted Opportunities’ for this period and provides details of the ‘Competitor bidding if known’. The frequency with which competitors are referenced in relation to UK tenders<sup>35</sup> is summarised in Table 2 below.

**Table 2: Iconex UK tender data (2017-2018)**

<b>Competitors</b>	<b>Number of tenders (in %)</b>	<b>Value of tenders (in %)</b>
Schades	[50-75]%	[50-75]%
Fortoak	[0-25]%	[25-50]%
Pasaco	[0-25]%	[0-25]%
Premier Vanguard	[0-25]%	[0-25]%
BPC	[0-25]%	[0-25]%
Merley	[0-25]%	[0-25]%
Tayrol	[0-25]%	[0-25]%
Franz Veit	[0-25]%	[0-25]%
Dataspeed	[0-25]%	[0-25]%
Tate	[0-25]%	[0-25]%
Umur	[0-25]%	[0-25]%
Banner	[0-25]%	[0-25]%

*Source: CMA analysis of Annex 34 to the Parties’ Merger Notice.*

Note: The percentages do not add up to 100% as multiple competitors are named in the dataset for the same opportunity.

83. This data indicates that, of the 12 competitors named, Schades is named most frequently as having competed (or being expected to compete<sup>36</sup>) for the same opportunities as Iconex. As set out in Table 2, Schades competed (or was expected to compete) with Iconex in [50-75]% of the opportunities covered by the dataset. These opportunities account for [50-75]% of the relevant opportunities by value, indicating that not only is Schades competing with Iconex most frequently but Schades is competing with Iconex for the largest opportunities.

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<sup>35</sup> The CMA’s analysis is based on [X] UK tenders. The total number of UK tenders in the data is [X] but the vast majority do not have competitors’ names attributed to them.

<sup>36</sup> The data does not identify specifically whether competitors actually bid for the relevant opportunities or whether Iconex simply expected them to bid.

84. This tender data is supported by another internal Iconex document which analyses win-loss data for [X] contracts.<sup>37</sup> This document also indicates that Schades is Iconex’s main competitor as it was named in [25-50]% of win-loss instances (followed by Meriden (which is no longer in business) at [0-25]% and Merley at [0-25]%).
85. The Parties also submitted UK tender data for Schades covering 2017 and 2018. The data identifies Schades’ view of competitors for opportunities in which Schades participated. The frequency with which competitors participated in and won the relevant opportunities is summarised in Table 3 below.

**Table 3: Schades UK tender data (2017-2018)**

	<b>Participation ratio</b>	<b>Win ratio</b>
Iconex	[50-75]%	[0-25]%
Premier Vanguard	[50-75]%	[0-25]%
Merley	[0-25]%	[0-25]%
Tayrol	[0-25]%	[0-25]%
Fortoak	[0-25]%	[0-25]%
Franz Veit	[0-25]%	[0-25]%
Meriden	[0-25]%	[0-25]%
Schades	100%	[50-75]%

*Source: CMA analysis of Annex 36 to the Parties’ Merger Notice*

86. The Schades tender data indicates that Schades encountered a similar set of competitors to Iconex in the period 2017-2018 and that it encountered Iconex most frequently (in [50-75]% of the opportunities), closely followed by Premier Vanguard (in [50-75]% of the opportunities), with these two suppliers winning far more contracts ([0-25]% and [0-25]% respectively) than all other suppliers except for Schades ([50-75]%).
87. On the basis of the evidence set out above, the CMA believes that the frequency with which Iconex and Schades are named as competing with one another in UK tenders (in over [50-75]% of opportunities based on both datasets) indicates that they are competing closely.

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<sup>37</sup> ‘Thermal Paper Sales Prices Europe v4’, undated, Annex 56 of Iconex’s response to the CMA’s Section 109 Notice dated 2 April 2019.

