

# Anticipated acquisition by Bupa Insurance Limited of Civil Service Healthcare Society Limited

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

**ME/6887-20**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 24 September 2020. Full text of the decision published on 8 October 2020.

**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. Bupa Insurance Limited (**Bupa**) has agreed to acquire Civil Service Healthcare Society Limited (**CSH**) (the **Merger**). Bupa and CSH are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Bupa and CSH 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 personal (ie, non-corporate) private medical insurance (**PMI**) in the UK. Bupa is also active in the SME PMI, large corporate PMI and healthcare trusts segments, where CSH is not present. The CMA has therefore assessed the impact of the Merger in the supply of personal PMI in the UK.
4. The CMA believes that while Bupa is the largest supplier of personal PMI in the UK with a [30-40]% share of the market, the increment from the Merger will be small at approximately [0-5]%. The CMA believes that the Parties do

not compete closely with each other, as they rely on different customer acquisition channels and focus on different customer bases. The CMA also believes that the Merged Entity would face sufficient constraint from alternative suppliers, particularly AXA, Aviva and Vitality.

5. The CMA believes that these constraints, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in relation to the supply of personal PMI in the UK.
6. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

## ASSESSMENT

### Parties

7. Bupa is a private company registered in the UK that provides medical cover to 2.7 million customers worldwide.<sup>1</sup>
8. Bupa is a wholly owned subsidiary of The British United Provident Association Limited (the **Bupa Group**), a global health and care company headquartered in the UK. The Bupa Group runs care homes, retirement and care villages, primary care, diagnostics and wellness centres and hospitals.
9. The turnover of Bupa in the financial year ending 31 December 2019 was £2,329 million worldwide and £2,148 million in the UK. The turnover of Bupa Group in the financial year ending 31 December 2019 was £12,316 million worldwide and £3,099 million in the UK.
10. CSH is a UK-based Friendly Society that provides health insurance to the UK consumer market. As a friendly society, it has no shareholders but has members who are its policyholders from time to time.
11. CSH offered health insurance only to members of the armed forces, civil services and not-for-profit organisations until 2019. However, it now offers insurance services to individuals regardless of their profession.
12. As at 30 September 2019, CSH had 12,438 policies covering 19,485 lives, including [X] policies for members based outside of the UK. CSH's members obtain PMI directly from CSH. However, a small number of these individuals are introduced to CSH through affinity schemes recommended by

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<sup>1</sup> Merger Notice, 4 August 2020, paragraphs 2.4 and 3.2.

their employer. CSH has a small number of these affinity schemes in place with employers such as schools or government bodies (for example, [✂] and [✂]).

13. CSH achieves all of its revenues in the UK and its turnover in the financial year ending 31 December 2019 was £26 million.<sup>2</sup>

## **Transaction**

14. Bupa agreed to acquire all of CSH's undertaking by means of a proposed transfer of engagements in accordance with and pursuant to section 86 of, and Schedule 15 to, the Friendly Societies Act 1992.
15. On 30 July 2020, the Parties entered into a Framework Agreement which sets out the terms of the transfer, including the conditions precedent, and annexes the agreed form instrument of transfer (**Instrument of Transfer**).
16. The Instrument of Transfer will be entered into once all conditions precedent have been satisfied, including merger control clearance by the CMA and the Channel Islands Competition and Regulatory Authorities (**CIRCA**), approval by a Special Resolution of the members of CSH and confirmation of the transfer by the Prudential Regulation Authority (**PRA**). The Financial Conduct Authority (**FCA**) will then issue the registration certificate which will complete the Merger.
17. Subject to regulatory approval, the Parties are anticipating completion of the Merger on 30 November 2020.<sup>i</sup>
18. [✂].
19. On transferring its engagements to Bupa, CSH will automatically be dissolved by operation of law. Its members will become customers of Bupa but will no longer have any membership rights.

## ***Rationale for the Transaction***

20. For CSH, the stated rationale for the Merger is that membership numbers have fallen over the years, operating costs have been cut as far as possible and attempts to expand CSH's member base have been unsuccessful. Accordingly, CSH has had to consider future strategic options including the merger with another PMI supplier in order to remain a viable business.<sup>3</sup>

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<sup>2</sup> Merger Notice, 4 August 2020, paragraph 6.3.

