

COMPLETED ACQUISITION BY TVS EUROPE DISTRIBUTION LTD OF 3G TRUCK & TRAILER PARTS LTD

Issues statement

6 July 2020

The reference

1. On 19 June 2020, the Competition and Markets Authority (CMA), in exercise of its duty under [section 22\(1\)](#) of the Enterprise Act 2002 (the Act), referred the completed acquisition by TVS Europe Distribution Ltd (TVS EDL) of 3G Truck & Trailer Parts Ltd (3G) (the Merger) for further investigation and report by a group of CMA panel members.
2. In exercise of its duty under section 35(1) of the Act, the CMA must decide:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.
3. In answering these two questions we are required to apply a ‘balance of probabilities’ threshold to our analysis. That is, we will decide whether it is more likely than not that the Merger may be expected to result in an SLC.¹
4. In this statement, we set out the main issues we are likely to consider in reaching our decision on the SLC question (paragraph 2(b) above), having had regard to the evidence available to us to date, including the evidence and analysis that informed the CMA’s phase 1 decision (the [Phase 1 Decision](#)).²
5. We are publishing this issues statement in order to assist parties submitting evidence to our investigation. The issues statement sets out the issues we currently envisage being relevant to our investigation and we invite parties to

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

² [The Phase 1 Decision](#)

notify us if there are any additional relevant issues which they believe we should consider.

6. We are publishing this issues statement during the coronavirus (COVID-19) pandemic, which is having significant impacts on consumers and business across the world. The CMA has published a [statement](#) on its website on how it has adjusted its working arrangements in response and guidance on key aspects of its practice during the pandemic. Our approach to evidence gathering will take into account the difficulties that the pandemic may be causing for market participants in this sector. If appropriate, we will also take into account the impact of the pandemic in our assessment of the competitive effects of the Merger, although we are required to look beyond the short-term and consider what lasting structural impacts the Merger might have on the markets at issue.
7. TVS EDL is the holding company of Universal Components (UC). Throughout this document we refer to TVS EDL, including its subsidiary UC, and 3G collectively as 'the Parties'.
8. In our inquiry, we intend to continue from the CMA's phase 1 investigation. [The Phase 1 Decision](#), which is published on the CMA inquiry webpage, contains much of the detail underpinning this issues statement and parties are encouraged to read the two documents together. We intend to focus our investigation on the area in which the CMA found that the Merger gives rise to a realistic prospect of an SLC, that is in the wide range wholesale supply of commercial vehicle and trailer parts to the Independent After Market (IAM) in the UK. Although this does not preclude the consideration of any other issues which may be identified during the course of our investigation, we are only likely to consider other issues in light of new evidence. We consider this to be a proportionate way in which to conduct our inquiry.

Background

9. On 3 February 2020, TVS EDL purchased the entire issued share capital of 3G.

The Parties

10. UC is a private limited company, with TVS EDL owning 95% of the shareholding.³ UC is engaged in the wholesale distribution of a wide range of

³ [The Phase 1 Decision](#), paragraph 29.

commercial vehicle and trailer parts to the IAM. It is active in over thirty countries around the world (across Europe, Africa, the Middle East and Asia), including the UK.⁴ TVS EDL had worldwide turnover of approximately £45.8 million in financial year 2018-19.⁵

11. 3G is a private limited company that specialises in the procurement and supply of a wide range of commercial vehicle and trailer parts in the IAM throughout the UK, as well as other international markets. 3G had worldwide turnover of approximately £14.4 million in financial year 2018-19, approximately £10.8 million of which was generated in the UK.⁶

Business activities and relevant overlap

12. The IAM is concerned with the manufacturing, distribution, retailing and installation of commercial vehicle and trailer parts by independent businesses (ie businesses which are independent from commercial vehicle manufacturers).
13. The Parties overlap in the wholesale supply of commercial vehicle and trailer parts to the IAM in the UK. The Parties supply motor factors which, in turn, supply garages, workshops, fleet operators and service centres. Both Parties are wide range wholesalers, offering both original equipment supplier (OES) and private label (PL) parts in a large number of product groups for all commercial vehicle and trailer makes, with the majority of their sales constituting PL parts. OES parts carry the original equipment manufacturer's name and are typically functionally identical to original equipment manufacturer parts, with packaging which usually bears the parts manufacturer's name. PL parts are manufactured on behalf of the wholesaler and usually carry the wholesaler's brand name.

Our intended inquiry

14. Below we set out some specific areas of our intended assessment in order to help parties who wish to make representations to us. However, these will not be the only areas for our assessment. For example, we will also look at key characteristics of how the industry operates and the rationale for the Merger.⁷

⁴ [The Phase 1 Decision](#), paragraph 29.

⁵ [The Phase 1 Decision](#), paragraph 28.

⁶ [The Phase 1 Decision](#), paragraph 30.