### Switching data

88. The Parties provided switching data for Schades' customers that switched to other suppliers between 2016 and 2017, and between 2017 and 2018.<sup>38</sup> The data indicates that, between 2017 and 2018, [redacted] of [redacted] customers switched away from Schades and, between 2016 and 2017, only [redacted] of [redacted] customers switched away from Schades. The competitors to which each of these customers switched is summarised in Table 4 below.<sup>39</sup> In addition, the Parties provided accompanying volume data for some of the [redacted] switching customers.<sup>40</sup>

**Table 4: Schades switching data (2016 – 2018)**

	Switches from Schades	Volumes switched from Schades (sqm)
BPC	[redacted]	[redacted]
Fortoak	[redacted]	[redacted]
Iconex	[redacted]	[redacted] <sup>41</sup>
Merley	[redacted]	[redacted]
Premier Vanguard	[redacted]	[redacted]
Reel Stock	[redacted]	[redacted]
Franz Veit	[redacted]	[redacted]
Unknown/Imports	[redacted]	[redacted]
<b>Total<sup>42</sup></b>	[redacted]	[redacted]

Source: CMA analysis of information provided in the Parties' submission dated 12 May 2019 regarding customer switching

89. This data indicates that Fortoak and Premier Vanguard (which have won the most customers from Schades) were able to win the business of reasonably large customers (such as [redacted]). However, the data also indicates that Iconex, which won only slightly fewer switching customers than Fortoak and Premier Vanguard, attracted by far the largest total amount of volume from Schades: [redacted].

<sup>38</sup> The data submitted by the Parties is based on information from the customer. The Parties noted that at times, the supplier of pre-printed Converted Rolls may be discernible from the reverse side of the customer receipt (if FSC certified).

<sup>39</sup> As noted above, all but one of the switches occurred between 2017 and 2018.

<sup>40</sup> Annex 2 to the Parties' submission dated 15 May 2019.

<sup>41</sup> [redacted].

<sup>42</sup> [redacted].

90. While the switching data indicates that Schades loses slightly more customers to other suppliers of converted rolls (Fortoak and Premier Vanguard) than Iconex, the CMA believes that the data equally demonstrates that Schades competes closely with Iconex, in particular in respect of the largest customers.

*Third party views*

91. The CMA has received some evidence from customers on the closeness of competition between the Parties, with approximately half of the UK customers that responded to the CMA's enquiries indicating that Iconex and Schades are each other's closest competitors or that the Parties are particularly close competitors in the UK. Several large customers, in particular, viewed Iconex and Schades as each other's closest competitors in the UK. For example, one customer observed that Iconex is the 'the number one major competitor of Schades/R+S' in the UK market. Another customer said that Iconex and Schades provide the 'best/only level of credible competition in bids', suggesting that Iconex and Schades are a strong competitive constraint on each other.
92. The remainder of UK customers did not express a view in relation to the Parties' closeness, with some customers (in particular those who purchase converted rolls through resellers,<sup>43</sup> rather than directly from manufacturers) unable to express a view.
93. Similarly, the majority of competitors that responded to the CMA's investigation in relation to the UK indicated that Iconex and Schades are each other's closest, or particularly close, competitors and the remainder of competitors did not express a view. One competitor noted that Iconex and Schades focus on the same customers in the UK.
94. As regards the Parties' reference (summarised at paragraph 77 above) to the European Commission's finding that the vast majority of customers that replied to the European Commission's market investigation did not see the Parties as each other's closest competitors, the CMA notes that the CMA's investigation examined the effects of the Merger in the UK and the European Commission's investigation examined the effects of the Merger in the remainder of the EEA. The CMA made inquiries in addition to those made by the European Commission that were focused on the UK customers and competitors active in the UK. The summary of third party views in paragraph 91 to 93 above reflects these differences. Indeed, there is significant evidence

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<sup>43</sup> Eg companies specialising in the supply of a number of different office supply or POS products, including converted rolls.

that Iconex and Schades may be each other's closest competitor in the UK. In any event the CMA notes that, in order for horizontal unilateral effects to be more likely, the Parties' products need only be close competitors, rather than each other's closest competitor.<sup>44</sup>

#### *Conclusion on closeness of competition*

95. On the basis of the evidence set out above, the CMA believes that the Parties (specifically, Iconex and Schades) compete very closely with each other for the supply of converted rolls in the UK.

#### *Competitive constraints*

96. Unilateral effects are more likely where customers have little choice of alternative supplier. The CMA has assessed whether there are alternative suppliers which would provide a competitive constraint on the Merged Entity and has considered:

- (a) the Parties' submissions;
- (b) evidence from internal documents;
- (c) tender data submitted by the Parties;
- (d) switching data submitted by the Parties; and
- (e) the views of third parties.