<sup>3</sup> Merger Notice, 4 August 2020, paragraph 2.31.

21. For Bupa, the stated rationale is that the Merger is [X]. Furthermore, Bupa submitted that CSH's and Bupa's values align, and that the Merger would enable Bupa to enhance CSH's product range and ensure continuation of cover and a long-term solution for CSH members.<sup>4</sup>

## Jurisdiction

22. Each of BUPA and CSH is an enterprise for the purposes of the Act. As a result of the Merger, these enterprises will cease to be distinct.
23. The Parties overlap in the supply of personal PMI in the UK, with a combined share of supply exceeding 25% and an increment of approximately [0-5]% (see Table 1 below). The CMA therefore believes that the share of supply test in section 23 of the Act is met.
24. 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.
25. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 20 August 2020 and the statutory 40 working day deadline for a decision is therefore 15 October 2020.

## Counterfactual

26. 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>5</sup>
27. The Parties submitted that the pre-existing parameters of competition are the correct conditions on which to assess the Merger.<sup>6</sup> The CMA has not seen any evidence supporting a different counterfactual and third parties

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<sup>4</sup> Merger Notice, 4 August 2020, paragraph 2.33.

<sup>5</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).

<sup>6</sup> Merger Notice, 4 August 2020, paragraph 11.1.

have not put forward arguments in this respect. Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

## Frame of reference

28. 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>7</sup>
29. The Parties overlap in the supply of personal (ie non-corporate)<sup>8</sup> PMI in the UK. PMI is a form of non-life insurance which provides indemnity cover against the cost of medical treatment (for acute medical/surgical conditions) in private hospitals or clinics. Bupa is also active in the SME<sup>9</sup> PMI, large corporate<sup>10</sup> PMI and healthcare trusts<sup>11</sup> segments, where CSH is not present.<sup>12</sup>

## Product scope

30. The Parties submitted that the appropriate candidate product frame of reference is the PMI market, without further segmentation between customer groups. The Parties also noted that this is consistent with the *AXA/Simplyhealth*<sup>13</sup> decision.<sup>14</sup>

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<sup>7</sup> [Merger Assessment Guidelines](#), paragraph 5.2.2.

<sup>8</sup> The PMI market can be segmented by customer group: the personal segment includes private individuals who buy PMI cover for themselves and family members; the corporate segment includes companies who buy PMI for their employees.

<sup>9</sup> Small or medium-sized enterprises with generally less than 100 employees (although this can vary by insurer). Their policies tend to be similar to those for private individuals.

<sup>10</sup> Generally enterprises with hundreds of employees. Their policies are typically adapted to meet a company's specific requirements.

<sup>11</sup> In a healthcare trust, the employer establishes a trust for the purposes of providing private healthcare to its employees and pays money into the trust instead of paying premiums to an insurer. The trust is administered by an insurer who manages claim handling etc in exchange for a fee but may not hold any risk if the trust runs out of funds.

<sup>12</sup> However, CSH has affinity relationships with some industry groups and employers, typically within the civil service or public sector, who recommend CSH's policies to their members or employees. The employee may receive a discounted premium and the employer receives a commission. CSH earned [0-5]% of its 2019 revenues from these schemes (see Merger Notice, 4 August 2020, paragraph 15.44).

<sup>13</sup> [Anticipated acquisition by AXA PPP healthcare Limited of the private medical insurance business of Simplyhealth Limited](#), (ME/6531/15) 21 July 2015.

<sup>14</sup> Merger Notice, 4 August 2020, paragraphs 13.1-13.6.

