# Anticipated acquisition by S&P Global, Inc of IHS Markit Ltd.

# Decision on relevant merger situation and substantial lessening of competition

**ME/6918/20**

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 19 October 2021. Full text of the decision published on 15 November 2021.

**Please note that [✂] 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

### Introduction

1. On 29 November 2020, S&P Global Inc. (**S&P**) agreed to acquire IHS Markit Ltd. (**IHSM**) (the **Merger**). S&P and IHSM are together referred to as the **Parties**, or for statements referring 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 S&P and IHSM is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the turnover 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.

### Competition assessment

3. Both Parties have a broad range of activities across the financial services sector. For the most part, the Parties' activities are complementary in nature or, where both are active, their combined presence is modest. The CMA's investigation therefore focussed on a relatively small number of product areas in which there were more significant overlaps in the Parties' activities

or where the Merged Entity might be able to use its control of certain inputs to harm rivals who use those inputs in downstream or adjacent markets.

### *Horizontal unilateral effects*

4. The CMA considered the impact of the Merger in relation to the Parties' overlapping activities in the supply of (i) commodity price assessments, (ii) market intelligence, and (iii) financial indices.

*Commodity price assessments*

5. Commodity price assessments are a view of the prevailing market price for a specific commodity and can be used for different purposes:

   *(a)* **Benchmark price assessments**: used in bilateral contracts (eg for settling physical trades) and/or derivatives contracts (eg option or future contracts) in a relevant market.

   *(b)* **Non-benchmark price assessments**: any commodity price assessment that is not a benchmark price assessment (typically used to verify the accuracy of the benchmark price assessments, and/or as a simple reference point for assessing a commodity's price).

6. The Parties overlap in the supply of commodity price assessments for a range of commodities, including biofuels, coal, oil and petrochemicals.

7. On 13 September 2021, the Parties indicated that they believed that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) arising from horizontal unilateral effects in the supply of biofuel, coal, and oil price assessments in the UK. On that basis, the Parties agreed to waive their normal procedural rights, including their right to an issues meeting and a discussion at a case review meeting, in relation to these price assessments.

8. In relation to petrochemical price assessments, where S&P is active through Platts and IHSM is active through its Oil, Midstream, Downstream and Chemicals division (**OMDC**) and PetroChemWire (**PCW**) business, the CMA found that the Parties would have a high combined share of supply within an already concentrated market. Notwithstanding some differences in the Parties' product offerings, the evidence available to the CMA (including evidence on product functionality and use, the Parties' internal documents and third-party views) consistently showed that there is significant competitive interaction between them at present. The Merger would increase the level of concentration in an already concentrated market, with the Parties

facing a significant competitive constraint from only one other provider post-Merger. The CMA found that the other providers active in the market would only pose a limited constraint on the Merged Entity's petrochemical offerings post-Merger. On this basis, the CMA found that the Merger raises a realistic prospect of an SLC arising from horizontal unilateral effects in the supply of petrochemical price assessments in the UK.

*Market intelligence products*

9. Market intelligence broadly refers to the supply of:

   *(a)* information and data (eg financial, company, and industry-specific information);

   *(b)* analytical tools and charting (eg custom desktop applications, portfolio monitoring, and charting capabilities);

   *(c)* long term and short-term price forecasting;

   *(d)* breaking news and market alerts; and

   *(e)* in-depth research across a range of sectors, industries, and companies.

10. The Parties offer market intelligence products and services across a range of sectors and overlap in several of these. On the basis of shares of supply and third-party evidence, the CMA prioritised the following market segments for investigations:

   *(a)* **Downstream energy market intelligence.** Information, data and analytics on the refining, transportation, marketing, and trading of fossil fuels and associated refined products.

   *(b)* **Maritime and trade analytics.** Products that track and analyse trade flows between ports, countries, and continents.

11. In downstream energy market intelligence, S&P is active through Platts and IHSM is active through OMDC and its Climate and Sustainability Group (**CSG**). The Parties supply downstream energy market intelligence products within a range of subsegments (eg oil, gas, coal and liquified natural gas (**LNG**), market intelligence). The CMA found that the Parties have a significant share of supply, although only a moderate increment in share is brought about as a result of the Merger. Notwithstanding some differences in the Parties' offerings (such as S&P's focus on short-term views and IHSM's focus on long-term views), evidence from the Parties' internal documents and third-party evidence indicates that the Parties compete relatively closely.

However, the CMA found that the Merged Entity will continue to face strong competition from a number of rivals, including some with a broad offering across a range of subsegments, and others with a narrower offering focused on specific downstream energy subsegments. 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 supply of downstream energy market intelligence in the UK.

12. In maritime and trade analytics market intelligence, where S&P is active through Panjiva and IHSM is active through PIERS, the CMA found that the Parties have a significant share of supply, although only a moderate increment in share is brought about as a result of the Merger, and serve similar types of customers. The Parties' internal documents also suggest that they consider each other to be within their main competitors for these products. However, the CMA also found that IHSM's share of supply has been declining over the last three years, while other competitors have grown their share. Submissions from third parties and the Parties' internal documents suggest that, post-Merger, the Merged Entity will continue to face strong competition from two other large providers, as well as from several smaller players. 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 maritime and trade market intelligence in the UK.

*Financial indices*

13. The CMA assessed the impact of the Merger on current and potential competition between the Parties' overlapping index products. Indices are weighted averages that measure changes in the value of a group of underlying financial instruments for the purposes of creating a standard measure of performance.

14. Based on the available evidence, the CMA found that the Parties are not close competitors and do not exert a significant competitive constraint on each other. In particular, the vast majority of S&P's offering is in equity indices, whereas IHSM's offering is primarily in fixed-income indices. The CMA found only two categories (as defined by Morningstar data) in which the Parties had a seemingly high combined share of supply — natural resources equity indices and leveraged loan fixed-income indices — but found that, in relation to the first, the Parties offered different and complementary products and, in relation to the second, the category was too narrow to represent a plausible market. The CMA also found no evidence to suggest that IHSM had plans to start offering equity indices, or that S&P had

plans to start offering fixed-income indices. Finally, the CMA found that the Parties would continue to face a range of credible competitors post-Merger. Accordingly, the CMA believes 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 financial indices in the UK.

***Vertical effects***

15. The CMA also considered whether the Merger may be expected to result in the foreclosure of rivals as a result of vertical effects. The CMA assessed whether the Merged Entity could use its control of certain inputs to harm rivals who use those inputs, such as by refusing to supply these inputs or by worsening their terms of supply.

*Input foreclosure of fixed-income indices providers using credit rating*

16. S&P is a provider of credit ratings. Credit ratings are an input to the construction of fixed-income indices. They are a form of reference data to establish whether a security should be considered to be investment-grade or high-yield, which are denominations that reflect certain aspects of the quality and risk profile of the rated security.

17. As set out above, IHSM and, to a lesser extent, S&P are providers of fixed-income indices.

18. The CMA investigated whether the Merged Entity would have the ability and incentive to use its credit ratings to foreclose fixed-income indices rivals. Based on the available evidence, the CMA found that the Merged Entity would lack the incentive to do so. This is because (i) rival fixed-income indices providers can use alternatives to S&P's credit ratings, (ii) attempting to foreclose large fixed-income indices providers would materially increase the risk of customers and competitors switching to rival credit rating agencies (threatening a considerable S&P income stream), and (iii) attempting to foreclose smaller rivals would result in S&P receiving a low share of any diverted sales, given its modest downstream position in fixed-income indices. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the provision of fixed-income indices in the UK.

*Input foreclosure of bond issuance platforms using CUSIPs*

19. S&P manages and operates the CUSIP system as an autonomous and independent business within S&P on behalf of the American Banker Association (the **ABA**). CUSIPs are standard identifiers for securities,

including equity and fixed-income instruments. They are often assigned prior to a bond issuance being formally completed. The ABA has concluded a long-term agreement with S&P to set out how the CUSIP system will be managed (the **ABA agreement**). Based on third-party feedback, the CMA found that CUSIPs are an integral part of the primary bond issuance process.