97. As part of its assessment, the CMA has considered the extent of the competitive constraint capable of being exercised on the Merged Entity by both UK and non-UK suppliers. The CMA has also considered the extent to which the requirements of different types of customers may differ and what impact such requirements may have on the ability of alternative suppliers to constrain the Merged Entity.

#### *Parties' submissions*

98. The Parties submitted that all major suppliers of converted rolls compete for contracts across the EEA and that there are many regional suppliers who provide an additional competitive constraint in particular geographic areas. The Parties submitted that suppliers compete on the basis of price alone and

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<sup>44</sup> See [Merger Assessment Guidelines](#), paragraph 5.2.15.



that the supply of converted rolls is not characterised by any product differentiation or brand loyalty considerations.

99. As such, the Parties submitted that all suppliers for converted rolls are able to compete to fulfil the requirements of all customers (whether large or small). In particular, the Parties submitted that:
- (a) suppliers from outside the UK (such as Franz Veit in Germany and other suppliers in the EEA and beyond) can and do compete for contracts in the UK;
  - (b) there are a number of smaller suppliers active in the UK (eg Premier Vanguard, Merley, Tayrol, Royce, BPC and Fortoak) who can and do supply large customers for the following reasons:
    - (i) businesses do not submit orders for their entire annual consumption of converted rolls and instead make orders of lower volumes on a frequent basis;
    - (ii) an extremely limited number of customers require the provision of converted rolls across a broad geographic area and customers are able to multi-source across regions within Europe;
    - (iii) in the event of short term capacity shortages, customers can outsource a portion of the business to a different supplier; and
    - (iv) incremental shipping costs across greater distances are not prohibitive and can be mitigated through the lower overheads of smaller competitors;
  - (c) other suppliers have spare capacity and are freely able to meet demand for converted rolls, as confirmed by the European Commission's merger investigation;<sup>45</sup>
  - (d) utilising spare capacity is easy and can be done through the use of additional labour (eg running extra shifts on the same equipment);
  - (e) it is easy for customers to switch their supplier of converted rolls and customers are not concerned with the 'credibility' of their suppliers; and

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<sup>45</sup> The Parties referred in particular to paragraph 52 of the European Commission Decision, which found that all competitors that replied to the Commission's market investigation indicated they have spare capacity and could easily add shifts; with the majority confirming they would be able to increase capacity under their current shift pattern. The CMA has considered capacity within the Barriers to Entry and Expansion section below.

- (f) post-Merger there will be increased competition for the purchase of LWTP jumbo rolls because the Merger breaks the vertical link between the Sellers and the Target, meaning that no concerns arise as a result of the Merged Entity being able to exercise increased bargaining power in the purchase of LWTP jumbo rolls.<sup>46</sup>

#### *Internal documents*

100. The CMA believes that the Parties' internal documents indicate that the Parties exist within a limited competitive set for the supply of converted rolls in the UK comprised of: (i) other UK suppliers (all of whom are considerably smaller than the Merged Entity, as described at paragraph 73 above); and (ii) a very small number of non-UK suppliers. For example:
- (a) A July 2018 Iconex [REDACTED] document identifies the following competitors [REDACTED].<sup>47</sup>
  - (b) A 2016 Iconex [REDACTED] lists [REDACTED];<sup>48</sup>
  - (c) An Iconex [REDACTED] document dated May 2018 identifies [REDACTED].<sup>49</sup>
  - (d) A Target [REDACTED] in February 2018 identifies [REDACTED].<sup>50</sup>
101. Internal documents relating to customer specific strategies also indicate that other suppliers of converted rolls in the UK may have certain capacity limitations or are otherwise not able to compete effectively with the Parties. For example, [REDACTED].<sup>51</sup>

#### *Tender data*

102. As noted above at paragraphs 82-90 above, the Parties provided tender data for each of Iconex and Schades. The Iconex tender data at Table 2 indicates that Iconex competes most frequently with Schades (cited in [50-75]% of the opportunities) and that Iconex's next closest competitor, Fortoak, is cited in the tender data [REDACTED] as Schades ([25-50]%). While a number of other competitors appear in the tender data, they are cited with even less frequency, including: Pasaco ([0-25]%), Premier Vanguard ([0-25]%), BPC

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<sup>46</sup> The Parties rely in this regard on findings of the European Commission that 'in principle, there will be more competition in the purchasing of jumbo rolls', paragraph 56 of the European Commission Decision. One of the Sellers, Hansol Paper Co, Ltd is active in the production of LWTP jumbo rolls.