31. However, as noted in paragraph 29 above, the Parties only overlap in the personal PMI segment.
32. Moreover, the CMA notes that:
  - (a) Some of Bupa's internal documents focus exclusively on the personal PMI segment (eg [REDACTED] slides dated July 2019);<sup>15</sup>
  - (b) Some PMI providers are active in other segments, but have little or no presence in the personal PMI segment (eg Cigna); and
  - (c) While some competitors told the CMA that expanding from the corporate segment into the personal segment is straightforward, others said that there are significant barriers to such expansion (including price competition, the need for established and/or differentiated brands, distribution networks, marketing and business models, and the overall decline of the personal segment).<sup>16</sup>
33. For these reasons, on a cautious basis and since the Parties only overlap in the personal (ie non corporate) PMI segment, the CMA has considered the impact of this Merger in the supply of personal PMI. However, the CMA does not consider it necessary to conclude on this frame of reference as no competition concerns arise on any plausible basis.

### **Geographic scope**

34. The Parties submitted that the market for PMI is national.<sup>17</sup>
35. In the *AXA/Simplyhealth* decision, the CMA considered the geographic market to be national.<sup>18</sup>
36. The CMA did not find any evidence to suggest that a departure from the geographic frame of reference in previous cases was appropriate.
37. For these reasons, the CMA has considered the impact of the Merger in the UK.

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<sup>15</sup> Annex 10.33 of the Merger Notice.

<sup>16</sup> Competitor responses to CMA questionnaire. The competitors who indicated there are barriers to entry/expansion include [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED].

<sup>17</sup> Merger Notice, 4 August 2020, paragraphs 13.1-13.6.

<sup>18</sup> *Anticipated acquisition by AXA PPP healthcare Limited of the private medical insurance business of Simplyhealth Limited*, (ME/6531/15) 21 July 2015, paragraph 35.

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

38. For the reasons set out above, the CMA has considered the impact of the Merger in relation to the supply of personal PMI in the UK.

## **Competitive assessment**

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

39. 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>19</sup> Horizontal unilateral effects are more likely when the merging parties are close competitors.
40. 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 personal PMI in the UK.
41. In its assessment, the CMA considered:
- (a) the shares of supply of the Parties and their competitors;
  - (b) the closeness of competition between the Parties;
  - (c) the competitive constraints posed by alternative suppliers; and
  - (d) third party views on the impact of the Merger.

### ***Shares of supply***

42. Table 1 below sets out the CMA's estimates of shares of supply in the personal PMI market based on the value of premiums in 2019.

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<sup>19</sup> [Merger Assessment Guidelines](#), from paragraph 5.4.1.

**Table 1: Estimated shares of supply of personal PMI in the UK**

<b>Provider</b>	<b>Share of supply</b>
Bupa	[30-40]%
CSH	[0-5]%
<b>Merged Entity</b>	<b>[40-50]%</b>
AXA	[20-30]%
Aviva	[10-20]%
Vitality Healthcare	[10-20]%
WPA	[0-5]%
The Exeter	[0-5]%
Freedom Health	[0-5]%
Others	[0-5]%
<b>Total</b>	<b>100%</b>

Source: CMA estimates based on Parties' and competitor data.

Note: The Parties submitted a range of estimates for the 2019 total size of the market (see Table 14.6 of the Merger Notice), in turn based on the 2018 total size of the market reported in the *Laing Buisson Health Cover 2020* report. The CMA, on a cautious basis, adopted the most conservative estimate out of the range of estimates provided by the Parties.

43. Bupa is currently the leading personal PMI supplier in the UK with a [30-40]% share, followed by AXA ([20-30]%), Aviva ([10-20]%) and Vitality ([10-20]%). Post-Merger, the Merged Entity will have a market share around [40-50]% ([0-5]% increment). Other smaller competitors (including WPA, The Exeter, Freedom Health, etc) together account for around [5-10]% of the market.<sup>20</sup>

#### *Closeness of competition*

44. The CMA has examined the closeness of competition between the Parties and has considered:
- (a) the Parties' views;
  - (b) the Parties' internal documents;
  - (c) the Parties' customer acquisition channels;
  - (d) the Parties' customer bases;
  - (e) third party views on closeness of competition; and
  - (f) CSH's switching data.

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<sup>20</sup> According to the *Laing Buisson Health Cover 2020* report, at April 2020, there were in total 29 private medical cover insurers/administrators identified in the UK, including seven 'member owned' insurers and administrators, 11 commercial private medical insurers and administrators, seven commercial third party administrators, and four police membership schemes (see page 110 of Annex 14.2 of the Merger Notice).