20. IHSM provides leading issuance platforms that facilitate different aspects of the issuance of equity and fixed-income assets. It offers three categories of issuance platforms, including for municipal bonds, fixed-income book building, and equity book building.

21. The CMA investigated whether the Merged Entity would have the ability and incentive to use S&P's position as manager and operator of CUSIPs to foreclose IHSM's bond issuance platform rivals. Based on the available evidence, the CMA found that the Merged Entity would lack the ability to do so. First, it is not clear that S&P would be able to distinguish between CUSIP customers using IHSM's bond issuance platform from those using rival platforms. Second, the CMA understands that the ABA agreement precludes S&P from engaging in any kind of foreclosure strategy. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to bond issuance platforms in the UK.

*Input foreclosure of leveraged loan market intelligence products using LXIDs*

22. IHSM generates and distributes LXIDs, which are random alphanumeric codes generated as part of IHSM's loan pricing and reference data used to identify specific loans.

23. S&P is active in leveraged loan market intelligence (**LLMI**) through its Loan Commentary and Data (**LCD**) product. LCD is a subscription-based product providing news, commentary, and research on the leveraged loan market. LXIDs are used as an input to certain components of some leveraged loan market intelligence products.

24. The CMA investigated whether the Merged Entity would have the ability and incentive to use IHSM's position in loan identifiers to foreclose S&P's LLMI rivals. Based on the available evidence, the CMA considered that the Merged Entity would lack the ability to do so. In particular, in light of the evidence that third parties provided to the CMA, the CMA found that LXIDs are not an important input for the provision of LLMI products. Several highly competitive products in this space use alternative identifiers or none at all (including S&P's LCD, which does not use LXIDs). The CMA also found that

the few LLMI products that use LXIDs do so only for a small part of their product offering, and for the benefit of relatively few customers. UK customers of LCD told the CMA that they do not use LXIDs in connection with LCD. These customers told the CMA that they relied on alternative methods for searching and using LLMI content, including borrower names or alternative identifiers. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the supply of LLMI in the UK.

***Conglomerate effects***

25. Finally, the CMA considered whether the Merger may be expected to result in the foreclosure of S&P's desktop solutions rivals as a result of bundling IHSM's bond issuance platform with S&P's desktop solution, Capital IQ (**CapIQ**). As set out above, IHSM has leading issuance platforms. S&P offers CapIQ, which is a comprehensive, aggregated desktop solution that offers proprietary and third-party data across multiple product areas in which S&P is active.

26. Based on the available evidence, the CMA found that an integration of IHSM's issuance platform and CapIQ would not foreclose rival desktop providers. This is because (i) banks already multi-source market intelligence platforms (and this potential bundling strategy would not influence their purchasing patterns), (ii) there is already significant customer overlap between IHSM's issuance platform customers and CapIQ customers (limiting the potential of this bundling strategy to leverage into new customers), and (iii) the Parties have broader commercial relationships with investment banks that could be affected by this bundling strategy, further limiting their incentive to engage in this conduct. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in relation to desktop solutions in the UK.

## Decision

27. The CMA therefore believes that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the following products:

    *(a)* the supply of biofuels price assessments in the UK;

    *(b)* the supply of coal price assessments in the UK;

    *(c)* the supply of oil price assessments in the UK; and

*(d)* the supply of petrochemicals price assessments in the UK.

28. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). The Parties have until 26 October 2021 to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 33(1) and 34ZA(2) of the Act.

# ASSESSMENT

## Parties

29. S&P, listed on the New York Stock Exchange, is a worldwide provider of credit ratings, commodity price assessments, analytics, financial indices, and market data. Its products are mainly used in the capital and commodity sectors. S&P is organised in four divisions:

*(a)* S&P Global Ratings, active in the provision of credit ratings.

*(b)* SPGMI, which supplies various types of market data (ie company, industry and asset-level information) as well as credit risk analytics.

*(c)* SPDJI, a joint venture with CME Group specialising in the provision of financial indices.

*(d)* Platts, a commodity price assessments and analytics provider.

30. S&P's global turnover in financial year 2020 was £5,882 million, of which approximately £[✄] was generated in the UK.

31. IHSM, also listed on the New York Stock Exchange, is a leading provider of information, analytics and solutions to business, finance and government clients. IHSM has four main industry-based segments: (i) Financial Services; (ii) Transportation; (iii) Resources and (iv) Consolidated Markets and Solutions.

32. The worldwide turnover of IHSM in financial year 2020 was £3,359 million worldwide, of which approximately £[✄] was generated in the UK.

## Transaction

33. On 29 November 2020, S&P and IHSM signed a binding agreement to combine in an all-stock transaction. Pursuant to the agreement, each common share of IHSM will be exchanged for a fixed ratio of 0.2838 common shares of S&P. As a result, upon completion of the Merger, current

S&P shareholders will own circa 67.75% of the Merged Entity on a fully diluted basis and IHSM shareholders will own approximately 32.25%.[1]

34. The Parties informed the CMA that the Merger is also the subject of review by competition authorities in the United States of America, the European Union, Canada and Taiwan.[2]

## Procedure

35. On 13 September 2021,[3] the Parties indicated that they believed that the Merger gives rise to a realistic prospect of a substantial lessening of competition (**SLC**)[4] arising from horizontal unilateral effects in relation to:

    *(a)* the supply of biofuels price assessments in the UK;

    *(b)* the supply of coal price assessments in the UK; and

    *(c)* the supply of oil price assessments in the UK.

36. On that basis, Parties agreed to waive their normal procedural rights, including their right to an issues meeting and a discussion at a case review meeting, in relation to these price assessments.

37. The Merger was considered at a case review meeting.[5] [6]

## Jurisdiction

38. The CMA believes that the Merger (as described at paragraph 33) is sufficient to constitute arrangements in progress or contemplation for the purposes of the Act.[7]

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[1] Final Merger Notice, General Information chapter, dated 20 August 2021, paragraphs 2.2 and 2.8. The Parties divided the Final Merger Notice in 6 chapters, namely: Market Intelligence (**MI FMN**); Commodity Price Assessments (**CPA FMN**); Indices (**Indices FMN**); Vertical relationships (**Vertical relationships FMN**); Conglomerate effects and General Information (**GI FMN**) (together, the **Final Merger Notice**).
[2] GI FMN, paragraph 2.4.
[3] Email confirmation provided to the CMA dated 13 September 2021.
[4] Merger Assessment Guidelines (CMA129, March 2021) (**Merger Assessment Guidelines**), Chapter 2.
[5] See Mergers: Guidance on the CMA's jurisdiction and procedure (CMA2), December 2020, from page 46.
[6] Ahead of the Case Review Meeting, the CMA set out its concerns to the Parties in an issues letter on 23 September 2021 (the **Issues Letter**). The Parties divided their response to the Issues Letter into 3 chapters, along with certain associated supporting annexes, namely: Downstream Energy Market Intelligence (**response to the DE MI Issues Letter**), Petrochemicals Price Assessments (**response to the Petrochemicals CPA Issues Letter**) and Maritime and Trade Analytics Market Intelligence (**response to the M&T Analytics MI Issues Letter**) (together, the **Parties' response to the Issues Letter**).
[7] Section 33(1)(a) of the Act.

39. Each of S&P and IHSM is an 'enterprise' under section 129 of the Act. As a result of the Merger, these enterprises will cease to be distinct for the purposes of sections 23(1)(a) and 26 of the Act.

40. The UK turnover of IHSM exceeds £70 million so the turnover test in section 23(1)(b) of the Act is satisfied.

41. 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.

42. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 24 August 2021 and the statutory 40 working day deadline for a decision is therefore 19 October 2021.