<sup>47</sup> Annex 25 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>48</sup> Annex 5 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>49</sup> Annex 21 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>50</sup> 'Schades\_R+S\_Sales\_meeting\_Feb 2018', provided in response to the CMA's Section 109 Notice dated 2 April 2019.

<sup>51</sup> Annex 28 to Iconex's response to the CMA's Section 109 Notice dated 2 April 2019.

([0-25]%), Merley [0-25]%, Tayrol ([0-25]%), Franz Veit ([0-25]%) and four other suppliers, each with ([0-25]%). However, it is notable that the opportunities for which Franz Veit is cited account for approximately [0-25]% of the value of the tender opportunities in the data. This indicates that, while Iconex meets Franz Veit in only a small proportion of UK tenders, these tenders appear to be tenders run by large customers with more significant volume requirements.

103. The Schades tender data at Table 3 indicates that Schades won the majority of the tenders in which it participated ([50-75]%). Iconex participated in [50-75]% of Schades' tenders (winning [0-25]%) and Premier Vanguard participated in [50-75]% (winning [0-25]%). As set out in Table 3, other competitors participated (and won) significantly less frequently.
104. The CMA believes that the data indicates that Schades exercises the strongest constraint on Iconex by a considerable margin but that Iconex and Premier Vanguard exercise a similar degree of competitive constraint on Schades. This asymmetric constraint is consistent with the shares of supply set out in Table 1 which indicate that Schades is the largest supplier of converted rolls in the UK and that Iconex and Premier Vanguard are of a similar size.

#### *Switching data*

105. As noted above at paragraphs 88-90 and Table 4, the Parties submitted switching data for Schades which indicates that customers switched more frequently from Schades to Premier Vanguard ([X]) and Fortoak ([X]) than to Iconex ([X]). The data also indicates that customers switched as frequently to Merley ([X]) and less frequently to BPC, Reel Stock and Franz Veit ([X]). The CMA believes this indicates that Fortoak, Premier Vanguard, Iconex and Merley all provide a similar level of competitive constraint on Schades when considered purely on the basis of the number of switching customers irrespective of the size of customer. However, as set out in paragraphs 89 and 90, the Schades volume data for switching customers provided by the Parties indicates that the non-Iconex competitors may be a stronger competitive constraint for lower volume customers while it is Iconex which is able to win the business of higher volume customers.

### *Third party views*

- *Customers*

106. Approximately half of UK customers that responded to the CMA's merger investigation felt that there would be insufficient alternative suppliers of converted rolls to the Merged Entity or expressed concerns about the Merger (in particular that prices are likely to increase as a result). UK customers identified a number of alternatives including Premier Vanguard, Fortoak, Merley, Tayrol, BPC and Franz Veit. However, each supplier was named by only a limited number of respondents.
107. Evidence from concerned customers showed that the ability of these alternative suppliers to constrain the Merged Entity is limited. A number of customers expressed concerns regarding the capacity, reliability and competitiveness of alternative suppliers, particularly as all other suppliers will be significantly smaller than the Merged Entity. Specifically:
- (a) Some customers relied on Iconex and Schades to meet their needs and did not view other suppliers as viable alternatives, as shown by the evidence on closeness of competition discussed at paragraph 91 above.
  - (b) Concerns regarding the other suppliers' capacity (and/or willingness) to meet customers' volume demands were a recurring theme and is particularly relevant for large customers. For example, one customer said Iconex and Schades are the only suppliers that are able to provide the necessary volumes to high street retailers during holiday season; and another customer noted that Iconex and Schades are 'the only two manufacturers that we know can meet our demand volumes and that we have considered in the past', and only competitors with large production facilities could guarantee certain stock volumes. One customer raised that smaller suppliers had declined to tender, citing capacity.
  - (c) As well as concerns about meeting overall volume requirements, there was evidence from customers that lead times may be a challenge for other suppliers. For example, one customer raised concerns that smaller suppliers were unable to supply rolls as quickly as the Parties.<sup>52</sup> [See end note]
  - (d) Trust and reliability concerns more broadly are also relevant limitations, particularly for smaller suppliers. For example, one customer
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indicated that ‘capacity and reliability, both in terms of finance and production, are very important’.

