

Completed acquisition by TVS Europe Distribution Limited of 3G Truck & Trailer Parts Limited

Final report

Appendices and Glossary

Appendix A: Terms of reference and conduct of the inquiry.

Appendix B: Synergy projections for the Merger.

Appendix C: Third party questionnaires sent to customers.

Appendix D: Third party questionnaires sent to competitors.

Appendix E: Parties' submissions on multi-sourcing and switching.

Appendix F: Parties' submissions on competitive effects, following provisional findings.

Glossary

Appendix A: Terms of reference and conduct of the inquiry

Terms of reference

1. In exercise of its duty under section 22(1) of the Enterprise Act 2002 (the **Act**) the Competition and Markets Authority (**CMA**) believes that it is or may be the case that:
 - (a) a relevant merger situation has been created, in that:
 - (i) enterprises carried on by TVS Europe Distribution Limited have ceased to be distinct from enterprises carried on by 3G Truck & Trailer Parts Ltd; and
 - (ii) the condition specified in section 23(2)(b) of the Act is satisfied with respect to the wide range wholesale supply of commercial vehicle and trailer parts to the independent aftermarket in the United Kingdom; and
 - (b) the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition within a market or markets in the United Kingdom for goods or services, including the wide range wholesale supply of commercial vehicle and trailer parts to the independent aftermarket in the United Kingdom.
2. Therefore, in exercise of its duty under section 22(1) of the Act, the CMA hereby makes a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 in order that the group may investigate and report, within a period ending on 26 November 2020, on the following questions in accordance with section 35(1) of the Act:
 - (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 within any market or markets in the United Kingdom for goods or services.

Joel Bamford
Senior Director, Mergers
Competition and Markets Authority
12 June 2020

Conduct of the inquiry

3. On 19 June 2020, the CMA directed UC to appoint a monitoring trustee, under paragraph 12 of the Initial Enforcement Order made during the phase 1 investigation. The directions to appoint a monitoring trustee were published on the [inquiry case page](#).¹
4. We published the biographies of the members of the Inquiry Group conducting the inquiry and the administrative timetable for the investigation on the [inquiry case page](#) on 23 June 2020.
5. On 6 July 2020, we published an issues statement on our [inquiry case page](#),² setting out the areas on which the inquiry would focus.
6. On 16 July 2020, members of the Inquiry Group and staff attended virtual ‘site visits’ with the Parties and their advisers held via MS Teams. These arrangements were made because of Coronavirus (COVID-19) and the Government’s associated guidelines.
7. We invited a wide range of interested parties to comment on the Merger. We conducted 24 interviews with customers, competitors and suppliers of the Parties via MS Teams and telephone calls. Evidence was also obtained from third parties using written requests. In total we have received 45³ written responses from competitors, 41⁴ written responses from customers and three written responses from buying groups. We also used evidence from the CMA’s phase 1 investigation into the Merger.
8. We received written evidence from the Parties in the form of submissions and responses to information requests (a non-confidential version of their [response to the Phase 1 Decision](#) was published on the inquiry webpage on 28 July 2020). In the course of our inquiry we sent the Parties a number of working papers for comment. We also provided Parties and third parties with extracts from our working papers for comments on accuracy and confidentiality. Prior to the main party hearings, the Parties were also sent an annotated issues statement which outlined our emerging thinking at the time.

¹ [Directions to appoint monitoring trustee](#).

² [Issues Statement](#).

³ In addition to the 45 written responses, the CMA has received a number of minimal responses from other competitors (see Appendix D).

⁴ In addition to the 41 written responses, the CMA has received a number of minimal responses from other customers (see Appendix C).

9. We held main party hearings with 3G on 10 September 2020 and with TVS EDL and UC on 11 September 2020. Both of these hearings were held via MS Teams.
10. On 20 October 2020, we published a [summary of our provisional findings report](#) on the inquiry case page. On 21 October 2020, we published a [notice of provisional findings](#), a [notice of possible remedies](#) and a non-confidential version of our [provisional findings report](#) on the inquiry case page. On 17 November 2020, non-confidential versions of [the Parties' response to the Provisional Findings](#) and the Parties' response to our [notice of possible remedies](#) were published on the [inquiry case page](#).
11. On 22 October 2020, we published a [notice of extension of the inquiry period](#) under section 39(3) of the Act due to the impact of delays experienced in obtaining information from industry parties and the need to allow sufficient time to take full account of representations received from the Parties and third parties. This extended the statutory deadline for the publication of our final report to 21 January 2021.
12. We held a joint response hearing with TVS EDL, UC and 3G, and separate response hearings with (a) TVS EDL and UC and (b) 3G, on 17 November 2020. The response hearings were held via MS Teams. A remedies working paper was sent to the Parties on 27 November 2020 for comment. In addition, we held three calls with third parties on their views on different possible remedy options.
13. A non-confidential version of the final report has been published on the [inquiry case page](#).
14. We would like to thank those who have assisted us in our inquiry.

Appendix B: Synergy projections for the Merger

Synergy projections

TVS EDL's internal documents

1. Table B1 shows TVS EDL's synergy projections for the Merged Entity for financial years (FY) 2020 to 2024 as set out in the TVS EDL 26 April 2019 document 'Project Alpha Strategic Review'.

Table B1: TVS EDL's synergy projections including 3G's acquisition

[REDACTED]

Source: Merger Notice

2. The same synergy projections table is presented in the pre-Merger internal documents (17 May 2019 document 'Revitalisation of UK Strategy TVS EDL' and 9 July 2019 document 'TASL UK and European Strategy'), and post-Merger internal document (12 February 2020 document 'TVS EDL February 2020 Board Update').
3. We first consider the [REDACTED].
4. TVS EDL told us that its [REDACTED]. It told us that [REDACTED]. TVS EDL told us that [REDACTED].⁵
5. TVS EDL told us that [REDACTED]. However, [REDACTED].⁶
6. TVS EDL submitted that, [REDACTED].
7. The 26 April 2019 document 'Project Alpha Strategic Review' states that [REDACTED].
8. The 17 May 2019 document 'Revitalisation of UK Strategy' and the 9 July 2019 document 'TASL UK and European Strategy' noted [REDACTED].⁷ [REDACTED].
9. In a TVS EDL's board presentation dated 12 February 2020 [REDACTED].
10. TVS EDL told us that its 12 February 2020 presentation [REDACTED].

Our assessment of the synergy projections

11. The evidence provided to us shows that TVS EDL [REDACTED].

⁵ Parties' response to the Provisional Findings, paragraphs 2.5 to 2.8.

⁶ Parties' response to the Provisional Findings, paragraphs 2.9 and 2.10.

⁷ Parties' response to the Provisional Findings, paragraph 2.14

12. TVS EDL has told us that [REDACTED].

13. [REDACTED].

Description of synergy projections

TVS EDL's internal documents

14. Table B2 sets out descriptions of the Merged Entity's synergy projections for the FY21 which were included in the 17 May 2019 document 'Revitalisation of UK Strategy TVS EDL' and incorporated in the 24 May 2019 model.

Table B2: TVS EDL description of synergy projections

[REDACTED]

Source: Merger Notice

15. The [REDACTED].

16. TVS EDL told us in response to the Financial Questionnaire in July 2020 that it had subsequently re-categorised the synergies in Table B2, and provided us with the following explanations:

(a) Gross margin gains of £[REDACTED] million in FY21 (increasing to £[REDACTED] million in FY22 and £[REDACTED] million in FY23). TVS EDL told us that UC initially modelled a margin increase of £[REDACTED] million for FY21 through the realignment of customer prices in the 17 May 2019 document 'Revitalisation of UK Strategy'. However, it told us that UC subsequently considered that any price increases (to align prices between UC and 3G) would result in higher customer switching to maintain independent alternatives, and the 24 May 2019 model reflected its belief that they would lose £[REDACTED] million of revenue. It told us that UC did not believe it could increase prices and that the projections showed no post-Merger increase in revenue, but instead, a reduction in the cost of sales (derived from purchasing cost synergies). [REDACTED].

(b) [REDACTED]. TVS EDL told us that after the 'Revitalisation of UK Strategy TVS EDL' slides were created, UC's view with respect to [REDACTED].

(c) Customer [REDACTED]. TVS EDL told us that the customer [REDACTED].

(d) Supplier [REDACTED].

(e) Transport consolidation of [REDACTED].