⁷ [Merger Assessment Guidelines](#), section 5.7.

Market definition

15. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of a market do not determine the outcome of the analysis of the competitive effects of the merger in any mechanistic way. In assessing whether a merger may give rise to an SLC, the CMA may take into account constraints from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.⁸
16. The CMA's [Phase 1 Decision](#) considered the impact of the Merger in the wide range wholesale supply of commercial vehicle and trailer parts to the IAM in the UK.⁹
17. We will use the frame of reference discussed in the [Phase 1 Decision](#) as a starting point for our analysis and will consider any new evidence we receive which is relevant to the appropriate market definition including any competitive constraints from other channels (such as narrow range wholesalers and niche wholesalers), where relevant.

Assessment of the competitive effects of the Merger

Counterfactual

18. The application of the SLC test involves a comparison of the prospects for competition with the merger against the competitive situation without the merger. The latter is called the 'counterfactual'.¹⁰ We will assess the possible effects of the merger on competition compared with the competitive conditions in the counterfactual situation.
19. The CMA may examine several possible scenarios, one of which may be the continuation of the pre-merger situation, but ultimately only the most likely scenario will be selected as the counterfactual, based on the facts available to us and the extent of foreseeable future events.¹¹
20. In the [Phase 1 Decision](#), the CMA found the pre-Merger conditions of competition to be the relevant counterfactual, save that TTC (a competitor) should no longer be considered a competitive constraint on the Parties due to its imminent exit from the UK market. In the phase 2 inquiry we will consider

⁸ [Merger Assessment Guidelines](#), paragraph 5.2.2.

⁹ [The Phase 1 Decision](#), paragraphs 99 - 139

¹⁰ [Merger Assessment Guidelines](#), paragraph 4.3.1.

¹¹ [Merger Assessment Guidelines](#), paragraph 4.3.6.

further evidence on the impact of the exit of TTC to arrive at the most likely counterfactual.

Theory of harm

21. The term 'theory of harm' describes the possible ways in which an SLC could arise as a result of a merger. The theory of harm provides the framework for our analysis of the competitive effects of a merger. Identifying a theory of harm in this issues statement does not preclude an SLC from being identified on another basis following further analysis in the course of this inquiry or receipt of additional evidence. We welcome views on the theory of harm described below.
22. At this stage, we are assessing whether the Merger gives rise to an SLC in the wide range wholesale supply of commercial vehicle and trailer parts to the IAM in the UK. This is a horizontal unilateral effects theory of harm. The concern under a horizontal unilateral effects theory of harm is that the removal of one business as a competitor could allow the remaining suppliers, including the merged entity, to increase prices, lower quality, reduce the volume or range of their services and/or reduce innovation, all relative to the counterfactual.
23. We will use the data and information collected in the CMA's phase 1 investigation and seek to expand and augment this evidence-set, as appropriate, to assess the theory of harm set out above. We expect to examine:
 - (a) what factors customers consider when choosing between suppliers and the nature of competition between wholesalers;
 - (b) the closeness of competition between the Parties, assessing the Parties' product offering and service proposition, evidence from internal documents and third party views;
 - (c) the market structure, including the market shares of suppliers;
 - (d) the competitive constraint on the merged entity from other competitors, including an assessment of their respective product offerings and service proposition; and

- (e) the extent to which other wholesalers, including narrow range and niche wholesalers, compete with the Parties and the potential indirect constraint from 'all makes' wholesalers.¹²

Countervailing factors

24. We will consider evidence on entry and/or expansion by third parties, including any evidence on barriers to entry/expansion, and whether such entry or expansion would be timely, likely, and sufficient to prevent any SLC from arising as a result of the Merger.¹³ We will also examine whether customers have countervailing buyer power, for example through participation in buying groups, and whether this power, post-merger, would be sufficient to prevent, or address any effects of, any SLC that we may find. We will also examine any submissions that may be made in relation to efficiencies arising from the Merger.

Possible remedies and relevant customer benefits

25. Should we conclude that the Merger is expected to result in an SLC in one or more markets, we will consider whether, and if so what, remedies might be appropriate, and will issue a further statement.
26. In any consideration of possible remedies, we may in particular have regard to their effect on any relevant customer benefits that might be expected to arise as a result of the Merger and, if so, what these benefits are likely to be and which customers would benefit.

Responses to the issues statement

27. Any party wishing to respond to this issues statement should do so in writing, by **no later than 5pm on Monday 20 July 2020**. Please email universal.3g@cma.gov.uk

Due to the ongoing COVID-19 outbreak, the CMA's offices across the UK are closed until further notice. We are no longer able to accept delivery of any documents of correspondence by post or courier to any of our offices.

¹² 'All makes' wholesalers are the aftermarket arms of vehicle manufacturers supplying directly to garages, workshops, fleet operators and service centres, in competition with motor factors.

¹³ [Merger Assessment Guidelines](#), section 5.8.