(e) Customers also identified price competitiveness as a challenge for other suppliers. The CMA has considered the impact of procurement economies of scale at paragraph 112.

108. Furthermore, some UK customers indicated that switching suppliers may be difficult because of the process involved with setting up new suppliers, including the need to undertake trials of new products and supplier qualification procedures (which can take several months).
109. The CMA believes that the above evidence highlights that surety of supply is a key consideration for UK customers, large and small. Receipt rolls are a critical business input for making sales and transactions, and not all alternative suppliers are able to provide customers with the necessary guarantees, particularly in relation to the volume requirements of large customers.
110. The CMA has also considered whether the possibility of multi-sourcing may mean that other (smaller) suppliers are in fact able to exercise a more significant competitive constraint than the evidence suggests. In particular, the CMA has considered whether large customers would be able to multi-source their converted roll requirements to various suppliers which may address customers’ concerns about using smaller suppliers. However, approximately half of UK customers (including large customers) that responded to the CMA’s enquiries indicated that they rarely or never multi-source their converted roll requirements or that they would not consider doing so in the future (mainly because this would not be commercially attractive, for example due to price or logistical issues).

- *Competitors*

111. Evidence received from the Parties’ competitors indicates that there exist different tiers or types of suppliers within the UK. For example, one competitor told the CMA that [REDACTED].
112. Some competitors indicated that procurement economies of scale are important, including because larger competitors will be able to procure LWTP jumbo rolls, the major cost for converted rolls, at a cheaper price. This is consistent with evidence from the Parties that the Merger would lead to economies of scale in respect of LWTP Jumbo Roll procurement, [REDACTED],<sup>53</sup>

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<sup>53</sup> Parties’ Merger Notice dated 8 April 2019, paragraph 302 (in relation to efficiencies).

(although the Parties submitted that such economies of scale do not insulate them from smaller suppliers who have leaner cost structures and can still access discounts). Another UK competitor indicated that it seeks to avoid customers where it would be in competition with the Parties as the Parties can already purchase LWTP jumbo rolls at cheaper rates (such that the competitor is unlikely to be able to offer competitive prices). The competitor indicated that it therefore currently focuses on serving different types of customers to the Parties.

113. In this regard, some competitors also specifically indicated that large customers have different sourcing patterns or requirements to small customers (who are likely to order smaller quantities and are active at a more local level). Consistent with the references in the Parties' internal documents regarding certain suppliers not being asked to quote for certain customers (see paragraph 101 above), one competitor indicated that large customers will typically only contact large suppliers in order to obtain volume rebates. Furthermore, some competitors indicated that only a limited proportion ([0-25%]) of their total volumes relate to supplies to large customers.
114. The CMA also received direct evidence from Premier Vanguard and Fortoak in order to assess their ability to constrain the Merged Entity:
- (a) Premier Vanguard indicated [REDACTED].
  - (b) Fortoak indicated [REDACTED].
115. The CMA believes that Premier Vanguard and Fortoak, the most prominent alternative suppliers appearing in the evidence, represent only a moderate competitive constraint on the Merged Entity. This is primarily due to [REDACTED] and while Fortoak is a growing competitor [REDACTED], the CMA believes that it is not yet a sufficiently strong player to meaningfully constrain the Merged Entity [REDACTED].

#### *Competitive constraint of non-UK suppliers*

116. Lastly, the CMA has considered the extent to which non-UK suppliers of converted rolls which do not have a manufacturing plant or other sales functionality in the UK will be able to constrain the Merged Entity.
117. On balance, the CMA believes that although some non-UK suppliers can (and do) meet the demands of large customers, the ability of non-UK suppliers to constrain the Merged Entity is limited, as:
- (a) Non-UK suppliers currently have a limited presence in the UK and appear to service a limited number of, mainly large, customers, as demonstrated

by the evidence on shares of supply,<sup>54</sup> tender data,<sup>55</sup> and internal documents<sup>56</sup> discussed above and the CMA's third party inquiries.