17. TVS EDL also told us that it conducted further analysis on the potential to lower the post-Merger cost of goods sold due to the higher purchase volumes. In this regard, it provided an email from [REDACTED] email to [REDACTED] ([REDACTED] Director, TVS ASPL, India) dated 9 July 2019:

[REDACTED]

18. TVS EDL also told us in their response to the Financial Questionnaire that additional post-Merger operational [REDACTED].
19. In the TVS EDL board presentation dated 12 February 2020 the same synergies as those set out above in Table B2 were presented to the Board.

Our assessment of the synergies

20. [REDACTED], discussed in the 'Revitalisation of UK Strategy' presentation (17 May 2019) (see Table B2), is defined [REDACTED]. TVS EDL did not provide any evidence of the re-categorisation of £[REDACTED] million as a reduction in cost of sales in the internal documents that were prepared after 17 May 2019. On the contrary, this synergy is presented as a 'gross margin gain' in other internal documents including 12 February 2020 document 'TVS EDL February 2020 Board Update'.
21. Similarly, TVS EDL April 2019 internal documents state that [REDACTED].⁸
22. Regarding the [REDACTED] (see paragraph 16(b)), the Parties told us that it was [REDACTED]. However, we note that [REDACTED] already incorporated [REDACTED], and that the Parties had not provided any contemporaneous evidence of the change in assumption. Therefore, in our view the [REDACTED].
23. We note that the 9 July 2019 document 'TASL UK and European Strategy' presentation for the TVS ASPL Board had put a lot of weight on the acquisition of 3G as being to 'unlock significant synergistic savings'.
24. We agree that there could be potential for [REDACTED] from [REDACTED] (see paragraph 17). However, these are explicitly stated in his email to be additional [REDACTED] that could be realised by the Merged Entity: [REDACTED]. We therefore conclude that these are not incorporated in the [REDACTED] nor in the synergy projections table.
25. Although TVS EDL's explanation of the [REDACTED] is possible, we did not find any evidence of this in the internal documents that were prepared from April 2019 to July 2019 which have been provided to us. We also note that even in documents which have been provided to us that were prepared after TVS

⁸ UC intends to save approximately [REDACTED] in a worst-case and mid-case scenario, and £[REDACTED].

EDL acquired 3G in February 2020 [REDACTED], were included. If TVS EDL's view of the synergies had changed from April 2019 to May 2019, we would have expected that this would be reflected in later internal documents, including both the important document presented to the Board in July 2019 on which the acquisition was approved and those presented to the Board around eight months later.

26. Therefore, our view is that the [REDACTED] as set out in Table B2 which were repeated in various internal documents are relevant for our assessment.

Appendix C: Third party questionnaires sent to customers

Sampling methodology

1. In order to gather evidence on the views of the Parties' customers, we contacted a sample of motor factors who purchased CVT parts from either or both of the Parties in financial year (FY) 2019. The Parties submitted contact details for 777 customers (163 customers of only 3G, 266 customers of only UC, and 348 customers of both UC and 3G). Based on typical response rates observed in similar business to business markets, we considered that it was necessary to contact at least 300 customers to obtain a sufficient number of responses. We decided to sample customers over the whole size distribution but to over-weight the share of larger customers in the sample because the preferences of larger customers are likely to be a more important driver of merger effects and responses from such customers were likely to be more informed (eg because they have knowledge of more suppliers).
2. For each Party, we ordered customers by the value of purchases made in 2019 where this was known. We then divided the subset of customers who purchased more than £10,000 into three subgroups of equal sizes. We sampled 100% of customers in the first group (ie customers with the largest purchase values), 50% of customers in the second group, and 33% of customers in the third group. We considered that customers who purchased less than £10,000 from the Parties were less likely to provide informative answers, and therefore we only sampled 20% of such customers. We also sent the questionnaire to an approximate 25% random sample of customers for which we did not have sales data.
3. Based on this approach, we contacted 341 customers. The customers in this sample for whom we had sales data accounted for 77% and 85% of 3G's and UC's sales by value in financial year 2019, respectively. Of the 341 customers, 44 customers were only customers of 3G, 60 customers were only customers of UC, and 237 customers were customers of both of the Parties. Some of these customers were branches of larger companies. Table C1 below provides more detail on the composition of our sample.

Table C1: Composition of sample contacted

<i>Value of purchases from Parties in FY19</i>	<i>Customers of 3G only</i>	<i>Customers of UC only</i>	<i>Number of customers Customers of both 3G and UC</i>	
			<i>Value of 3G purchases</i>	<i>Value of UC purchases</i>
Large	12	16	29	53
Medium	4	8	31	35
Small	1	9	21	22
<£10k	12	11	24	17
No sales data	15	16	132	110
Total	44	60	237	237

Source: CMA analysis.

1. 64 of customers labelled as 'no sales data' refer to branches for which we did not have sales data at the branch level but we did at head office level. All the branches were contacted as these related to large customers that were picked in the sampling of sales data and we did not succeed in contacting the head office.

2. The last two columns categorise customers of both 3G and UC according to the value of purchases that those customers make from 3G and UC, respectively. For example, when those 58 customers are ranked according to the value of purchases that they make from 3G, 13 of them would be categorised as 'large'. On the other hand, when the same 58 customers are ranked according to the value of purchases that they make from UC, 19 customers would fall into the 'large' category.

Structure of questionnaire

4. Based on the customer evidence received at phase 1 (both questionnaire responses and call notes), in our view the majority of the Parties' customers were able to engage with both quantitative and qualitative questions about their purchasing behaviour and preferences. We therefore decided to use a structured questionnaire combining simple questions based on tables or multiple-choice designs with more complex, 'open' questions.
5. The questionnaire started with a number of relatively simple questions designed to elicit both factual information about the type and range of suppliers used and the reasons why customers use different suppliers. The questionnaire then asked a diversion-type question to elicit information about customers' second-best alternatives to UC and 3G (this is covered in more detail in paragraph 12(e) below). The questionnaire also asked a series of more 'open' questions that we considered useful for the assessment of customer preferences, including whether customers recognised the distinction between wide- and narrow-range suppliers, and whether they consider themselves to be in competition with all-makes suppliers. The questionnaire ended with a general question asking respondents to comment on the possible effects of the Merger on their business.
6. When chased, seven customers said they were reluctant to respond to the whole questionnaire. We sent a shorter, simplified version of the questionnaire to these customers and to other customers who had not responded to our chasing, for a total of 11 short questionnaires sent. In this shorter version, we focused on asking customers about the suppliers they use and the reasons for using different suppliers, the diversion-type questions, the questions about competition with 'all makes' suppliers, and the general question on the possible effects of the Merger on their business.

Responses and follow-up

7. We received 41 written responses⁹ sent on behalf of 110 of the customers we contacted (some customers responded on behalf of several different branches that we contacted separately). Four of these responses were based on the shorter version of the questionnaire referred to in paragraph 6. Table C2 below provides more detail on the provenance of the written responses by customer type. These written responses represent [X]% and [X]% of UC and 3G sales revenues respectively in 2019.

Table C2: Composition of responses received

<i>Value of purchases from Parties</i>	<i>Number of customers</i>			
	<i>Customers of 3G only</i>	<i>Customers of UC only</i>	<i>Customers of both 3G and UC</i>	
			<i>Value of 3G purchases</i>	<i>Value of UC purchases</i>
Large	3	8	13	26
Medium	1	2	4	13
Small	0	1	6	6
<10k	1	1	4	3
No sales data	7	10	49	28
Total	12	22	76	76

Source: CMA analysis of customer responses combined with customer lists and sales data from the Parties.

8. We also collected some answers to our questions orally from Digraph, which is one of both Parties' largest customers and has 24 branches.
9. We sent clarification questions by email to a number of respondents who provided ambiguous or incomplete answers to some questions. We also scheduled follow-up calls with a number of customers, based on their size (we approached the Parties' largest customers, and the two largest customers in the medium and small tiers).

The Parties' comments on our customer questionnaire and our response

10. The Parties submitted that many of the questions in our customer questionnaire asked customers about their purchases of CVT parts in general. The Parties said that this was not how customers made purchasing decisions and, as such, the questions were predicated on a single market for CVT parts, and did not seek to test whether customers believed there were differences in competitive conditions between product categories.
11. Our focus in this questionnaire was on understanding demand for the services offered by the Parties, ie wide range wholesalers. Asking detailed questions about each product category would neither have been practical, nor would it

⁹ As of 8 December 2020.

have addressed the question of why and in what circumstances customers choose to purchase from one of Parties rather than from alternatives such as specialists.