### *Parties' views*

45. The Parties submitted that they are not close competitors. In particular, the Parties noted that:<sup>21</sup>
- (a) they are of a different scale and have different customer bases; and
  - (b) their internal documents show limited competitive interaction between them.
46. The CMA assessed these points in the light of the evidence set out below.

### *Internal documents*

47. The CMA considered the extent to which the Parties view each other as close competitors based on its review of the Parties' internal documents.
48. With regard to Bupa's documents:
- (a) The 2018 and 2019 [redacted] regularly monitor AXA's, Aviva's and Vitality's competitive activity, but never mention CSH's activity;<sup>22</sup>
  - (b) Although a document named [redacted] and dated April 2019 lists CSH among Bupa's main competitors in the personal PMI segment, AXA, Vitality, Aviva, WPA, and The Exeter are all listed before CSH;<sup>23</sup> and
  - (c) AXA, Vitality and Aviva (and sometimes Cigna) are often monitored in Bupa's other internal documents.<sup>24</sup>
49. As for CSH, the CMA found the following documents that include references to competitors:
- (a) [redacted] dated October 2018.<sup>25</sup> This document includes comparisons with Aviva, AXA, Bupa, Vitality, WPA, and The Exeter. The CMA notes that the document appears to devote particular attention to smaller insurers of a similar size to CSH, namely WPA and The Exeter, which are analysed at length in a separate section of the document.

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<sup>21</sup> Merger Notice, 4 August 2020, paragraphs 15.30-15.32.

<sup>22</sup> Annexes 10.1-10.34 of the Merger Notice.

<sup>23</sup> Annex 10.24 of the Merger Notice.

<sup>24</sup> These include strategy documents and board updates.

<sup>25</sup> Annex 10.44 of the Merger Notice.

- (b) [REDACTED] dated September 2017.<sup>26</sup> This document includes comparisons with Aviva, AXA, Bupa and Vitality.
- (c) [REDACTED] dated March 2016.<sup>27</sup> This document contains review slides focussing on WPA, AXA, Vitality, Aviva, Bupa, The Exeter, Saga and Benenden. Bupa is identified as the market leader, relying on its brand strength. The document explains that a challenger brand such as CSH needs to differentiate to grow share in a market crowded with established brands. The document also includes a ‘brand positioning matrix’ – according to the matrix, Bupa and CSH do not appear to be close competitors.<sup>28</sup>

50. Overall, the CMA considers that the Parties’ internal documents indicate that the Parties do not consider each other as particularly close competitors (while CSH does mention Bupa in its documents, a number of other suppliers are also included, and Bupa does not appear as one of CSH’s closest competitors).

#### *Customer acquisition channels*

51. Table 2 below shows data on the importance of different customer acquisition channels for each Party in 2019.

**Table 2: Customers acquired by acquisition channel (personal PMI, 2019)**

Party	Telesales	Web	Intermediaries	Affinity schemes	Other
Bupa	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
CSH	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: CMA analysis of the Parties’ data.

52. While the Parties rely on the same customer acquisition channels, Bupa acquires the highest proportion of its customers through intermediaries (including brokers and comparison websites), while CSH acquires the majority of its customers through telesales. Moreover, while the intermediaries Bupa relies on include comparison websites, CSH does not use comparison websites for its products.<sup>29</sup>

#### *Customer bases*

53. Table 3 below shows data on the average age and tenure for each Party’s customer base in 2019.

<sup>26</sup> Annex 10.43 of the Merger Notice.

<sup>27</sup> Annex 10.42 of the Merger Notice.

<sup>28</sup> In particular, Bupa is described as the provider with the highest brand awareness and the lowest differentiation, while CSH is described as a provider with the lowest brand awareness and a relatively low level of differentiation.

<sup>29</sup> Merger Notice, 4 August 2020, paragraphs 15.86 and 15.90.

**Table 3: Parties' customer bases' average age and tenure (personal PMI, 2019)**

Party	Average customer age	Average customer tenure
Bupa	[REDACTED]	[REDACTED] years
CSH	[REDACTED]	[REDACTED] years

Source: CMA analysis of the Parties' data.