## Counterfactual

43. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). The CMA will generally conclude on the counterfactual conditions of competition broadly – that is, prevailing or pre-merger conditions of competition, conditions of stronger competition or conditions of weaker competition.[8] The CMA seeks to avoid predicting the precise details or circumstances that would have arisen absent the merger.[9]

44. In determining the appropriate counterfactual, the CMA will generally focus only on potential changes to the prevailing conditions of competition where there are reasons to believe that those changes would make a material difference to its competitive assessment.[10]

45. The Parties submitted that the relevant counterfactual against which to assess the merger is the pre-merger competitive situation.[11] The CMA did not receive any evidence from the Parties or third parties to indicate a different counterfactual is more appropriate.

46. In this case, there is no evidence supporting a different counterfactual. Therefore, the CMA considers the prevailing conditions of competition to be the relevant counterfactual.

[8] Merger Assessment Guidelines, paragraph 3.2.
[9] Merger Assessment Guidelines, paragraph 3.10.
[10] Merger Assessment Guidelines, paragraph 3.9.
[11] GI FMN, paragraph 11.2.

## Background

47. The Parties are active in a wide range of financial products and services. This section provides some background into the products and services that the CMA prioritised for investigation.

### *Index licensing*

48. Financial indices are weighted averages that measure changes in the value of a group of underlying financial instruments for the purposes of creating a standard measure of performance. The underlying financial instruments can be a named group of securities, or they can be selected according to defined criteria such as markets, geographies, sectors or performance characteristics. Different indices covering the same underlying basket of securities will vary, as they will each have their own unique calculations, weightings, and make-up.

49. Indices are designed and licensed by the index provider who owns the intellectual property rights relevant to the index. Financial indices can be licensed for different use cases, including (i) licensing indices as a form of market data (ie 'as a benchmark against which to assess the performance of a given financial instrument') and (ii) licensing indices for use as a reference price for tradeable products, such as exchange-traded funds (**ETFs**) and derivatives.

50. There are different types of indices based on (i) the asset class of their constituents (eg equity or fixed-income), (ii) the rules for selecting index constituents or assigning weights to them (eg equity indices can be separated between large, medium, small or micro capitalisation, or by specific industry, such as energy or agriculture), and (iii) the geographies of the underlying securities (eg national equities, such as UK, French or US equities, regional equities, such as PanEuropean indices, or more complex rules, such as all developed countries excluding UK).

51. The Parties are active in the supply of equity and fixed-income index licensing.

### *Index calculation and administration services*

52. Calculation and administration services are provided to assist third parties create their own proprietary indices. Calculation services include daily maintenance and calculation of the index, application and treatment of corporate actions, index distribution and the supply of calculated data files to the customer. Administration services relate to running the index as if the

third-party provider of these services were the proprietary owner (eg overseeing the methodology).

53. The Parties provide both calculation and administration services on a global basis.

***Market intelligence***

54. Market intelligence broadly refers to the supply of:

*(a)* information and data (eg financial, company, and industry-specific information);

*(b)* analytical tools and charting (eg custom desktop applications, portfolio monitoring, and charting capabilities);

*(c)* long-term and short-term price forecasting;

*(d)* breaking news and market alerts; and

*(e)* in-depth research across a range of sectors, industries, and companies.

55. The Parties offer market intelligence products and services across the following areas:

*(a)* **Downstream energy market intelligence.** Information, data and analytics on the refining, transportation, marketing, and trading of fossil fuels and associated refined products. This includes market intelligence on commodities such as refined oil, natural gas, LNG, natural gas liquids (**NGL**), liquid petroleum gas (**LPG**), and coal.[12] [13]

*(b)* **Maritime and trade analytics.** Products that track and analyse trade flows between ports, countries, and continents.

*(c)* **Commodity cargo tracking.** Products that track vessels and commodity cargoes in real time.

*(d)* **Freight rate forecasts.** Information concerning the anticipated freight rate prices for the transportation of bulk trade on specific world routes.

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[12] MI FMN, paragraphs 15.86 (i) and 15.91 and Annex B.4.
[13] The Parties refer to downstream energy market intelligence as 'midstream / downstream energy market intelligence' in the MI FMN. The Parties do not overlap in upstream energy market intelligence, as only IHSM supplies this product. Upstream energy market intelligence refers to the provision of information, data and analytics relating to fossil fuels, their discovery and extraction.

(e) **Power market intelligence.** Information, data and analytics concerning the generation and supply of electricity.

(f) **Agriculture market intelligence.** Data, analysis and insights concerning agricultural commodities (such as sugar, dairy, grains, biofuels and fertilizers).

(g) **Petrochemicals market intelligence.** Data, analysis and insights concerning products obtained from petroleum (crude oil) through refining, including olefins (eg ethylene and propylene) and aromatics (eg benzene and toluene).

56. Market intelligence providers typically obtain information/data from publicly available sources (such as public filings), market participants (such as traders), and/or third-party data licence agreements. Market intelligence providers often organise and process this data to make it easier for customers to analyse and supplement it with news items and commentary.[14]

57. Market intelligence is purchased by a wide array of market participants (including traders, financial advisers and investment professionals) for a wide array of uses (including tracking performance of investments, such as commodities, understanding market dynamics, and improving assessment performance).

58. Market intelligence data can be supplied on a real-time basis (generally used for trading purposes) or non-real-time basis (generally used for research purposes). Customers receive market intelligence from providers in one of two ways:

(a) **direct datafeeds:** content can be accessed through an application that facilitates the bulk delivery of data, which is then viewed, analysed and processed in customers' own internal applications or portals; or

(b) **desktop solutions:** certain information (such as news alerts and pdf or excel files) can be supplied to customers by email or via a portal or platform.

59. Commodity price assessment customers often purchase market intelligence that relates to the relevant commodity group, subsegment, or region.

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[14] For completeness, this process can include organising, cleaning and/or aggregating the data, or even adding certain analysis for customers alongside the data.

***Commodity price assessments***

60. Commodity price assessments are a view of the prevailing market price for a specific commodity[15] and may be supplied together with news items and commentary.[16] They are typically published daily but can also be supplied on a weekly or monthly basis.

61. Commodity price assessments are supplied by a range of providers, including price reporting agencies (**PRAs**) (such as S&P, IHSM, and Argus); financial information players (such as Bloomberg and LSEG); exchanges (such as ICE) and brokers (such as TP ICAP).

62. Commodity price assessments can be used for different purposes:

    *(a)* **Benchmark price assessments**: used in bilateral contracts (eg for settling physical trades) and/or derivatives contracts (eg option or future contracts) in a relevant market.[17]

    *(b)* **Non-benchmark price assessments**: any commodity price assessment that is not a benchmark price assessment. Typically used in one of two ways: (i) to provide further information or verify the accuracy of the benchmark price assessment(s), and/or (ii) as a reference point for assessing a commodity's price (eg when producing market research or analysis).

63. Benchmark price assessments are typically the 'market standard' for a given commodity.[18] The Parties submitted that this occurs through market acceptance and the price assessment becoming embedded in the market ecosystem, which happens as follows:

    *(a)* in relation to physical trades, private market participants coalesce over time around a specific price assessment, which is then used as a reference point to settle bilateral contracts (with price indexation clauses); and/or

[15] For example, crude oil, liquid natural gas or petrochemicals.
[16] Including market intelligence.
[17] The CMA refers to benchmark price assessments in this decision to encompass both bilateral contracts involving physical trades, as well as derivatives contracts.
[18] The CMA understands that, in some cases, customers may use a composite benchmark, which is a single benchmark produced by combining different price assessments. There are also certain markets where there is more than one benchmark, in the sense that there is not a unique price assessment referenced in contracts. This can happen, for example, where there are multiple future contracts traded for a particular commodity, and each uses a different benchmark.

(b) in relation to derivatives/futures contracts, an exchange will specify a price assessment for use in its listed derivative contracts (typically based on what the market uses as the benchmark for physical trades).