12. As regards specific comments made by the Parties in their submissions:
 - (a) The Parties submitted that suppliers who focused on one or a smaller number of product categories may be significantly under-represented in respondents' lists of their 10 most important suppliers in question 3 because customers do not purchase all their requirements from them. We recognise this is a possibility. However, many respondents identified specialist suppliers in response to the question, allowing us to ask follow-on questions about this type of supplier.
 - (b) The Parties said that differences in the frequency of ordering between suppliers may reflect the fact that customers purchase from multiple product fields from the Parties while they purchase from a single product field from those suppliers focused on one or a smaller number of product categories. However, in our view, this in itself is an important difference between wide range wholesalers and specialist suppliers.
 - (c) The Parties submitted that ranking the importance of criteria when choosing between suppliers fails to capture differences in the drivers of choice across product fields. However, in our view, the questionnaire responses give us a reasonable indication of the relative importance of these criteria. To ask customers to rank a set of criteria across each of a large set of product categories would not have been practical – ie we could not have expected customers to respond accurately to such a complex question.
 - (d) The Parties submitted that if the CMA wanted to explore in more detail the relative significance of attributes, a question should have been added to the questionnaire asking customers about their single most important attribute – as is routinely done in other surveys.¹⁰ However, our question on choice attributes allowed us to explore the relative significance of choice attributes, as customers had the option to rate them differently.
 - (e) The Parties also submitted that our questions about price negotiations did not capture differences between product categories, and that apparent differences between suppliers may reflect such differences between categories. The Parties have not supported this submission with reference to any reasons as to why customers should take a different approach to

¹⁰ [Parties' response to Provisional Findings](#), paragraph 4.3.

price negotiation from one product category to another. In any case, these questions relate to UC and 3G, who supply customers within a broadly similar range of products categories.

- (f) The Parties further submitted that diversion questions would fail to capture or significantly understate the constraint from suppliers who may be effective alternatives for the customers in certain but not all product categories, because the first part of these questions asks customers to focus on all purchases from the Parties and then asks them to focus on diversion to a single alternative supplier across these products. However, in our view, asking customers to consider diversion (in a hypothetical scenario) across many product categories would not have elicited reliably accurate responses. In any case, the question asked customers to provide details of other suppliers they would have switched to, including the product categories concerned. In response to these questions, most customers identified between two and 39 different suppliers, with only seven out of 37 identifying a single alternative.
 - (g) Finally, the Parties submitted that questions about the constraint from ‘all makes’ suppliers may understate this constraint, if these suppliers do not compete with motor factors across the full range of CVT parts. The Parties have not explained why this would lead to an understatement – we would expect that if ‘all makes’ suppliers only competed with motor factors across a subset of CVT parts, the competitive constraint on motor factors, and hence the indirect constraint on the Parties, would be less than if ‘all makes’ suppliers competed on the full range.
13. The Parties also submitted that the wording of our diversion questions was biased. We have considered the possibility of bias in relation to this question in paragraphs 7.83 to 7.89 of the final report.

Appendix D: Third party questionnaires sent to competitors

1. To gather evidence and views from the Parties' competitors, we sent a questionnaire to all of the companies identified by the Parties in their response to the Initial Factual Questionnaire as being competitors. The list provided by the Parties had around 130 competitors that included different types of wholesalers, OES parts manufacturers and 'all makes' suppliers. The questionnaire asked for factual information, such as the supplier's revenues, the product fields and the number of SKUs supplied, etc. It also asked competitors a series of more 'open' questions that we considered useful to understand the extent of competition between the Parties and the competitive constraints on them.

2. We have received completed responses from 40 competitors:
 - (a) 22 wholesalers;¹¹
 - (b) 17 OES parts manufacturers;
 - (c) One 'all makes' supplier (Roadcrew).

3. Table D1 below sets out details of the breadth of products supplied by wholesalers that responded to our questionnaire and their size in terms of total revenues generated from the wholesale supply of CVT parts in the IAM in the UK (2019). Table D2 below sets out the 45 product fields identified by UC.

Table D1: Wholesalers' responses to third party questionnaire

<i>Wholesaler</i>	<i>UC's product fields</i>	<i>Total revenues</i> £
Inter Cars	44	[X]
CV Logix	41	[X]
Diesel Technic	35	[X]
DT Truck*	31	[X]
Majorsell	29	[X]
Sampa†	27	[X]
Imexpart	26	[X]
Febi	23	[X]

¹¹ We have also requested information on revenues and product fields supplied from DT Trucks, PE Automotive, Gardner Parts and Omnipart, but they did not complete the questionnaire. Omnipart stated that they primarily supply components direct to companies who repair and rebuild engines, while Gardner stated that they focus on rebuilders of truck gearboxes. PE Automotive stated that they only sell to wholesalers.

Wholesaler	UC's product fields	Total revenues £
DSS	21	[X]
Amipart	20	[X]
EBS	16	[X]
Guardian	14	[X]
Granning	11	[X]
PE Automotive *	9	[X]
Durite†	8	[X]
Borg & Beck	7	[X]
Automint	6	[X]
Nationwide Trailer Parts	6	[X]
Roadlink	5	[X]
Fleet Parts	5	[X]
Winnard§	4	[X]
ST Templin	4	[X]
Juratek	3	[X]
Omnipart*	3	[X]
Dinex	2	[X]
Gardner Parts*	2	[X]

Source: Information provided by third parties on revenues and product fields; DSS information on product fields was provided by Parties.

*Did not complete the questionnaire; only revenues and product fields supplied provided.

†Includes all revenues, ie the revenues are not limited to revenues generated from parts of commercial vehicle and includes revenues generated from sales to vehicle builders

§Includes sales 'to OES'.

Table D2: Product categories identified by UC

Adhesives and Chemicals	Caliper	Engine Electrical	General Lighting	Regulation Requirements
Air Brake	Chassis Components	Engine Sub Components	Hub Component Parts	Safety Wear
Air Brake Coils and Couplings	Cleaning and Degreasing	Exhaust	Hubs	Slack Adjusters
Air Suspension	Clutch	Fifthwheel	Internal Switches	Steering
Axle Braking	Consumables	Filtration	Lighting	Storage and Security Devices
Body Fitting	Cooling	Fittings	Lubricants	Switchgear
Cabin	Drawbar	Front End Lighting	Mechanical Suspension	Tail Lift
Cabin Suspension	Drive Components	Fuel System	Power Conversion	Tools
Cable	Electrical Accessories	Gear Box	Rear Side Interior Lighting	Vehicle Safety

Source: Third party questionnaire sent to competitors, based on list of product fields provided by Parties

- To gather further information, we also had calls with twelve suppliers that included different types of wholesalers, OES parts suppliers and 'all makes' suppliers.¹²
- Several suppliers (Cojali, Ashtree, Fuel Defend, Jost, Trucklite, Bailey and Morris, ZF, CBF, Ecco, Schaeffer) that the Parties included in their list of competitors responded stating that they do not see themselves as being in

¹² Unipart (TTC) (wholesaler), Sampa (wholesaler), CV Logix (wholesaler), Granning (wholesaler), Dinex (wholesaler), Diesel Technic (wholesaler), EBS (wholesaler), Inter Cars (wholesaler), Amipart (wholesaler), Jonesco (OES parts manufacturer), Boydell and Jacks (OES parts manufacturer) and Roadcrew ('all makes' supplier).

competition with the Parties and that they are a supplier to one or both of the Parties and/or they supply vehicle manufacturers; they therefore did not complete the questionnaire. Ecco nevertheless submitted its views on the Merger's impact on competition which we have included in our assessment. Of the 'all makes' suppliers, two 'all makes' suppliers (MAN and Scania) did not respond to the questionnaire stating that they do not consider that they are competitors with the Parties, while TRP did not respond to our questionnaire.

Appendix E: Parties' submissions on multi-sourcing and switching

Introduction

1. This appendix provides our assessment of the analysis of the Parties' sales transaction data carried out by CRA (economic advisers to the Parties) and submitted by the Parties (see paragraphs 5.35 and 7.75 of the final report).