54. CSH's customers are on average older and have a longer tenure than Bupa's customers. For comparison, for the rest of the market the average customer age is around [REDACTED] and the average customer tenure around [REDACTED] years.<sup>30</sup>
55. Moreover, CSH estimates that [90-100]% of its customers work in, or have previously worked for, civil or public services (including their families).<sup>31</sup> While Bupa does not hold information on the profession of its customers,<sup>32</sup> the CMA considers that it is highly unlikely that the proportion of Bupa's customers who work or have previously worked for civil or public services is nearly as high as for CSH.

#### *Third party views on closeness of competition*

56. The CMA gathered feedback from PMI competitors and brokers to determine the PMI providers that are considered the closest competitors to each Party.<sup>33</sup>
57. With regard to Bupa, the responses indicated that its closest competitor is AXA, closely followed by Aviva and Vitality. WPA, The Exeter, CSH and Freedom Health were also mentioned by a number of third parties, but they were seen as less close competitors.<sup>34</sup> A number of competitors ([REDACTED]) noted that there is a significant drop in size between the top four largest insurers (Bupa, AXA, Aviva and Vitality) and the next tier of medium and small competitors.
58. As for CSH, the responses were mixed. Some third parties indicated that its closest competitors are Bupa, AXA, Aviva and Vitality, noting their high market shares. Other third parties instead indicated that CSH's closest competitors are smaller competitors such as WPA, The Exeter, Freedom Health and others, noting they have a similar size and/or not-for-profit proposition to CSH. One competitor ([REDACTED]) said it is not aware of any

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<sup>30</sup> CMA estimates based on competitor data.

<sup>31</sup> Merger Notice, 4 August 2020, paragraph 15.46.

<sup>32</sup> Parties' response to RFI 1 dated 3 April 2020.

<sup>33</sup> Third party responses to CMA questionnaire.

<sup>34</sup> Benenden and Saga were also mentioned, but only by one respondent each.

particularly close competitor of CSH ‘due to the niche civil service/mutual market in which CSH operates’.

59. Third party views on the impact of the Merger on competition are summarised in paragraphs 74-79 below.

#### *Switching data*

60. CSH submitted its switching data covering the period from January 2018 to February 2020 (Bupa submitted that it does not hold any switching data).<sup>35</sup> The data, reported in Table 4 below, records new policies sold by CSH over the period and the previous insurer of the acquired customers.

**Table 4: CSH switching data, January 2018 – February 2020**

Previous insurer	New policies sold by CSH (Jan 2018 – Feb 2020)	Share
AXA	[REDACTED]	[REDACTED]
<b>Bupa</b>	[REDACTED]	[REDACTED]
Aviva	[REDACTED]	[REDACTED]
The Exeter	[REDACTED]	[REDACTED]
WPA	[REDACTED]	[REDACTED]
Benenden	[REDACTED]	[REDACTED]
AIG	[REDACTED]	[REDACTED]
Cigna	[REDACTED]	[REDACTED]
Freedom Healthcare	[REDACTED]	[REDACTED]
Health Online	[REDACTED]	[REDACTED]
Saga	[REDACTED]	[REDACTED]
Other	[REDACTED]	[REDACTED]
<b>Total</b>	[REDACTED]	<b>100%</b>

Source: Merger Notice.

Note: New policies from previous CSH members ([REDACTED]) and new policies where no previous insurer was disclosed ([REDACTED]) are not included.

61. The CMA has given limited weight to the analysis of this data, as it is based on only [REDACTED] consumers’ responses. However, the data suggests that CSH won customers previously insured by more than [REDACTED] competitors. The competitors that CSH won most customers from appear to be AXA, Bupa, Aviva, The Exeter and WPA.

#### *Conclusion on closeness of competition*

62. Based on the evidence set out above, the CMA believes that the Parties are not particularly close competitors.
63. In particular, the CMA notes that:

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<sup>35</sup> Merger Notice, 4 August 2020, paragraphs 15.33-15.40.