- (b) Customer awareness of non-UK suppliers as a potential alternative to the Merged Entity is likely low, given the limited existing market presence of non-UK suppliers and evidence that only a small number of UK customers identified specific non-UK suppliers as alternative providers.
- (c) Factors such as transport costs, delivery times, customer preference for local suppliers, concerns about surety of supply, and GBP / EUR currency fluctuations, as discussed in the Frame of Reference section above, affect the willingness and ability of at least some non-UK suppliers to service UK customers.
- (d) The constraint from non-UK suppliers is primarily limited to large customers with significant volume requirements due to transport costs. For example, although [one supplier] said they were interested in increasing their supply in the UK, they would need a significant minimum quantity of 10-13 pallets (approximately 8-10 kT) in order for delivery to the UK to be viable due to transport costs.<sup>57</sup>

#### *Conclusion on competitive constraints*

- 118. While it is clear that there is some degree of competitive interaction between the Parties and other suppliers of converted rolls, the CMA believes that the majority of alternative suppliers, including non-UK suppliers, will be able to exercise only a limited competitive constraint on the Merged Entity as most suppliers do not currently compete strongly with the Parties (consistent with the Parties' internal documents, tender and switching data). This is particularly relevant to large customers, as the CMA considers that post-Merger, large customers with significant converted roll requirements will have fewer alternatives to the Merged Entity.
- 119. On the basis of all of the evidence set out above, the CMA believes that the Merged Entity will face limited competitive constraints for the supply of converted rolls in the UK.

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<sup>54</sup> See paragraph 55 in the Frame of Reference section.

<sup>55</sup> See paragraph 57 in the Frame of Reference section.

<sup>56</sup> See paragraphs 100 and 101 above.

<sup>57</sup> [REDACTED].

## *Conclusion on horizontal unilateral effects*

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

- (a) the shares of supply indicate that the Parties are the first and third largest suppliers of converted rolls in the UK in terms of revenue, with a combined share of supply of [40-50]% (with an increment of [10-20%]), and that the Merged Entity will be the largest supplier by a significant order of magnitude;
- (b) the Parties' internal documents and responses from third parties show that the Parties compete very closely with each other for the supply of converted rolls in the UK and this view is consistent with the Parties' tender and switching data;
- (c) the available evidence indicates that the Merged Entity will face limited competitive constraints post-Merger, in particular as:
  - (i) the Parties compete within a limited competitive set and there appears to be differentiation between the types of customers targeted by the Parties and the types of customers targeted by other UK suppliers of converted rolls;
  - (ii) large customers in particular have limited options with regard to alternative suppliers due to their significant volume requirements which smaller suppliers may struggle to fulfil;
  - (iii) while there is some evidence that large customers may be able to source converted rolls from outside the UK, there is currently evidence of limited activity from non-UK suppliers in the UK. The ability and willingness of non-UK suppliers to supply UK customers is hindered in particular by the associated transport costs, currency exchange risk and customer preferences for UK suppliers to ensure surety of supply;
  - (iv) some customers indicated that they are not able to easily and quickly switch suppliers due to the time and effort required to qualify new suppliers; and
  - (v) evidence from customers indicates that it is not typical for customers to multi-source their converted roll requirements across more than one supplier and the prospect of multi-sourcing will therefore not constrain the Merged Entity; and



- (vi) submissions from the Parties and third parties indicate that economies of scale are important in the purchasing of LWTP jumbo rolls which further indicates that smaller competitors may not be able to compete effectively with the Merged Entity.