64. In choosing a price assessment that is not (or not yet) a benchmark, customers take into account several factors, such as the methodology used for generating and maintaining the price assessment, and the credibility of the provider (including whether the provider is well-established in a specific commodity sector and/or adheres to certain regulatory principles).[19] [20] These factors are also important for a price assessment to become the benchmark in the first place.

65. Once a price assessment becomes the benchmark, it is not easily displaced by a rival price assessment.[21] At that point, the benchmark price assessment becomes integrated into the wider contractual ecosystem for the relevant commodity, which results in network effects. To displace it, a non-benchmark would have to achieve sufficient critical mass to persuade the commodity's wider supply chain to switch. This 'stickiness' of benchmarks generally allows providers to charge higher prices and generate higher margins for benchmark than for non-benchmark price assessments.[22]

66. The CMA found that some non-benchmark price assessments can, however, impose a competitive constraint on benchmark price assessments, both in terms of price and quality. This is partly because there are no inherent differences in the composition or construction of benchmark and non-benchmark price assessments. For example, both can be calculated using similar methodologies and data sources, both can adhere to the IOSCO Principles,[23] and both can be published frequently (eg daily or weekly). As such, market participants can, and sometimes do, switch away from a benchmark to a rival price assessment.[24] This can happen, for example, if

[19] For example, the European Benchmark Regulations (the **BMR**) and the principles established by the Board of the International Organisation of Securities Commissions (the **IOSCO Principles**).
[20] For example, see note of the call with [✂] of 11 May 2021, para 21; note of the call with [✂] of 30 March 2021, para 10.
[21] For example, [✂] explained that 'it is very difficult for a number two or three PRA to displace the benchmark', especially in mature markets (note of the call with [✂] of 1 April 2021). See also note of the call with [✂] of 20 April 2021; note of the call with [✂] of 13 May 2021.
[22] For example, see CPA FMN paragraphs 1.34 (ii), 12.150 (ii), and 13.11 (ii)(c) which indicate that benchmark price assessments are generally more expensive than non-benchmark price assessments. The evidence gathered by the CMA indicates that the benchmark price assessment generate higher margins.
[23] CPA FMN, paragraph 12.35.
[24] For example, the Parties explained that European gasoline market participants adopted Argus' gasoline benchmark in place of Platts' benchmark in 2001, citing disagreements with changes to Platts' methodology at the time. In 2010, Saudi Arabia switched to the Argus Sour Crude Index, and away from Platts' West Texas Intermediate assessments, to price its exports to the United States because [✂].

market participants consider that a benchmark is no longer competitively priced, or if its calculation methodology is no longer credible or robust.[25]

67. Commodity price assessments for certain energy commodities (eg oil and gas) are broadly produced across three levels of each commodity's supply chain:

    *(a)* **spot:** The price at the top of the supply chain, where the price for the physical commodity is assigned (eg at a refinery gate);

    *(b)* **rack:** The price at the point where the wholesale for the commodity is purchased (eg at a fuel terminal); and

    *(c)* **retail:** The price at the end of the supply chain (eg at a petrol pump).

68. Due to the different information needed to compose price assessments at these different levels of the supply chain, as well as their different use cases by customers, the CMA understands that there is little substitutability between them.[26] On this basis, and given that the Parties' only horizontal overlaps arise in respect of spot price assessments, the CMA's investigation into price assessments for these energy commodities focused on assessments at the 'spot' level only.

***Credit ratings***

69. Credit ratings are an opinion regarding 'the creditworthiness of an entity, a debt or financial obligation, debt security, preferred share or other financial instrument, or of an issuer of such a debt or financial obligation, debt security, preferred share or other financial instrument, issued using an established and defined ranking system of rating categories.'[27] Credit ratings therefore rate institutions (eg corporations) or debt instruments (eg bonds). Credit ratings are issued and distributed by credit rating agencies, along with associated research and analysis.

70. Most credit rating agencies cover a wide range of assets types. Within the European Union (**EU**), over 95% of revenues from credit ratings activities are

[25] Third parties supported the view that benchmark providers are constrained by non-benchmark providers, as discussed at paragraphs 219-221 below.
[26] For completeness, one third party noted that for certain US crude oil price assessments it may be possible to use spot and rack price assessments somewhat interchangeably (see note of the call with [✄] of 31 March 2021).
[27] Article 3(1)(a) of Regulation (EC) 1060/2009 (the **Credit Rating Agencies Regulation**).

generated by credit rating agencies which rate all asset types.[28] Credit ratings may be publicly available or confidential to a small group.

71. Credit rating agencies distribute their ratings for various use cases. One of these use cases is the construction of indices. In the context of fixed-income indices, credit ratings are used as a form of reference data to establish whether a given security should be considered to be investment-grade or high-yield, which are denominations that reflect certain aspects of the quality and risk profile of the security.

72. Credit ratings agencies in the UK and EU must comply with certain regulatory requirements. The Credit Rating Agencies Regulation applies to credit ratings issued by credit ratings agencies registered in the EU and establishes a common regulatory framework for credit ratings activities. The Credit Rating Agencies Regulation was incorporated into UK law on 31 December 2020.[29] Credit ratings agencies that operate in the EU, therefore, are subject to the direct supervision of the ESMA, whereas credit ratings agencies that operate in the UK are regulated by the Financial Conduct Authority (**FCA**) under the retained version of the Credit Ratings Agencies Regulations.

73. S&P is active in the issuance of credit ratings.

***Financial identifiers***

74. A financial identifier is an alphanumeric code that can be used to identify a specific security within datasets or software packages. Some identifiers contain information about the underlying security and others are randomly generated.

75. S&P manages and operates CUSIP identifiers (**CUSIPs**). CUSIPs are standard identifiers for securities (including equities and fixed-income instruments) issued in the US and Canada. They consist of nine characters, the first six of which uniquely identify the issuer and have been assigned to issuers in alphabetic sequence, and two other characters (alphabetic or numeric) which identify the issue (the ninth digit is the check digit). Security identifiers are used to identify or retrieve information about financial instruments.

76. IHSM generates and distributes LXIDs. LXIDs are random alphanumeric codes generated as part of IHSM's loan pricing and reference data. The

[28] See the European Securities and Markets Authority (**ESMA**) report on CRA Market Share Calculation, 14 December 2020.
[29] The equivalent UK legislation is the Credit Rating Agencies Regulations 2019.

Parties explained that, once IHSM gathers sufficient information to include a loan in its datasets, it generates an LXID for that loan.[30] Significant changes in the property of a loan – such as refinancing – may lead IHSM to assign a new LXID to a loan.[31]

### *Issuance platforms*

77. Issuance platforms are designed to streamline and digitise the primary issuance process and communications workflow. They generally include functionality to allow for direct order taking and allocation between investors in primary market security issuances. They are widely used by investment banks when acting as underwriters on behalf of institutions seeking to raise capital.

78. IHSM provides a range of applications that facilitate different aspects of the issuance of equity and fixed-income assets. It offers three categories of issuance platforms:

    *(a)* a municipal bond platform (a workflow tool for US municipal bond issue that targets US investors and underwriters);

    *(b)* a fixed-income book building platform (a platform that includes tools that are used in the issuance of corporate fixed-income assets); [32] and

    *(c)* an equity book building platform (a platform that includes workflow tools that are used in connection with the issuance of equities).[33]

79. The term 'bond issuance platform' for the purposes of this decision covers both municipal and fixed-income issuance platforms.