- (a) The Parties' internal documents indicate that Bupa and CSH do not consider each other as particularly close competitors (see paragraphs 47-49 above);
- (b) The Parties' tend to rely on different customer acquisition channels and there are differences between the Parties' customer bases, with CSH having older customers with a longer tenure, and a strong focus on civil and public service employees (see paragraphs 51-55 above); and
- (c) Third party feedback indicated that CSH is not among Bupa's closest competitors (see paragraphs 56-57 above). Third party views on CSH's closest competitors, although mixed, did not suggest that Bupa is a closer competitor to CSH than the other main PMI providers (see paragraph 58 above).

### *Competitive constraints*

- 64. Unilateral effects are more likely where customers have little choice of alternative suppliers. The CMA has therefore assessed whether there are alternative suppliers which would provide a competitive constraint on the Merged Entity in the supply of personal PMI in the UK.
- 65. The Parties submitted that the PMI market is competitive and that Bupa will continue to face a significant competitive constraint from a number of large PMI providers in the market, including in particular AXA, Aviva and Vitality.<sup>36</sup>
- 66. The CMA assessed the competitive constraint from:
  - (a) AXA;
  - (b) Aviva;
  - (c) Vitality; and
  - (d) Other providers.

### *AXA*

- 67. AXA is the second largest PMI provider in the UK, with PMI premiums of £1,205 million in 2017.<sup>37</sup> AXA offers PMI to both individuals and corporate customers and also provides healthcare trusts to corporate companies.<sup>38</sup>

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<sup>36</sup> Merger Notice, 4 August 2020, paragraph 15.1(b).

<sup>37</sup> Merger Notice, 4 August 2020, paragraph 15.11.

<sup>38</sup> Merger Notice, 4 August 2020, paragraph 15.30.

The Parties submitted that AXA offers a similar range of PMI products to Bupa and that the Merged Entity will continue to face a significant competitive constraint from AXA.<sup>39</sup>

68. AXA has a [20-30]% share of supply in the personal PMI market in the UK (see Table 1). Bupa's internal documents indicate that it regularly monitors AXA (together with Aviva and Vitality) and considers it to be one of its closest competitors (see paragraph 48, above). Third parties told the CMA that AXA is Bupa's closest competitor and a competitor to CSH. Accordingly, the CMA considers that AXA will continue to act as a strong competitive constraint on the Merged Entity.

#### *Aviva*

69. Aviva is the third largest PMI provider in the UK, with PMI premiums of £539 million in 2017. Aviva Health is part of the Aviva group providing life insurance, general insurance and investment management services. Aviva offers PMI to both individuals and corporate customers and also provides healthcare trusts to corporate companies.<sup>40</sup> The Parties submitted that the Merged Entity will continue to face a significant competitive constraint from a number of large PMI providers in the market, including Aviva.<sup>41</sup>
70. Aviva has an [10-20]% share of supply in the personal PMI market in the UK (see Table 1). Bupa's internal documents indicate that it regularly monitors Aviva (together with AXA and Vitality) and considers it to be one of its closest competitors (see paragraph 48 above). Third parties told the CMA that Aviva is a close competitor to Bupa and a competitor to CSH.<sup>42</sup> Accordingly, the CMA considers that Aviva will continue to act as a strong competitive constraint on the Merged Entity.

#### *Vitality*

71. Vitality is owned by Discovery Limited, a leading South African PMI provider, and primarily focuses on consumer and SME segments.<sup>43</sup> It offers PMI to both individuals and corporate customers and had PMI premiums of £421 million in 2017. The Parties submitted that the Merged Entity will continue to

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<sup>39</sup> Merger Notice, 4 August 2020, paragraph 15.1(b).

<sup>40</sup> Merger Notice, 4 August 2020, paragraph 15.30.

<sup>41</sup> Merger Notice, 4 August 2020, paragraph 15.1(b).

<sup>42</sup> See paragraphs 57-58.

<sup>43</sup> Merger Notice, 4 August 2020, paragraph 15.17-15.18.

face a significant competitive constraint from a number of large PMI providers in the market, including Vitality.<sup>44</sup>

72. Vitality has a [10-20]% share of supply in the personal PMI market in the UK (see Table 1). Bupa's internal documents indicate that it regularly monitors Vitality (together with AXA and Aviva) and considers it to be one of its closest competitors (see paragraph 48, above). Third parties told the CMA that Vitality is a close competitor to Bupa and a competitor to CSH. Accordingly, the CMA considers that Vitality will continue to act as a strong competitive constraint on the Merged Entity.