121. Accordingly, the CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of converted rolls in the UK.

### ***Barriers to entry and expansion***

122. 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.<sup>58</sup>

123. As noted above at paragraph 99, the Parties submitted that other suppliers of converted rolls have spare capacity and are freely able to meet demand as it is easy to utilise such spare capacity. The Parties referred to the findings in the European Commission Decision that all competitors that replied to the European Commission's investigation indicated that they have spare capacity and could easily increase their capacity by adding new shifts or even just increasing capacity under their current shift pattern.<sup>59</sup>

124. The CMA's investigation examined competitors that supply UK customers, a different competitor set to that considered in the European Commission Decision.<sup>60</sup> The CMA found that some of the Parties' competitors for the supply of converted rolls in the UK have spare capacity, though there was significant variation in the amount of spare capacity available (eg from [X] to [X]), but was unable to confirm the capacity of other competitors. However, [X]. There are also limitations on interpreting and comparing capacity data, as output per hour will depend on the product mix.

125. The CMA believes that the presence of spare capacity and the ability to utilise it with relative ease does not indicate that expansion by the Parties' competitors is likely or that it would be sufficient to prevent a realistic prospect of an SLC as a result of the Merger. In particular, the CMA believes it is notable that such expansion has not taken place to date in circumstances where it would enable the Parties' competitors to compete more effectively for

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<sup>58</sup> [Merger Assessment Guidelines](#), from paragraph 5.8.1.

<sup>59</sup> European Commission Decision, paragraph 52.

<sup>60</sup> The European Commission Decision left the exact scope of the geographic market definition open. Its investigation considered the supply of converted rolls at the EEA-level, and in France and Germany.

large customers. Further, the CMA has not received evidence to indicate that such expansion would be likely or sufficient to prevent a realistic prospect of an SLC as a result of the Merger in the supply of converted rolls in the UK.

### ***Countervailing buyer power***

126. The Parties did not make detailed submissions on the issue of countervailing buyer power but noted in the Issues Meeting that large customers exert significant power and subsequently referred to countervailing buyer power very briefly in an email of 15 May 2019.
127. The CMA considers that buyer power is generally dependent on the availability of suitable alternatives to which a customer can credibly switch away (or the ability of customers to sponsor new entry or enter the supplier's market itself).<sup>61</sup> The CMA has taken potential countervailing buyer power into account in the competitive assessment in the context of its consideration of the position of large customers but considers that there will nevertheless remain insufficient alternative suppliers to the Merged Entity for such customers to possess countervailing buyer power. The CMA therefore does not believe that there exists countervailing buyer power to a sufficient extent to prevent a realistic prospect of an SLC as a result of the Merger.

### **Third party views**

128. The CMA contacted UK customers and competitors of the Parties. Approximately half of UK customers that responded to the CMA's enquiries expressed concerns about the Merger and the lack of alternative suppliers of converted rolls post-Merger. Most competitors that responded to the CMA's enquiries did not express concerns or feel that the Merger would negatively affect the intensity of competition.
129. Third party comments have been taken into account where appropriate in the competitive assessment above.

### **Conclusion on substantial lessening of competition**

130. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger may be expected to result in an SLC as a result of horizontal unilateral effects in relation to the supply of converted rolls in the UK.

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<sup>61</sup> [Merger Assessment Guidelines](#), paragraph 5.9.2 et seq.

## Decision

131. Consequently, the CMA believes that it is or may be the case that (i) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and (ii) the creation of that situation may be expected to result in an SLC within a market or markets in the United Kingdom.
132. The CMA therefore believes that it is under a duty to refer under section 33(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.<sup>62</sup> The Parties have until 17 June 2019<sup>63</sup> to offer an undertaking to the CMA.<sup>64</sup> The CMA will refer the Merger for a phase 2 investigation<sup>65</sup> if the Parties do not offer an undertaking by this date; if the Parties indicate before this date that they do not wish to offer an undertaking; or if the CMA decides<sup>66</sup> by 22 June 2019 that there are no reasonable grounds for believing that it might accept the undertaking offered by the Parties, or a modified version of it.

**Joel Bamford**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**10 June 2019**

End note: The customer referred to in paragraph 107(c) has clarified that their statement related to smaller suppliers not having the capacity to supply quickly.

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<sup>62</sup> Section 33(3)(b) of the Act.

<sup>63</sup> Section 73A(1) of the Act.

<sup>64</sup> Section 73(2) of the Act.

<sup>65</sup> Sections 33(1) and 34ZA(2) of the Act.

<sup>66</sup> Section 73A(2) of the Act.