[30] One third party told the CMA that loan CUSIPs are in some cases an alternative to LXIDs to identify loans (Third-party response [✄] to CMA request for information (**RFI**) of 22 July 2021). The Parties submitted, however, that there are notable differences between loan CUSIPs and LXIDs. First, loan CUSIPs are intended to be universal and standalone identifiers whereas LXIDs are not commercialised on a standalone basis and are simply a key to understanding IHSM's loan pricing and loan reference data (only LXIDs can perform this function). The Parties further submitted that loan CUSIPs are supplied to issuer customers who request them; in contrast, LXIDs are automatically supplied to customers of IHSM's loan pricing data and loan reference data (meaning that LXIDs are not substitutable with loan CUSIPs for issuers wanting a standalone identifier assigned to their loan). Third, loan CUSIPs are not incrementally updated to reflect changes in the underlying instrument, whereas LXIDs are updated to reflect changes. The third-party feedback received by the CMA confirmed that CUSIPs do not meaningfully compete with LXIDs (note of the call with [✄] of 9 June 2021; note of the call with [✄] of 25 May 2021; note of call with [✄] of 22 July 2021). Furthermore, evidence from [✄] indicates far lower coverage of loan CUSIPs compared to LXIDs. As such, the CMA considered that the Parties do not overlap in the supply of loan identifiers.
[31] Vertical relationships FMN, paragraphs 3.17-3.21.
[32] The IHSM relevant products are IssueBook, IssueNet, IssueLaunch, DealMonitor and Issuer Viewer.
[33] The IHSM relevant products are Equity Book Build, Equity IssueNet and Issuer View.

### *Capital markets market intelligence platforms*

80. Capital markets market intelligence platforms provide data on capital markets and the entities active in them, including private and public companies. The data can relate, for instance, to company financials, ownership data, capital structure, transaction data, investor call transcripts and corporate action information (eg on dividends and distributions). Most of these market intelligence platforms are desktop solutions, ie retail products that contain a 'front-end' window that enables the user to access the content and functionalities contained in the product on the screen without further data processing.

81. S&P offers a range of market intelligence platforms, such as its CapIQ, which is a comprehensive, aggregated desktop solution that offers proprietary and third-party data across multiple product areas in which S&P is active.

### *Leveraged loan market intelligence*

82. LLMI products offer news, coverage, and analysis relating to leveraged loans, as well as analysis of loan documentation and transactions.

83. S&P is active in this area through its LCD product. LCD is a subscription-based product providing news, commentary and research on the leveraged loan market which includes close real-time news on the latest developments, as well as covering details of specific deals and deeper dives on aggregate market trends. LCD also provides some data, in particular 'deal-sheet data', which includes indicative pricing, credit ratings, and arranger identities for a given loan.[34]

## COMPETITIVE ASSESSMENT

### *Horizontal unilateral effects*

84. 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.[35] Horizontal unilateral effects are more likely when the merging parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or

[34] Vertical relationships FMN (updated chapter submitted on 8 September 2021), paragraph 5.19.
[35] Merger Assessment Guidelines, paragraph 4.1.

may be expected to result, in an SLC in relation to horizontal unilateral effects in the following products:

*(a)* the supply of financial indices in the UK;

*(b)* the supply of index calculation and administration services in the UK;

*(c)* the supply of downstream energy market intelligence in the UK;

*(d)* the supply of maritime and trade analytics market intelligence in the UK;[36]

*(e)* the supply of biofuels price assessments in the UK;

*(f)* the supply of coal price assessments in the UK;

*(g)* the supply of oil price assessments in the UK; and

*(h)* the supply of petrochemicals price assessments in the UK.[37]

## Financial indices

### *Index licensing*

85. S&P primarily supplies indices through SPDJI, a joint venture with CME Group Inc. and CME Group Index Services LLC.[38] Apart from its main offering in equity indices ([✂]% of S&P's revenue related to the supply financial indices is attributable to these activities), S&P has a limited offering in fixed-income indices ([✂]% of its revenue). The remainder of its activity in the financial indices segment consists of alternative indices, multi-asset indices, commodity indices and other asset classes (property, money market and convertible indices).

86. IHSM is predominantly active in the fixed-income indices ([✂]% of IHSM's revenue related to the supply of financial indices) and credit default swaps (**CDS**) indices ([✂]% of IHSM's revenue related to the supply of financial indices) segments. Only [✂]% of IHSM's activity refers to equity indices. IHSM supplies one commodity index (the Global Carbon Index), but this

[36] The Parties also overlap in the following market intelligence sectors: commodity cargo tracking, freight forecasts, power, agriculture and petrochemicals. However, the CMA considers that the Merger is unlikely to raise competition concerns in these sectors given the Parties' low combined shares of supply and the small increments arising from the Merger.
[37] The CMA did not consider the Parties' overlaps in the supply of LNG, metals, natural gas, power, shipping or agriculture (excluding biofuels) price assessments due to very small combined shares of supply and/or very small increment following the Merger.
[38] S&P also supplies indices in India and Sri Lanka through its subsidiary CRISIL.

does not compete with those of S&P. IHSM does not provide property, money market and convertible indices.

87. The Parties therefore overlap in the supply of equity and fixed-income indices, including environmental, social and corporate governance (**ESG**) fixed-income indices.[39] Equity indices track company shares whereas fixed-income indices track debt instruments such as government bonds, corporate bonds and bank loans. ESG indices offer investors exposure to underlying assets according to their ESG profile.[40]

*Approach to identifying overlaps*

88. The Parties used third-party data from Morningstar to identify where their indices offerings overlap and to calculate market share estimates for each overlap.[41] Morningstar provides data in relation to assets under management (**AUM**) for active and passive funds, including those tracking or benchmarked to financial indices. For index-tracking instruments, Morningstar identifies the index that is tracked whereas for actively managed instruments Morningstar identifies the index used as a performance benchmark (if any).

89. The Parties provided share of supply estimates based on the Morningstar AUM data[42] in relation to the following funds: exchange traded funds; mutual funds; and all managed investment funds.[43] All funds in the Morningstar datasets are categorised on the basis of three levels:

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[39] Third-party feedback confirmed the categories listed above constitute separate markets, including the ESG indices segment. A competitor [✂] noted ESG indices are a niche area of the fixed-income indices space and that there are numerous providers of ESG data (Note of the call with [✂] of 12 May 2021). Another competitor [✂] noted there is a new emerging ESG space where some data sets (particularly in the climate area) are owned by S&P (Note of the call with [✂] of 8 April 2021). A third competitor [✂] noted the ESG indices are a new sector (Note of the call with [✂] of 23 March 2021). A customer [✂] noted its strategy for the fixed-income ESG space (Note of call with [✂] of 27 April 2021).

[40] Different customers have different uses for indices, and this includes customers licensing indices to create/issue funds and investment products and customers licensing indices as a form of market data (ie performance benchmarking).

[41] Indices FMN, Annex A2.2.

[42] The name of the fund and fund provider; whether the fund is active of passive; the name of the index tracked or used as a performance benchmark by the fund; the identity of the index provider; the domicile of the fund; and the value of the AUM.

[43] The Parties have made some limited adjustments to Morningstar's classification scheme. First, the Parties removed any funds tracking CDS indices from the Morningstar fixed-income and alternative asset classes categories and created a separate CDS category. In the Parties' view, CDS indices, which track the value of CDS contracts, are not substitutable from a demand perspective with indices tracking other securities and financial instruments. Second, the Parties have reallocated the money market funds that Morningstar included within the fixed-income asset class to the separate Morningstar main money market asset class. The Parties consider money market indices should be assessed on a consolidated standalone basis. Finally, as Morningstar's hierarchy of classifications becomes increasingly more granular, the Parties have assessed whether their underlying indices are actually substitutable in each instance where the Morningstar data suggested there was an overlap. Such 'false overlaps' arise because the Parties' indices fall within residual 'catch-all' Morningstar categories (eg 'Miscellaneous'); the Morningstar categories are very broad and encompass non-overlapping indices; or for multi-asset instruments, the indices used as inputs may be for different assets from each other.

(a) Level 1 – Global category group, which corresponds to the asset class of the relevant financial index.

(b) Level 2 – Global category, which typically provides information on the geography of the fund's underlying assets and underlying asset type.

(c) Level 3 – Morningstar category, which providers information on the geography of the fund's underlying assets and underlying asset type (at a more disaggregated level, compared to Level 2). Level 3 also includes some information on fund domicile.