Multi-sourcing

2. The Parties submitted that customers do not 'one stop shop'. In summary, they submitted an analysis of their transaction data which they contend shows that a significant proportion of their sales goes to customers who only purchase a small proportion of their product groups from either Party.¹³ They submitted that, as their customers are motor factors who must supply the full range of CVT parts, this implies that customers are purchasing many parts from other suppliers, which in turn implies that their customers do not have a preference for 'one stop' shopping.
3. We do not dispute that the Parties' customers multi-source to a significant extent. However, this does not imply that some customers do not value the option of sourcing some of their purchases from suppliers that can offer a wide range of parts. Where customers value such an option, then narrow-range suppliers would likely exert only a limited constraint on the Parties.
4. The Parties subsequently provided further analysis which seeks to identify whether there is a set of products for which customers have a preference for one stop shopping and for which the Parties could therefore raise the price. The Parties concluded from the analysis that customers are not buying the same sets of parts.
5. In our view, there is no need for customers to be buying the same basket of goods for them to value buying baskets from a limited number of suppliers – the basket(s) may even vary over time for individual customers. The point is that customers value the possibility of reducing the number of transactions in order to reduce carriage charges, administrative and logistical costs, and maximise rebates.

¹³ In particular, the Parties state that 50% of UC's sales come from customers who purchase less than [X%] of UC's product groups, and 50% of 3G's sales come from customers who purchase less than [X%] of 3G's product groups.

6. The Parties further submitted that price discrimination on the basis of looking at what each customer purchases over time is not possible. They told us that even if motor factors had differing preferences to buy different sets of parts from a single supplier, it is extremely difficult to see how the Parties could increase the price to only the combination of customers and parts for which there was such a preference. First, the Parties would need to know each of the set of parts that each customer has a preference for buying in a single basket from a single wholesaler at any point in time. Second, the ability to price discriminate is further complicated by the fact that for any given customer, their basket of parts is likely to include parts for which that customer does not have a strong preference for single-sourcing (eg secondary purchases or purchases driven by other factors such as price or the wholesaler's degree of technical expertise in relation to that part) as well as parts for which they do have a preference for single-sourcing.
7. In our view, it is not necessary for the Parties to have perfect information about the preferences of their customers for the Merger to lead to a price increase. Our analysis of the Parties' price negotiation correspondence (paragraphs 7.46 to 7.49 of the final report) shows one mechanism by which prices are set in this industry: when negotiating the price of a particular product with the Parties, customers obtain quotes from alternative suppliers, and use these quotes as 'leverage' to obtain a better price from the Parties. If a customer has a preference for buying a particular item as part of a broader basket, it will naturally seek a quote from another supplier that can also provide a basket of goods.¹⁴ In that context, the removal of a supplier capable of providing a suitable basket of goods reduces the bargaining power of that customer. There is no need for the Parties to know the preferences of that customer for the Merger to lead to higher prices compared to the counterfactual: the customers concerned would simply be less able to obtain competitive quotes that they can use as credible threats, and therefore less able to negotiate prices down.
8. Other customer evidence is consistent with the mechanism described above. Many customers explained how the Merger will reduce their leverage in negotiations with UC and 3G (paragraphs 7.112 and 7.113 of the final report). This was also raised by some customers during follow-up calls when we explored with them their views on the Merger. When asking about alternatives to the Parties after the Merger, Allspares told us that currently, UC and 3G are competing against each other, however, if you take one or the other out, this will reduce Allspares' buying power. Allspares said that its meetings with UC

¹⁴ This need not be the same basket of goods. A customer with a preference for using a limited number of suppliers might still decide to source different baskets from different suppliers.

are mostly about 3G and its meetings with 3G are about UC. It further noted that both companies are mostly focused on winning business from each other. Likewise, EMS-FP&S said that it can source a lot of products currently bought from UC/3G elsewhere, but with the Merger it will lose the ability to play one off against the other in negotiations. EMS-FP&S said that UC and 3G are the two biggest players.

9. The Parties raised four objections with respect to this mechanism:
 - (a) First, they stated that direct price matching – and the overstrikes that lead to such price matching – are a very small proportion of sales. For example, for UC, total overstrikes constitute only about [X] % of its sales. Therefore, as a purely practical matter it means that for the vast majority of sales, the Parties would not be able to observe any signal and hence would not be able to differentiate price;
 - (b) Second, they submitted that price matching is more likely to be a signal that the customer is looking for the best available price rather than indicating a preference for one stop shopping;
 - (c) Third, they submitted that customers could readily defeat this mechanism by quoting prices from specialists instead;
 - (d) Finally, they submitted that it is not clear how this mechanism would work in practice. If the Parties are thought to be the only wide range suppliers, post-merger there will not be a mechanism that would allow the Parties to reveal customers with single-sourcing preferences.
10. In our view, these points are not valid, for the following reasons.
 - (a) With respect to the first point: first, we consider that this mechanism may apply in various situations where prices are negotiated bilaterally, rather than solely in the cases of direct price-matching covered by UC's overstrike reports (we assess these in detail in the competitive assessment – see Chapter 7); second, we note that the Parties use the intelligence gathered through price negotiations in broader benchmarking exercises (paragraph 7.57 of the final report), such that the rivalry that crystalizes in bilateral negotiation is likely to have a broader impact on their pricing strategy; third, even if it was true that bilateral bargaining accounted for a small share of the Parties' transactions, and by implication that most transactions were settled based on 'list prices', this would in fact open up alternative mechanisms by which preferences for buying baskets could translate into price increases post-Merger. In that scenario, which is the most common scenario under which horizontal

unilateral effects are considered, the Merger is likely to lead to a price increase simply if diversion between the Parties is high.¹⁵

- (b) With respect to the second point, this misunderstands the way this mechanism operates. As explained in paragraph 8, in this mechanism it is not necessary for the Parties to form a view on the preferences of their customers. Customers who have a preference for buying baskets are less able to find credible alternatives in their negotiations, and therefore less able to negotiate prices downward compared to the counterfactual situation.
 - (c) With respect to the third point, our view is that ‘bluffing’ is unlikely to be an effective negotiation strategy for customers. Suppose that the Merged Entity suspects that some customers are bringing up quotes from narrow-range suppliers that they have no intention of using. Rejecting a request involves a cost for the Merged Entity, which is the probability that the threat is genuine and the customer will switch, but it also involves a benefit, which is the probability that the threat is not genuine and the customer will keep buying the part (and will have its preference for buying baskets exposed). In a context where the Parties and their customers interact regularly, such as in the present case, bluffing is unlikely to be effective.
 - (d) With respect to the fourth point, as discussed in paragraph 8 this mechanism does not require the Parties to have perfect information about the preferences of their customers. If the Merger removes an important alternative for the Parties’ customers, these customers will find it more difficult to find credible alternative quotes that they can use as leverage in negotiations with the Merged Entity.
11. For these reasons, in our view, there is at least one plausible mechanism by which preferences for buying baskets could translate into price increases post-Merger.
12. In addition, our view is that the Parties could also exploit preferences for buying baskets by reducing volume-related rebates post-Merger. The Parties have submitted that this would not accord with normal business practices, as the Parties would need to increase prices (or reduce discounts) the larger the basket purchased from the Parties. In fact, the Parties already offer volume-related rebates to some of their customers and UC’s internal documents show that it expected that the Merger would enable it to reduce such rebates (paragraph 7.96(d) of the final report). The Parties have also submitted that

¹⁵ [Merger Assessment Guidelines](#), paragraphs 5.4.6 to 5.4.9.

this mechanism assumes that customers have a preference to single-source **all** the parts purchased in a basket at any point in time. This mechanism makes no such assumption, as rebates are granted based on annual volume targets.

Switching

13. The Parties have sought to use their combined transaction data to identify instances of customers switching between them. This analysis identifies a 'loss event' as a situation where one of the Parties sells a particular part to a customer for three consecutive months, and then registers no sale of that part to that customer for the subsequent three months. The analysis identifies a 'switching event' as a situation that meets the criteria of a loss event and where the customer is observed to increase its purchase of the equivalent part from the other Party in the three months following the loss event. To calculate the proportion of the lost revenue of one Party that is subsequently picked up by the other Party, the total value of all switches is divided by the total value of all customer loss events that occurred in the calendar year. The Parties state that, based on this approach, in 2019 3G picked up [X] [5 – 10]% of UC's lost sales, and similarly UC picked up [X] [5 – 10]% of 3G's lost sales. In a sensitivity calculation using a six-month definition of losses and gains, these estimates of switching increase to [X] [10 – 20]% and [X] [10 – 20]%, respectively. In another sensitivity calculation also using a six-month definition of losses and gains and assuming that any increase in quantity by one Party is considered as a complete switch from the other, these estimates of switching increase to [X] [20 - 30]% and [X] [20 - 30]%, respectively.¹⁶
14. We have some reservations with the robustness of these estimates. The Parties' base-case analysis implicitly assumes that customers purchase all parts at a constant rate: if a customer stops purchasing a part from one Party, it is implied that this customer is sourcing the exact same quantity of that part from alternative suppliers. However, in our view, it does not follow that this is a reasonable assumption. If there is variability in customers' purchases of individual parts, the Parties' approach will necessarily overstate the extent of switching to other suppliers. If a customer stops purchasing a part from one Party and does not increase its purchase of that part from the other Party by the same amount, this is interpreted as evidence that the customer has used another supplier for the difference, while in fact it may be the case that the customer has not purchased this part over that period from any supplier, or has purchased a smaller quantity of that part. UC's internal documents show that such situations are very common: in [X]% of the cases where a sales

¹⁶ Final Report, paragraph 7.75

representative identified the cause for a drop in demand by a particular customer, this was not related to a switch to a competitor (see paragraph 7.83).