#### *Other providers*

73. The Parties identified a number of other smaller competitors in the market for the supply of personal PMI in the UK, including the Exeter, WPA and Freedom Health. Together, they account for [5-10]% of the market (see Table 1, above). A number of third parties told the CMA that these smaller competitors compete closely with CSH, noting that they have a similar size and/or not-for-profit proposition. CSH's internal documents regularly monitor the competitive activity of WPA and the Exeter in particular. Accordingly, the CMA believes that there are a number of other providers in addition to AXA, Aviva and Vitality that will together act as a limited competitive constraint on the Merged Entity.

#### *Third party views on the impact of the Merger on competition*

74. Views on the impact of the Merger on competition were split, with seven out of 17 of the third parties who replied to the CMA's questionnaire raising concerns. One respondent to the ITC also raised competition concerns.<sup>45</sup>
75. The most common concerns were that the Merger would reduce choice for consumers and brokers ([REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]<sup>46</sup>), and that Bupa would further increase its market leading share and position ([REDACTED], [REDACTED], [REDACTED], and [REDACTED]).
76. One competitor ([REDACTED]) also submitted that Bupa, due to its legal structure, is in a favourable position to acquire provident providers and friendly societies such as CSH, and that in the future Bupa may easily acquire players of a similar nature. Another competitor ([REDACTED]) submitted that a merger with a

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<sup>44</sup> Merger Notice, 4 August 2020, paragraph 15.1(b).

<sup>45</sup> Two third parties that were contacted as part of the CMA's merger investigation, and two third parties that responded to the CMA's ITC, raised concerns that did not relate to the impact of the Merger on competition. These have not been taken into account in the CMA's competitive assessment.

<sup>46</sup> [REDACTED]

smaller competitor such as The Exeter or WPA would have been preferable for CSH's members and the PMI market.

77. Finally, two respondents ([redacted] and [redacted]) also submitted that the increased market power of the Merged Entity vis a vis healthcare providers/consultants would create market distortion and a reduction of choice.<sup>47</sup>
78. Among the third parties who told the CMA that the Merger will not have an impact on competition, several submitted that CSH is a minor provider with a negligible market share ([redacted], [redacted], [redacted], and [redacted]), and that it operates in a niche of the PMI market ([redacted], [redacted], and [redacted]). Two respondents ([redacted] and [redacted]) also submitted that CSH's business has been declining recently.
79. Finally, one broker ([redacted]) also submitted that CSH is not offering any unique products consumers will be deprived of.

#### *Conclusion on horizontal unilateral effects*

80. For the reasons set out above, the CMA believes that while Bupa is the largest supplier of personal PMI in the UK with a [30-40]% share of the market, the increment from the Merger will be small at approximately [0-5]%. The CMA believes that the Parties do not compete closely with each other, as they rely on different customer acquisition channels and focus on different customer bases. The CMA also believes that the Merged Entity would face sufficient constraint from alternative suppliers, particularly AXA, Aviva and Vitality. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of personal PMI in the UK.

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

81. 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>48</sup>

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<sup>47</sup> The CMA did not investigate concerns relating to increased buyer power. The CMA notes that the small market share (and concentration) increment brought by the Merger suggests that any increase in Bupa's buyer power would not be material.

<sup>48</sup> [Merger Assessment Guidelines](#), from paragraph 5.8.1.



82. However, the CMA has not had to analyse or take into account barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

## **Decision**

83. Consequently, the CMA does not believe that it is or may be the case that the Merger may be expected to result in an SLC within a market or markets in the United Kingdom.
84. The Merger will therefore **not be referred** under section 33(1) of the Act.

**Eleni Gouliou**  
**Director, Mergers**  
**Competition and Markets Authority**  
**24 September 2020**

## **End notes**

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<sup>i</sup> The Parties informed us on receiving the Decision that completion is now anticipated for 1 January 2021.