90. The Parties estimated market shares separately for (i) index licensing for the creation of funds, and (ii) index licensing for the purposes of market data.[44]

91. The CMA considers that the Parties' share of supply estimates provide a broad indication of their current position in the market. They also show that the Parties have the technical ability to develop new indices, and the reputation with certain customer groups to appear as credible providers (which, as described below, is an important parameter of competition).

92. In assessing the impact of the Merger on competition between the Parties' existing index products, however, the CMA found that most of the Parties' market share estimates did not provide a useful indication of the competitive interaction between them. This is because the Morningstar categories do not necessarily include products which are close substitutes from a demand-side perspective. The CMA, therefore, assessed the competitive interaction between the Parties' existing products based also on internal documents and third-party feedback. The CMA also separately examined competition at a granular level where the share of supply data showed a more significant overlap in particular categories.

93. The CMA has assessed the Merger using shares of supply for:

[44] Different customers have different uses for indices, and this includes customers licensing indices to create/issue funds and investment products and customers licensing indices as a form of market data (ie performance benchmarking). For index licensing and the creation of funds, the Parties' estimates are based on the AUM of all indexed (ie passive) financial instruments in the Morningstar dataset, where the Parties' shares are based on the AUM of those funds associated with the Parties' indices. For index licensing for the purpose of market data, the Parties' estimates are based on the AUM of the instruments for which the Parties' indices are identified as the performance benchmark (ie excluding active instruments not using any benchmark). The Parties noted that, in relation to index licensing for market data, this method of estimating market shares had certain shortcomings, including that (i) it is very frequent that index providers do not generate revenue where their indices are being used as a benchmark by active funds (the active fund managers may obtain the index data from public sources, rather than licensing it); (ii) index providers often charge flat fees and there is not always a direct correlation between the AUM numbers in Morningstar and licencing revenues; (iii) Morningstar data accounts only for licencing of indices which are then used as a benchmark. However, index licensing for the purpose of market data has other use cases.

(a) equity indices (including on a more granular segmentation for natural resources equity sector indices, where the Parties overlap more significantly); and

(b) fixed-income indices (including on a more granular segmentation for US fund bank loan indices, where the Parties overlap more significantly).

94. Internal documents indicate that the Parties establish their business strategy for indices licencing on a global basis.[45] Furthermore, none of the third parties that responded to the CMA market investigation suggested that the geographic frame of reference would be any narrower. The CMA has not seen any evidence that market conditions differ significantly between the UK and the rest of the world. The CMA has, therefore, considered the impact of the Merger globally.

95. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in relation to horizontal unilateral effects in the supply of equity and fixed-income indices in any of the more granular subsegments where the Parties overlap. In addition, consistent with its established guidance,[46] the CMA assessed whether the Merger leads to horizontal effects from a loss of actual potential competition by reference to:

(a) whether the Parties compete closely in the areas where they overlap;

(b) whether IHSM would be likely to expand in the equity indices segment absent the Merger; and

(c) whether S&P would be likely to expand in the fixed-income indices segment absent the Merger.

*Equity indices*

96. Table 1 indicates the Parties have a combined share of supply of [20-30]% with an increment of [0-5]% in the provision of equity index licensing in the form of market data. The Parties compete with MSCI ([40-50]%), FTSE Russell ([20-30]%) and a tail of small players, including NASDAQ, TOPIX, DAX-STOXX and CSI. There is a minimal overlap between the Parties in the provision of equity index licensing for the creation of funds. Although IHSM has a share of supply of [0-5]%, the company held £[✂] AUM from this activity.

[45] S&P Internal document, [✂], of 6 November 2019, [✂], slide 12 notes [✂]. IHSM Internal document, [✂], of October 2020, [✂] slide 9, indicates [✂].
[46] Merger Assessment Guidelines, paragraphs 5.7-5.8.

**Table 1: Market shares for equity indices licensing (Global) (2020)**

| *Index provider* | *Index licensing for the creation of funds* | | *Index licensing in the form of market data* | |
|---|---|---|---|---|
| | ***AUM (£m)*** | ***Market Share*** | ***AUM (£m)*** | ***Market Share*** |
| S&P Global | [✂] | [30-40]% | [✂] | [20-30]% |
| IHSM | [✂] | [0-5]% | [✂] | [0-5]% |
| ***Combined*** | [✂] | **[30-40]%** | [✂] | **[20-30]%** |
| MSCI | [✂] | [10-20]% | [✂] | [40-50]% |
| FTSE Russell | [✂] | [10-20]% | [✂] | [20-30]% |
| CRSP | [✂] | [10-20]% | [✂] | [0-5]% |
| NASDAQ | [✂] | [0-5]% | [✂] | [0-5]% |
| TOPIX | [✂] | [0-5]% | [✂] | [0-5]% |
| Nikkei | [✂] | [0-5]% | [✂] | [0-5]% |
| DAX-STOXX | [✂] | [0-5]% | [✂] | [0-5]% |
| CSI | [✂] | [0-5]% | [✂] | [0-5]% |
| Other | [✂] | [5-10]% | [✂] | [5-10]% |
| **Total AUM/share** | [✂] | 100.0% | [✂] | 100.0% |

Source: Indices FMN, Table 15.1.

97. As explained above, the CMA also examined narrower segments of the market where the Parties' combined shares were materially higher than for equity indices as a whole.

- *Reduction in competition in natural resources equity indices.*

98. The Parties' only apparent overlap in equity indices at a global level is in the Morningstar level 2 category 'Natural Resources Sector Equity'. Their combined 2020 shares for index licensing for the creation of funds were [40-50]%, with IHSM representing a [0-5]% increment. For index licencing as a form of market data, the Parties' combined shares were [30-40]% with an increment of [5-10]%.

99. At the more granular Morningstar categories level 3, the Parties' combined shares ranged from [10-20]% to [40-50]% in 2020, with either S&P or IHSM representing less than a [0-5]% or a [0-5]% increment.

100. The Parties explained that the Morningstar Category Level 2 for 'Natural Resources Sector Equity' indices does not represent a meaningful overlap, as this category aggregates funds using multiple different types of natural resources indices and also general equity indices such as the S&P 500 TR (which accounts for over [40-50]% of S&P's AUM in this category and does not select constituents based on participation in the natural resource industry).

101. The data and information the CMA has reviewed confirms that the Morningstar Category Level 2 for 'Natural Resources Sector Equity' indices is too broad to indicate a meaningful overlap between the Parties. S&P's indices include agriculture, energy, metals and mining equity indices whereas IHSM only offers mining equity indices.

102. UK customers and competitors told the CMA that the Parties' activities in the supply of indices are complementary and raised no concerns in this regard.[47] In particular, with respect to natural resources sector equity indices, a customer told the CMA that S&P is a key player in this market, but that other index providers like ICE or MV Solutions (VanEck group) also provide indices with a similar index construction. The third-party further explained IHSM is not present in this segment of the market.[48]

103. Based on the available evidence, the CMA believes the Parties do not compete closely in the supply of natural resources sector equity indices, and that the Merged Entity will continue to face competitive constraints from several alternative providers. Accordingly, the CMA considers 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 natural sector equity indices globally.

- *Loss of potential competition in equity indices*

104. In order to assess whether the Merger leads to a loss of future competition between S&P and IHSM in the supply of equity indices, the CMA has considered:

   *(a)* whether IHSM would have expanded in the supply of equity indices absent the Merger; and

[47] Note of the call with [✂] of 2 July and Note of the call with [✂] of 18 May 2021.There are no niche areas a customer is aware of where S&P and IHSM directly compete with each other.
[48] Email from [✂] to the CMA dated 13 July 2021.

*(b)* whether the loss of future competition brought about by the Merger would give rise to an SLC, taking into account other constraints.