15. The Parties have submitted that their analysis of switching includes various sensitivities to ensure that situations where demand has dropped to zero for reasons other than switching were excluded from the count of 'loss events'.
16. While the exclusion of obsolete parts and the grouping of superseded parts is likely to capture drops in demand due to technical reasons, we are not persuaded by other controls. Using a six-month period to evaluate loss and switching events mitigates issues related to short-term fluctuations in demand, but it does not control for situations where customers stopped purchasing certain parts altogether, or durably reduced their demand of certain parts. Focusing on the top 1,000 fastest moving parts may not control for such situations either as motor factors may have different demand profiles or their demand might change over time.
17. The Parties added that '[t]his hypothetical situation is also inconsistent with statements elsewhere in the PFs where the CMA recognises that "the Parties submitted, and we agree, that...their customers are motor factors who must stock and supply the full range of CVT parts" (emphasis added).' The Parties said that 'it is simply not realistic that [a reduction in demand] would translate to zero sales of a particular product (particularly a fast-moving product) for a customer over a period of six months'.¹⁷
18. The point of the text from our [provisional findings report](#) which the Parties quote (see paragraph 5.27 from the provisional findings or paragraph 5.35 of the final report) is that motor factors do not specialise in a subset of **product groups** (so if motor factors are not buying these product groups from the Parties they are likely to be buying them elsewhere). This implies that motor factors will have demand for parts in every product group. It does not imply that they will have stable demand for the same specific parts over time – ie the 1,000 top-selling parts which were the focus of CRA's analysis – such that when the customer stops buying one of these parts from UC or 3G it can be assumed to have switched to a different provider.
19. UC staff record a wide range of reasons for leakages. Those recorded under 'too much stock/order when needed' include: 'not as popular', 'not moving', 'not much usage'. Those recorded under 'drop in demand' include: 'don't use now', 'business slowing down', 'not selling that part anymore'. Other reasons include 'ordering through HQ/HO', and 'switching to another part'. In our view,

¹⁷ [Parties' response to the Provisional Findings](#), paragraph 6.30(ii).

there is a considerable risk that the CRA's switching analysis has counted a substantial number of such 'leakages' as 'loss events', and hence assumed that they are switches to a competitor. We do not agree that this risk has been addressed by the use of a six-month timeframe, as some of the reasons cited for leakages above could result in the customer ceasing to purchase the part indefinitely.

20. The second sensitivity emphasised by the Parties – which treats any increase in quantity at one Party as a complete switch from the other – only partly relaxes the assumption of constant purchase rates. If, following a loss event, a customer is observed to increase its purchase of the equivalent part from the opposite Party by a smaller amount, it is implicitly recognised that this customer may have reduced its total purchases of that part. If, however, a customer is not observed to increase its purchase from the opposite Party at all, it is assumed that this customer is sourcing the same total value of parts from an alternative supplier. There is no clear rationale for that assumption, and no obvious reason to regard it, as the Parties have submitted, as 'highly conservative'.
21. The Parties submitted that their switching analysis 'provides evidence of what the Parties' **customers actually do** [Parties emphasis]'. In our view this is not correct – the Parties have no direct information on what their customers actually do, other than that collected in their CRM database which we have analysed separately. Instead, their switching analysis reflects some **assumptions** about what customers do, namely that they purchase certain parts at constant rates over certain periods of time. It is not possible for us to verify the validity of these assumptions. In evaluating the degree of switching that occurs between the Parties it is reasonable for us to place more weight on the information drawn from the CRM database, which is collected by the Parties in the normal course of business and includes intelligence on customer behaviour gathered by UC's sales staff.
22. Overall, because this analysis cannot control for all possible factors impacting demand, it is likely to underestimate switching between the Parties. In our view, UC's own internal review of its 'leakages' provides a more robust basis for estimating the extent to which it loses sales to 3G, since it incorporates the information gathered by its sales staff regarding the possible different causes for leakages.
23. In response to the reference to UC's 'leakages' data above, the Parties submitted that 'the switching rates from the leakages database ([X] % losses to 3G) is not significantly higher than the switching rates in the Parties' analysis, which estimates that [X] % of switching from UC is to 3G under the

most conservative scenario',¹⁸ and also that the leakages database 'which the CMA argues to be robust evidence' produces a lower diversion estimate than our customer questionnaire.¹⁹

24. We do not consider that the relative similarity (under certain assumptions) of the results of the CRA's switching analysis to those of UC's leakages database is a reason for relying on the former, given our methodological concerns about this analysis. The leakages database reflects UC's understanding of where it has lost business to competitors over a relatively limited time period (the six months to June 2019). In addition, it is based on the necessarily imperfect information held by the UC sales staff who populated it.²⁰ We do not consider the results of the leakages analysis to be definitive. Rather, it is an informative part of the evidence and we have considered it in the round alongside other evidence.

¹⁸ [Parties' response to the Provisional Findings](#), paragraph 6.33. We have revised this figure to [X]%, due to the exclusion of some non-UK customers.

¹⁹ [Parties' response to the Provisional Findings](#), paragraph 6.33.

²⁰ For example, the number of leakages identified as switching to an unknown competitor (20) or with no reason given (114) are more than twice as many as were attributed to 3G.

Appendix F: Parties' submission on competitive effects, following provisional findings

Introduction

1. This appendix sets out our assessment of the Parties' submission, in their response to the provisional findings, that on the basis of their preferred estimates of closeness of competition the Merger is unlikely to lead to a level of upward pricing pressure that would raise competition concerns.
2. In essence, the Parties seek to dismiss evidence of closeness of competition from (a) price negotiations documents, on the grounds that these are focused on 'ad hoc' sales (as defined by the Parties), and (b) the responses to our customer questionnaire, on the grounds of bias and other limitations of the questionnaire. Rather, the Parties focus on a subset of internal documents, in particular 'leakage' reports, and on CRA's switching analysis. Based on this evidence the Parties submit that diversion between UC and 3G is likely to be relatively low, and they present gross upward price pressure indices (GUPPIs) which they submit are too low to raise competition concerns.²¹

The Parties' submissions

3. The Parties reiterated²² that as wide range wholesalers they are closer competitors for 'ad hoc' sales than for 'primary' sales, and said that a large proportion of email negotiations and 'overstrike' reports relate to these sales.²³ The Parties submitted that, in rejecting their previous submissions in relation to 'ad hoc' sales, the CMA has not attempted to establish whether the distinction between 'ad hoc' and 'primary' sales is meaningful to customers.²⁴
4. The Parties estimated the proportion of UC's March 2020 sales which were 'ad hoc', alternatively on the basis of (i) 'single product and single quantity' orders placed after the free delivery threshold on an existing order was met ([X]%),²⁵ (ii) 'single line' orders made in the last hour of trading ([X]%), and (iii) all 'single line, single quantity' orders ([X]%).²⁶ The Parties described the last of these estimates as 'highly conservative'.²⁷ The Parties submitted that we should place less weight on email price negotiations and overstrike

²¹ [Parties' response to the Provisional Findings](#), section 6.

²² The Parties' earlier views are summarised in paragraph 7.55.

²³ [Parties' response to the Provisional Findings](#), paragraph 6.4.

²⁴ [Parties' response to the Provisional Findings](#), paragraph 6.19.

²⁵ Or [X]% including 'single product and single quantity' orders of a value above the free delivery threshold.

²⁶ [Parties' response to the Provisional Findings](#), paragraph 6.10.

²⁷ [Parties' response to the Provisional Findings](#), paragraph 6.10(iii).

reports because they relate to ‘ad hoc’ sales which are a small proportion of the Parties’ sales.²⁸

5. The Parties submitted that [X] % of UC’s recorded overstrikes (ie price matching discounts) related to single line orders (which were ‘therefore predominantly ad hoc sales’), and that this explained why 3G was particularly prominent in overstrike reports (as noted in paragraph 7.55, 3G accounted for [X] % of mentions in these reports).²⁹ The Parties said that only a small proportion [X] % of UC’s recorded overstrikes ‘resulted in UC making a change to prices offered to customers on subsequent orders’ so the view that overstrikes had a significant effect on prices for primary orders was not supported.³⁰
6. In addition, the Parties commented, with regard to ‘ad hoc’ purchases that:
 - (a) They will not charge higher prices on ‘ad hoc’ purchases post-Merger, because customers for ‘ad hoc’ purchases are also customers for ‘primary’ purchases and could credibly threaten to switch their ‘primary’ purchases away from the Parties in response to an increase in ‘ad hoc’ prices. The Parties’ commented that ‘ad hoc’ orders on which competitor overstrikes were granted account for less than [X] % of UC’s sales, and UC would not seek a higher margin on these sales at the risk of losing primary sales which account for [X] % of its business.³¹
 - (b) The Parties recognised that their sales teams do not explicitly distinguish ‘ad hoc’ and ‘primary’ sales in any internal documents. However, they commented that this does not detract from the evidence of a marked distinction in frequency of mentions of 3G in overstrike and price negotiation documents compared to other internal documents, which the CMA had not explained.³²
7. The Parties submitted that we relied disproportionately on our customer questionnaire to inform our views on customer switching and diversion.³³ The Parties said that:
 - (a) The fact that most questionnaire respondents said they would seek a quote from 3G when purchasing from UC was not meaningful because of the small sample, the fact that most respondents were customers of both,

²⁸ Parties’ response to the Provisional Findings, paragraph 6.4.

²⁹ Parties’ response to the Provisional Findings, paragraph 6.12.

³⁰ Parties’ response to the Provisional Findings, paragraph 6.20.

³¹ Parties’ response to the Provisional Findings, paragraph 6.16-6.17.

³² Parties’ response to the Provisional Findings, paragraph 6.18.

³³ Parties’ response to the Provisional Findings, paragraph 6.22.

and that close to half of respondents also mentioned other competitors ‘which implies that the weight placed on 3G/UC from these customers is overstated’.³⁴

- (b) The wording of questions about diversion to other suppliers in the questionnaire is biased towards wide range wholesalers, leading to biased diversion ratios.³⁵
8. The Parties further submitted that CRA’s switching analysis was robust and suggested switching rates of 25% or lower.³⁶
9. On the basis of diversion estimates in the range [X] % (based on CRA’s switching analysis) to [X] % (based on those UC internal documents preferred by the Parties) and estimates of UC’s variable margin of between [X] % and [X] %, the Parties presented GUPPI estimates ranging from 4.3% to 6.7%. The Parties submitted that these estimates were close to the level where the CMA has typically assumed anti-competitive effects to be unlikely.³⁷

‘Ad hoc’ sales

Evidence of a distinction between ‘ad hoc’ and ‘primary’ sales

10. The notion of a distinction between ‘ad hoc’ and ‘primary’ sales was first raised by UC in its main party hearing. Previously, in the Merger Notice, the Parties had explained how UC and 3G’s prices were set, and how [X]. This earlier account of price setting by the Parties did not distinguish between ‘ad hoc’ and ‘primary’ sales. As the Parties recognise, they have not at any point ‘suggested that their respective sales teams explicitly distinguish ‘ad hoc’ sales in external correspondence with customers or in their internal reporting documents’.³⁸ Nor have we seen evidence of an implicit distinction of this nature being made by the UC or 3G sales teams.
11. We have reviewed our calls with customers, which included some detailed discussions of pricing, to see if any of their comments could be seen as supporting a distinction between ‘ad hoc’ and ‘primary’ sales on the lines set out by the Parties.

³⁴ [Parties’ response to the Provisional Findings](#), paragraph 6.21.

³⁵ [Parties’ response to the Provisional Findings](#), paragraphs 6.25-6.27.

³⁶ [Parties’ response to the Provisional Findings](#), paragraphs 6.28-6.33.

³⁷ [Parties’ response to the Provisional Findings](#), Table 3 and paragraph 6.35.

³⁸ [Parties’ response to the Provisional Findings](#), paragraph 6.18.

12. When we discussed price negotiations with customers, most did not distinguish between different products or purchasing occasions. However, Allspares and Fleet Factors made the following distinctions:
- (a) Allspares told us that it had meetings with the Parties to agree prices, but that for incidental purchases, such as VORs and/or parts it had not bought before, it would phone different suppliers to negotiate the best price. Allspares said it was easier to buy incidental parts from UC or 3G than from other providers, because its daily orders with each of them were well above the minimum threshold to avoid carriage fees, and that UC's rebate gave it a further incentive to buy from UC.
 - (b) Fleet Factors told us that it kept fast-moving stock in-house, and that it bought 'everything else' in response to customer demand, ordering from TTC, Universal or 3G for next-day delivery.
13. On the other hand, Linings and Hoses and Picksons described ongoing price negotiations with 3G and UC respectively:
- (a) Linings and Hoses told us that UC would rarely discount its prices, which had been agreed as part of an IFA deal, but that 3G was desperate to take IFA business from UC, that it would seek to undercut UC's prices to achieve this, and that it continually pushed for business from Linings and Hoses.
 - (b) Picksons told us that its buyers were continually negotiating prices with UC, so that if one saw a better price elsewhere it would ask UC to match this price, and pass the price reduction to all members of the IFA.
14. In summary, one customer (Allspares) indicated that it only sought alternative quotes on incidental parts which it had not purchased before, while two others indicated that they regularly negotiated prices with UC or 3G. Allspares' comments provide some support for the Parties' distinction between different purchasing occasions – in particular between purchases of parts for which the customer has or has not previously negotiated a discount. However, in Allspares' account none of its negotiations would in any case appear in the Parties' price negotiation emails or webchats, as those for regular purchases take place in meetings, and those for incidental purchases take place by phone.³⁹ In our view, the customer evidence does not show that there is a clear or widely recognised distinction between 'ad hoc' and 'primary' sales (as

³⁹ [REDACTED].

described by the Parties), or that price negotiation emails and webchats are likely to be focused on 'ad hoc' sales.

Scale and significance of 'ad hoc' sales

15. Next we consider the Parties' submission that 'ad hoc' sales are a small proportion of their sales, such that evidence relating to competition for these sales should not be given equal weight to evidence relating to 'primary' sales.^{40,41,42}
16. Considering the three definitions the Parties have used to estimate 'ad hoc' sales (see paragraph 4 above):
 - (a) Their first estimate is focused on single unit orders⁴³ placed after the free delivery threshold has been met. However, if the customer expected to reach the free delivery threshold on that day, whether or not it had already been met when the unit was ordered would not matter. For example, Allspares said it meets the free delivery threshold for both Parties every day.
 - (b) The second estimate is based on the remark that 'ad hoc' orders 'often come relatively late in the day' and limits the definition to single line orders made in the last hour of trading. However, the Parties have not provided evidence for the proposition that a single unit order is more likely to come at a particular time of day, let alone the last hour of trading, such as to be classified (on the Parties' definition) as an 'ad hoc' purchase.
 - (c) The third estimate comprises all single unit orders. The Parties have described this as 'highly conservative' on the basis that it is likely to include orders for which the free delivery threshold has not been met. In addition, we note that a single unit purchase could be made of a part for which a discount has already been agreed. On the other hand, some 'incidental' purchases of the kind described by Allspares could be of more than one unit of a part,⁴⁴ or could be ordered at the same time as other

⁴⁰ [Parties' response to the Provisional Findings](#), paragraph 6.4.

⁴¹ In doing so we leave aside, for the moment, the question of whether 'ad hoc' sales are a meaningful distinct category.

⁴² In practice, we note that the Parties' proposed approach does not put any weight on the price negotiation and overstrikes evidence which they submit relates to 'ad hoc' sales.

⁴³ The Parties use the terms 'single product and single quantity', 'single line', and 'single line, single quantity'. We understand all of these terms to refer to an order of a single unit. We also understand 'order' in this context to include an addition to a pre-existing order, or the opening of an order to which other items may be added during the day.

⁴⁴ For example, this could be a recently introduced PL version of a fast selling part, to which the customer had not previously negotiated a discount. The Parties have also commented that an ad hoc order could be for a fast-selling part which the customer does not have in stock and requires urgently. We note that in this case the

parts eg to qualify for free delivery, so this definition is unlikely to capture all 'ad hoc' purchases.