- *IHSM's ability to expand in equity indices absent the Merger*

105. The Parties submitted that IHSM's equity indices offering is limited. Unlike S&P, IHSM does not have [✂]. IHSM's equity indices are limited to [✂], which limits the types of funds that it can provide services to.[49] Absent the Merger, IHSM has no plans to develop [✂].

106. The Parties also submitted that the development of [✂] has not been a strategic priority for IHSM and, absent the Merger, IHSM has no plans to develop [✂].

107. Respondents to the CMA's merger investigation indicated that IHSM's position in the supply of equity indices is insignificant, and that it has made no attempts to enter this space in the past. A competitor indicated that IHSM is almost exclusively 'successful' on the fixed-income side and has not attempted to enter the equity index segment.[50]

108. The CMA did not find any compelling evidence in IHSM's internal documents to suggest that it is likely to expand its equity indices offering in future.

- *Alternative constraints*

109. The CMA assessed whether, even assuming that the Merger would eliminate IHSM as a potential future competitor in equity indices, there will continue to be sufficient equity indices rivals post-Merger.

110. There are a few large providers followed by a long tail of smaller providers active in the supply of equity indices. As Table 1 shows, these include MSCI ([40-50]%), FTSE Russell ([20-30]%), and a tail of smaller players with shares of supply higher than that of IHSM, including NASDAQ, TOPIX, DAX-STOXX and CSI.

111. S&P's internal documents confirm that S&P sees itself as competing with several alternative providers of equity indices, including MSCI, NASDAQ, FTSE Russell and Solactive.[51]

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[49] Equity ETFs, for example, require real-time calculations. IHSM cannot serve these types of funds – Parties' response to question 2 of the CMA's RFI dated 9 July 2021.
[50] Note of the call with [✂] of 20 April 2021.
[51] S&P Internal document, [✂], 6 November 2019, slide 11.

112. On this basis, the CMA found that the Merger does not give rise to an SLC in relation to potential competition in the supply of equity indices.

- *Fixed-income indices*

113. The Parties submitted that they have a low combined share in the supply of fixed-income indices, both for the creation of funds and market share data:

*(a)* In relation to index licensing for the creation of funds, the Parties consider that they have a combined share of [5-10]% with an increment of [0-5]%. Bloomberg is the largest player in this segment with a share of supply of [70-80]%, followed by ICE ([5-10]%), FTSE Russell ([0-5]%), and at least five other players with a share of supply below than [0-5]%.

*(b)* In relation to index licensing in the form of market data, the Parties consider that they have a combined share of [0-5]%, with an increment of [0-5]%. Bloomberg is the largest player with a share of [50-60]%, followed by ICE with [10-20]%, J.P. Morgan with [5-10]% and FTSE Russell with [5-10]%.

**Table 2: Market shares for fixed-income indices licensing (Global) (2020)**

| *Index provider* | *Index licensing for the creation of funds* | | *Index licensing in the form of market data* | |
|---|---|---|---|---|
| | ***AUM (£m)*** | ***Market Share*** | ***AUM (£m)*** | ***Market Share*** |
| S&P Global | [✂] | [0-5]% | [✂] | [0-5]% |
| IHSM | [✂] | [5-10]% | [✂] | [0-5]% |
| ***Combined*** | [✂] | ***[5-10]%*** | [✂] | ***[0-5]%*** |
| Bloomberg | [✂] | [70-80]% | [✂] | [50-60]% |
| ICE | [✂] | [5-10]% | [✂] | [10-20]% |
| FTSE Russell | [✂] | [0-5]% | [✂] | [5-10]% |
| JPM | [✂] | [0-5]% | [✂] | [5-10]% |
| SIX | [✂] | [0-5]% | [✂] | [0-5]% |
| ChinaBond | [✂] | [0-5]% | [✂] | [0-5]% |
| Solactive | [✂] | [0-5]% | [✂] | [0-5]% |
| CSI | [✂] | [0-5]% | [✂] | [0-5]% |
| Other | [✂] | [0-5]% | [✂] | [10-20]% |
| **Total AUM/share** | [✂] | 100.0% | [✂] | 100.0% |

Source: Indices FMN, Table 15.10

114. The CMA also examined narrower segments of the market.

- *Leveraged loan indices*

115. There is one Morningstar category where the Parties appear to have a high combined share of supply. Within the Morningstar Level 3 category of 'US Fund Bank Loans' indices, the Parties appear to hold combined shares of supply of (i) [90-100]% (increment of [0-5]%) with respect to fixed-income indices licensing for the creation of funds, and (ii) [60-70]% (increment of [5-10]%) with respect to licensing as a form of market data (see Table 3). The Parties' underlying indices in this Morningstar Level 3 category are leveraged loan indices.

**Table 3: Market shares of the Parties and their competitors in fixed-income indices in terms of AUM (min £), based on Morningstar Level 3, Global (2020)**

| ***Index provider*** | ***Index licensing in the form of market data*** | |
|---|---|---|
| | ***AUM (£m)*** | ***Market Share*** |
| S&P Global | [✂] | [50-60]% |
| IHSM | [✂] | [5-10]% |
| ***Combined*** | [✂] | [60-70]% |
| Credit Suisse | [✂] | [20-30]% |
| JPM | [✂] | [5-10]% |
| BBgBarc | [✂] | [0-5]% |
| ICE | [✂] | [0-5]% |
| Other | [✂] | [0-5]% |
| **Total AUM/share** | [✂] | 100.0% |

Source: Indices FMN, Annex A1.1 [52]

116. The Parties submitted that the Morningstar share of supply data is highly misleading. According to the Parties:

*(a)* Morningstar data does not capture over-the-counter (**OTC**) products. Leveraged loans do not easily lend themselves to the creation of on-exchange financial products (such as ETFs) and are primarily traded through OTC products. Other providers are active in the supply of competing leveraged loan indices which are used by OTC funds (and which could be used by ETFs). These include financial institutions and banks such as J.P. Morgan, which supplies the 'JPM Leveraged Loan USD' index and the 'JPMorgan BB/B Leveraged Loan TR USD' index, and Credit Suisse, which supplies the 'Credit Suisse Leveraged Loan USD' index and the 'Credit Suisse BB Leveraged Loan TR USD' index. Credit Suisse is a particularly strong competitor in leveraged loan indices (primarily used in the OTC space) and, although it is not reflected in the Morningstar data, it does already license one of its leveraged loan indices to an ETF.

*(b)* This segment is dominated by banks such as Credit Suisse and J.P. Morgan, as banks either hold the leveraged loans themselves or issue

[52] AUM figures have been converted at the average exchange rate for 2020 published by the Bank of England (1.125 EUR/£).

the loans, and therefore are in a better position to offer index services. Based on the relative sizes of Credit Suisse and J.P. Morgan in licensing in the form of market data in Morningstar, the Parties would consider that Credit Suisse and J.P. Morgan hold positions of approximately [80-90]% and [20-30]% respectively in the supply of leveraged loan indices outside of funds, with de minimis positions for all other index providers including the Parties.

117. The Parties submitted that, in any event, the Morningstar Level 3 category of 'US Fund Bank Loans' is too narrow to represent a plausible market. According to the Parties:

*(a)* Leveraged loans are a form of floating rate debt, as they reset quarterly based on LIBOR. On the narrowest plausible basis, they should be aggregated with other indices tracking floating rate fixed-income securities (and Morningstar does not provide a category for floating indices).

*(b)* There is strong supply-side substitutability among floating rate debt indices and leveraged loan indices, as the means of producing the indices are the same. Indeed, the same competitor set is active across these categories, including Bloomberg, ICE, J.P. Morgan, and Credit Suisse.

*(c)* There is demand-side substitutability between leveraged loans and other floating rate debt indices.

118. UK customers and competitors told the CMA that the Parties' activities in the supply of indices are complementary and raised no concerns.[53]

119. In relation to leveraged loan index licensing for the creation of funds, the CMA notes that the Parties have one customer each, neither of which is based in the UK. In any event, the CMA found that IHSM has a relatively modest share even in this narrow segment, and that there are several credible rivals with ready access to leveraged loan data and the ability to create fixed-income indices.