17. In summary, we consider the first two estimation methods proposed by the Parties to be unduly restrictive, while the third is likely to include some 'primary' purchases and exclude some 'ad hoc' purchases. Based on the third estimation method, 'ad hoc' accounted for around [X] % of UC's sales in March 2020. As a broad indication of the scale of 'ad hoc' purchases, this implies that they account for a substantial proportion of the Parties' sales.
18. In addition, the relevance of these sales to competition between the Parties may not be limited to the value of the specific order, since, as set out in paragraph 7.57, (a) in many cases price negotiations relate to future purchases and (b) both Parties use information from price negotiations to inform wider pricing decisions.
19. In their response to the provisional findings, the Parties submitted that only a small proportion ([X] %) of prices are overstruck (ie discounted), and that an even smaller proportion of those prices are updated to a customer's main price file.⁴⁵
20. Taking these points in turn, first, even if overstrike reports account for a small proportion of UC's sales, they may be taken as indicative of competition in the market more generally,⁴⁶ unless there are specific reasons for thinking they are not representative of this broader competition. We do not accept the Parties' submission that overstrikes relate to a specific set of 'ad hoc' sales where UC and 3G are particularly close competitors. Accordingly, we consider overstrikes to be indicative of wider competition, that is competition in the market more generally.
21. Second, both UC and 3G take previous individual price negotiations into account when setting their prices for customers generally:⁴⁷

customer may well order multiple units of the part. As a sensitivity to their second estimate (orders in the last hour of trading) the Parties also included single-line orders of multiple units and reached a somewhat higher figure ([X] % rather than [X] %), suggesting that multiple-unit orders of a single item are relatively common. (See the [Parties' response to the Provisional Findings](#), footnotes 49 and 52.)

⁴⁵ [Parties' response to the Provisional Findings](#), paragraphs 6.14 and 6.20.

⁴⁶ Ie 3G's prominence in overstrike reports can be taken as indicative of closeness of competition between the Parties more generally.

⁴⁷ The Parties appear to have misunderstood a part of our position when they disagree with the proposition that it does not make sense for UC to 'take into account the prices agreed on an individual SKU purchased by a customer on an ad hoc basis when determining the price of that same SKU **for that same customer** on future sales' (emphasis added). ([Parties' response to the provisional findings](#), paragraph 6.20.) This was not our point. In fact, we **do** consider that an individual customer, having negotiated a price for an SKU, would not normally expect to pay a higher price on subsequent purchases of the same SKU. However, the broader point relates to customers generally.

- (a) UC's Commercial Director sets its wholesale prices using a pricing matrix, and if a customer discloses a competitor's prices during negotiations this is recorded in the matrix.
 - (b) 3G created a spreadsheet which was used as the basis for an October 2019 price review. This spreadsheet included 'details of any UC factor prices that may have been disclosed to 3G's sales reps during discussions with customers'.
- 22. Neither UC's pricing matrix nor 3G's October 2019 spreadsheet records the circumstances in which these prices were disclosed by customers, eg whether they were for single unit purchases etc. As set out in paragraph 7.57 of the final report (with regard to inclusion of such prices in UC's price matrix), in our view if price negotiations related to very specific and atypical circumstances, they would not be useful in informing the Parties' reviews of prices for customers more generally. In any case, and more importantly, the use of this information to inform price reviews means that these price negotiations have a relevance to competition between the Parties which goes beyond the specific customer or purchase to which they relate.
- 23. As regards the Parties' additional points on 'ad hoc':
 - (a) The Parties submitted that even though wide range wholesalers may have a relatively stronger position on 'ad hoc' purchases, the Parties would be constrained from increasing prices on these purchases following the Merger, because a customer making these purchases could credibly switch away from the Parties for primary purchases where the customer had more alternatives.⁴⁸ Our understanding of price negotiations, based on discussions with customers and the Parties' internal documents, is that customers will seek to get the best price available for a specific part, in some cases by shopping around and asking providers to match or beat quotes they have obtained elsewhere. In any case, we have seen no evidence that 'primary' purchases are a distinct category of purchases which customers can readily switch to alternative suppliers. Rather, customers value the Parties for their ability to offer a broad basket of goods and many do not see any other providers as offering a suitable alternative service to the Parties for at least some of their purchases.
 - (b) The Parties commented that the CMA has not explained a 'marked distinction' in the frequency of mentions of 3G in overstrike and price negotiation documents compared to other internal documents.⁴⁹ We note

⁴⁸ Parties' response to the Provisional Findings, paragraph 6.15.

⁴⁹ Parties' response to the Provisional Findings, paragraph 6.18.

that in each of the types of internal documents we have considered, UC and 3G are by far one another's most prominent competitor. It is not to be expected that 3G will account for the same, or a very similar percentage of mentions in every category of UC documents, or vice versa. For this reason, we have, appropriately, considered the evidence from internal documents in the round.

24. In light of the above, our view is that even if there were a meaningful distinction between 'ad hoc' and 'primary' sales, competition for 'ad hoc' sales would be an important element of the competitor interaction between the Parties.

Customer questionnaire and switching analysis

25. Our questionnaire asked customers whether they requested quotes from alternative suppliers when deciding to purchase from each of the Parties, and most who named other providers in response to the question about UC said they requested quotes from 3G, and vice versa (see paragraph 7.60). The Parties commented on the responses to this question that 'first, it is difficult to make robust conclusions based on a sample of 10 or 12 customers, especially when the respondents currently purchase from both UC and 3G. In addition, 5 of the 8 UC customers that named 3G, and 4 of the 11 3G customers that named UC, also mentioned other competitors, which implies that the weight placed on 3G/UC from these customers is overstated'.⁵⁰
26. In our view, the fact that respondents currently purchase from both Parties is in itself indicative of close competition between them given that the similarities in their product offering imply that they are substitutes for each other rather than complements. In addition, the Parties have not explained why the mention of other competitors means that 'the weight placed on 3G/UC from these customers is overstated'. The fact remains that almost all customers of each Party said that they would seek quotes from the other.
27. We address the Parties' comments on our diversion estimates in paragraphs 7.76 to 7.83. We remain of the view that these diversion estimates are a useful part of the evidence, which we have considered in the round alongside other evidence.
28. We assess the Parties' switching analysis based on transaction data in Appendix E, paragraphs 13 to 23. Having considered additional comments by the Parties, we remain of the view that this analysis is likely to underestimate

⁵⁰ Parties' response to the Provisional Findings, paragraph 6.21.

switching between the Parties, because of the inability to distinguish reliably between ‘loss events’ that are due to switching between providers and those that occur for other reasons.

GUPPI

29. The Gross Upward Pricing Pressure Index (GUPPI) is a measure calculated from diversion ratios and variable margins, which can provide an indication of the upward pricing pressure that may result from a merger. In this case the GUPPI for UC would depend on the diversion from UC to 3G, and on 3G’s margin, and vice versa for 3G.
30. The Parties submitted GUPPI estimates based on a range of ‘diversion estimates’ from the ‘upper bound’ of their switching analysis ([REDACTED]%), through our analysis of UC’s leakages ([REDACTED]%), to our analysis of UC’s sales meeting minutes ([REDACTED]%).⁵¹ Using estimates of UC’s variable margins in FY2019 and FY2020 they generated GUPPIs ranging from 4.3% to 6.7%. The Parties commented that the CMA ‘has typically presumed that an SLC will not arise where the GUPPI is below 5%.⁵²
31. The logic of the GUPPI approach is based on a model in which competing firms offer uniform prices.⁵³ In the present case, while both Parties have a standard price list, they also regularly negotiate discounts to individual customers. Following the Merger, customers will no longer be able to use quoted prices from one of the Parties to obtain competitive discounts from the other. In effect, the Parties will be able to price discriminate, targeting price increases on that demand⁵⁴ for which the other Party is a particularly close substitute. In our view, a GUPPI is not capable of capturing this effect. We therefore consider that a GUPPI analysis cannot lead to an informative output for the purpose of assessing the likely effects of the Merger on competition.
32. In addition, we consider that the approach taken by the Parties to GUPPIs is flawed in that:
 - (a) The results rely on CRA’s switching analysis and the Parties’ preferred measures from internal documents (rejecting other evidence). As discussed above, we do not consider CRA’s switching analysis to be reliable. As to the Parties’ preferred internal documents, the evidence on ‘leakages’ is subject to limitations as discussed in Appendix E, paragraph

⁵¹ Parties’ response to the Provisional Findings, Table 3.

⁵² Parties’ response to the Provisional Findings, paragraph 6.39.

⁵³ Joseph Farrell & Carl Shapiro, Antitrust Evaluation of Horizontal Mergers: An Economic Alternative to Market Definition (Working Paper, Feb. 15, 2010), Page 7. <http://faculty.haas.berkeley.edu/shapiro/alternative.pdf>

⁵⁴ I.e. offering less competitive discounts to specific customers and/or for specific parts.

26, while competitor mentions in UC's sales meeting minutes are clearly not a measure of diversion. In our view, evidence from the Parties' internal documents (and from our customer questionnaire) should be used as part of an in the round assessment of closeness of competition, not as an input to a GUPPI.

- (b) The Parties' GUPPI estimates do not incorporate any evidence from 3G. Rather, they are based on combining diversion from UC to 3G with UC's margins, rather than 3G's margins, which is methodologically incorrect. At best this approach implicitly assumes that UC's diversion and variable margin estimates are a good proxy for those of 3G. However, evidence from benchmarking, price negotiations, and our diversion estimates, taken together, show that UC may be a closer competitive constraint on 3G than 3G is on UC.
- (c) The appropriate GUPPI threshold is not necessarily 5%. If we had reached the view that a GUPPI analysis could be informative in this case, we would have needed to consider the facts of the case in determining an appropriate threshold. In the absence of clear evidence that marginal cost efficiencies would be achieved by the Merger and passed on to customers, GUPPIs in the range indicated by the Parties could give rise to competition concerns.

Glossary

Term	Definition
3G	3G Truck & Trailer Parts Ltd.
AAM	Authorised Aftermarket: When a commercial vehicle is under warranty, the operator of that vehicle is likely to have it serviced and repaired by the vehicle manufacturer itself or by a member of the manufacturer's network of franchised or authorised service and repair centres, known as the Authorised Aftermarket.
All makes / All makes wholesalers / All makes suppliers	'All makes' are the wholesale divisions of vehicle manufacturers offering parts for all brands of commercial vehicle and trailer to the aftermarket.
Buying Groups	Buying groups are trading groups of independent motor trade factors that negotiate supply deals with parts wholesalers on behalf of their members. The buying groups may also offer a number of other centralised functions to their members such as central invoicing, centrally collected rebates, central payment handling, marketing support, participation in trade events and training.
CAGR	Compound Annual Growth Rate.
CMA	The Competition and Markets Authority.
CVT	Commercial vehicle and trailer.
FY	Financial Year.
IAM	Independent Aftermarket: The IAM refers to the aftermarket that is outside the truck manufacturers' networks of owned, franchised or authorised service and repair centres.
Initial Divestiture Period	The appropriate timescale to implement the required divestiture.
Motor Factor	A supplier of IAM parts (including CVT parts) to the independent motor trade.
OEM	Original Equipment Manufacturer.

Term	Definition
OES	Original Equipment Supplier.
Phase 1 Decision	The CMA's decision from the phase 1 investigation.
PL	Private Label.
PL Other	PL parts supplied by the Parties but purchased from either a recognised brand or other PL (ie non- UC/3G) suppliers that do not supply their parts to OEMs .
Provisional findings	Completed acquisition by TVS Europe Distribution Limited of 3G Truck & Trailer Parts Limited: Provisional findings report. Notified 21 October 2020.
RCBs	Relevant customer benefits.
Remedies Notice	The notice of possible remedies.
RMS	Relevant Merger Situation.
RWP	Remedies working paper.
SLC	Substantial Lessening of Competition.
The 24 May 2019 Model	UC's financial modelling of the Merger dated 24 May 2019.
The Act	The Enterprise Act 2002.
The Merged Entity	TVS EDL , including its subsidiary UC , and 3G are together referred to as, post-Merger, the Merged Entity.
The Merger	The completed acquisition by TVS EDL of 3G .
The Parties	Collectively, TVS EDL , including its subsidiary UC , and 3G .
SKU	Stock Keeping Unit.
SLC	Substantial Lessening of Competition.
TVS AEL	TVS Auto Electrics Limited.
TVS ASPL	TVS Automobile Solutions Private Limited, the parent company of TVS EDL.

Term	Definition
TVS EDL	TVS Europe Distribution Limited, the parent company of UC.
UC	Universal Components UK Limited.
UK	United Kingdom.
VOR	Vehicles that are off the road.

Industry participants mentioned in the final report

Term	Company
3G	3G Truck & Trailer Parts Ltd
AAG	Alliance Automotive Holding Limited
Allspares	Allspares Auto Limited
Amipart	Amipart is a division of Leyland Exports Limited
Aspoeck	Aspöck UK Limited
Autac	Autac Products Ltd
Automint	Automint Limited
Borg & Beck	First Line Limited, trading as Borg & Beck
Bosch	Robert Bosch Ltd
Boydell and Jacks	Boydell & Jacks Limited
BPW	BPW Limited
Business Lines	Business Lines Limited, trading as Checkpoint
CPS	CPS Limited
CV Logix	CV Logix, an AAG Company
DAF	Truck manufacturer
Diesel Technic	Diesel Technic UK and Ireland Limited

Term	Company
Dinex	Dinex Exhausts Limited
DSS	Direct Sourcing Solutions Limited
DT Truck	DT Trucks Limited
Durite	Durite Limited
EBS	European Braking Systems Limited
EMS FP&S	EMS FP&S Limited, part of BPW
Febi	Ferdinand Bilstein UK Ltd
Fleet Factors	Fleet Factors Limited
Fleet Parts	Fleet Parts Limited
Fontaine	Fontaine Fifth Wheel
Gardner	Gardner Parts is a division of Leyland Exports Limited
Granning	Granning UK Ltd, Granning Lynx (NI) Limited and ICA Truck. These three companies are collectively referred to as 'Granning'
Group Auto	Group Auto Union UK & Ireland Limited, an AAG Company
Guardian	Guardian Automotive Limited
Haldex	Haldex Europe SAS
Hella	Hella Limited
IFA	Independent Motor Trade Factors Association Limited
Imexpart	Imexpart Limited
Inter Cars	Inter Cars United Kingdom – Automotive Technology Limited, a subsidiary of Inter Cars SA.
Intertruck Benelux	A subsidiary of Unipart
James Hart	James Hart (Chorley) Limited
Jonesco	Jonesco (Preston) Limited

Term	Company
Juratek	Juratek Limited
Knorr-Bremse	Knorr-Bremse Systems for Commercial Vehicles Ltd.
Linings and Hoses	Linings and Hoses Limited
LKQ	LKQ Corporation
Majorsell	Majorsell Limited
MAN	MAN Truck and Bus UK Limited
Mann and Hummel	MANN+HUMMEL GmbH
MEI Brakes	MEI Brakes Limited
MHT Europe	MHT Europe (a trading division of the Marmon Group Ltd), trading as Fontaine Fifth Wheel.
Nationwide	Nationwide Trailer Parts Limited
Omnipart	Omnipart is a division of Leyland Exports Limited
PE Automotive	PE Automotive GmbH & Co (PE Automotive was recently known as Peters), Part of BPW
Picksons	Picksons PLC
Reflexallen	Reflexallen UK Limited
Roadcrew	Roadcrew Solutions, The 'All Makes' parts division of Volvo
Roadlink	Roadlink International Limited
Rota	RAN Sinai Mamüller Otomotiv Paz. Ltd. Şti, trading as ROTA
Sampa	Sampa UK and Ireland Limited
Scania	Scania (Great Britain) Limited
Scuderia	Scuderia Car Parts Limited
ST Templin	ST Templin UK Limited
TMD Friction	TMD Friction UK Limited

Term	Company
TRP	The 'All Makes' parts division of DAF
Truck-lite	Truck Lite Europe Limited
TTC	Truck and Trailer Components, part of the Unipart Group. TTC ceased trading on 12 June 2020.
Tube Gear	Tube Gear Limited
TVS AEL	TVS Auto Electrics Limited
TVS EDL	TVS Europe Distribution Limited
UAN	United Aftermarket Network Limited, an AAG Company
UC	Universal Components UK Limited
Unipart	Unipart Group Limited
Volvo	Volvo Cars UK Limited
VRS	The 'All Makes' parts division of Scania
Wabco	WABCO Automotive UK Limited
Winnard	Thos. Winnard & Sons Limited
Worldwise	Worldwise Industries Limited
ZF	ZF Friedrichshafen AG