120. In relation to fixed-income indices licensing as a form of market data, the CMA notes there are other competitors apart from S&P such as Credit Suisse and J.P. Morgan.[54] Moreover, the CMA understands IHSM has a

[53] Note of the call with [✂] of 2 July 2021. Note of the call with [✂] of 18 May 2021. According to a customer [✂] there are no niche areas where S&P and IHSM directly compete with each other.
[54] Note of call with [✂] of 14 April 2021.

small presence in this segment. As noted at paragraph 115, IHSM has a share of [0-5]%.

121. The CMA received no concerns from UK customers in relation to this segment.

122. Accordingly, the CMA considers 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 US Fund Bank Loan (leveraged loan) indices globally (including in the UK).

- *Loss of potential competition in fixed-income indices*

123. In order to assess whether the Merger leads to a loss of future competition between S&P and IHSM in the supply of fixed-income indices, the CMA has considered:

   *(a)* whether S&P would have expanded in the supply of fixed-income indices absent the Merger; and

   *(b)* whether the loss of future competition brought about by the Merger would give rise to an SLC, taking into account other constraints.

   - *S&P's ability to expand in the fixed-income indices market absent the Merger*

124. The Parties submitted that S&P [✂]. Indeed, as demonstrated by S&P's internal documents,[55] S&P [✂].[56]

125. Respondents to the CMA's merger investigation indicated that S&P does not have a strong position in the supply of fixed-income indices and is unlikely to have one in future. One competitor indicated that S&P is almost exclusively 'successful' on equity indices, and that its attempts to enter the fixed-income indices space had failed.[57]

126. On this basis, the CMA believes that it is unlikely that S&P would expand its presence in fixed-income indices absent the Merger.

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[55] S&P Internal documents, [✂], December 2018, slides 2, 9, 13 and 22; [✂], slide 15; and [✂], 6 November 2019, slide 7.
[56] Indices FMN, paragraphs 15.54-15.57.
[57] Note of the call with [✂] of 20 April 2021. Customers also indicated that the Parties do not represent a competitive threat for one another in fixed-income indices [✂]. In their view, S&P and IHSM do not compete in the same space; both companies have a wide offering, but their focus is different as S&P supplies mostly equity indices whilst IHSM fixed-income indices.

- *Alternative constraints*

127. The CMA assessed whether, even assuming that the Merger would eliminate S&P as a potential future competitor in fixed-income indices, there will continue to be sufficient fixed-income indices rivals post-Merger.

128. As set out in Table 2, there are several rivals active in the supply of fixed-income index licensing for any use case:

*(a)* in relation to market data, there are a range of competitors including Bloomberg ([50-60]%), ICE ([10-20]%), J.P. Morgan ([5-10]%) and FTSE Russell ([5-10]%); and

*(b)* in relation to the creation of funds, Bloomberg is the market leader with [70-80]%, and there are several other players with smaller shares, including FTSE Russell, J.P. Morgan, and ChinaBond (with shares ranging between [0-5] and [5-10]%).

129. Based on the available evidence, the CMA believes there are sufficient alternative constraints in the supply of fixed-income indices. S&P does not appear to constrain IHSM, and the evidence suggests that S&P is likely to have ramped down its already limited fixed-income indices business absent the Merger. On this basis, the CMA believes that the Merger does not give rise to an SLC in relation to potential competition in the supply of fixed-income indices in the UK.

***Index calculation and administration services***

130. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in relation to horizontal unilateral effects in the supply of index calculation and administration services.

131. On the supply-side, providers of index calculation services do not need to be in the same location as the underlying securities. They are also able to supply customers globally, regardless of where they are located. Similarly, on the demand-side customers can purchase from providers located across the world. The CMA has not seen any evidence that market conditions differ significantly between the UK and the rest of the world and in light of that, and for the reasons set out above, the CMA has considered the impact of the Merger globally.

132. As Table 4 shows, the Parties estimated that their combined shares of supply are [30-40]% (increment of [5-10]%) in a market comprising index calculation and administration services both for equity and fixed-income indices. If the market were to be sub-segmented based on asset class, the

Parties' combined shares would be approximately [40-50]% (increment of [5-10]%) in relation to equity indices, and [20-30]% (increment of [0-5]%) in relation to fixed-income indices. The Parties would have the highest combined share of supply, followed by other large players such as Solactive, Bloomberg, DAX-STOXX and FTSE Russell.

**Table 4: Shares of supply for index calculation and administration services, Global, 2020**

| ***Index provider*** | ***All*** | | ***Equity*** | | ***Fixed-income*** | | ***Other*** | |
|---|---|---|---|---|---|---|---|---|
| | ***Revenue (£M)*** | ***%*** | ***Revenue (£M)*** | ***%*** | ***Revenue (£M)*** | ***%*** | ***Revenue (£M)*** | ***%*** |
| SPDJI | [✂] | [20-30]% | [✂] | [30-40]% | [✂] | [0-5]% | [✂] | [5-10]% |
| IHSM | [✂] | [5-10]% | [✂] | [5-10]% | [✂] | [10-20]% | [✂] | [5-10]% |
| ***Combined*** | [✂] | ***[30-40]%*** | [✂] | ***[40-50]%*** | [✂] | ***[20-30]%*** | [✂] | ***[10-20]%*** |
| Solactive | [✂] | [20-30]% | [✂] | [20-30]% | [✂] | [20-30]% | [✂] | [30-40]% |
| Bloomberg | [✂] | [10-20]% | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [40-50]% |
| DAX - STOXX | [✂] | [5-10]% | [✂] | [10-20]% | [✂] | [0-5]% | [✂] | [0-5]% |
| FTSE Russell | [✂] | [5-10]% | [✂] | [5-10]% | [✂] | [0-5]% | [✂] | [5-10]% |
| MSCI | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| Others (Reuters, SGX, CME, CBOE, ICE, MerQube, Foxberry, etc) | [✂] | [10-20]% | [✂] | [10-20]% | [✂] | [40-50]% | [✂] | [0-5]% |

Source: Indices FMN, Table 15.15.

133. The Parties submitted that S&P and IHSM have different offerings in the index calculation and administration segment. Approximately [90-100]% of S&P's revenue in this area is from the supply of services to customers with equity indices. By contrast, around [50-60]% of IHSM's revenue in this area is from equity indices services and [30-40]% from fixed-income indices services.

134. The CMA's merger investigation has broadly confirmed that the Parties are not close competitors and there are several existing competitors, as well as a range of possible entrants. Customers and competitors confirmed that:

*(a)* While S&P is one of the leaders in this market (together with Solactive), IHSM is not a strong competitor (indeed, IHSM outsources the

calculation and administration of some of its own indices to third parties).[58]

(b) Index calculation and administration is an add-on service for companies that are already in the indices business and, as such, it is easy for any company active in the indices business to enter this space.

(c) There are a large number of providers offering index calculation and administration services.[59]

(d) There are a number of small start-ups trying to enter and disrupt the business.[60]

135. On this basis, the CMA believes that the Parties are not close competitors in the supply of index calculation and administration services globally, and that the Parties will continue to face competitive constraints from several alternative providers. Accordingly, the CMA considers 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 index calculation and administration services in the UK.

## Market intelligence

### *Downstream energy*

*Parties' activities*

136. The Parties submitted that downstream energy market intelligence allows customers to track the flow of the relevant commodities in real time and enables them to predict and forecast future changes.[61]

137. S&P supplies downstream energy market intelligence though its Platts business, covering refined oil, oil products, natural gas, and LNG.[62]

138. IHSM is active through OMDC (which includes OPIS) and CSG (which includes PointLogic). CSG focuses on downstream energy market

[58] Note of the call with [✂] of 20 April 2021.
[59] Note of the call with [✂] of 14 April 2021. Note of the call with [✂] of 23 April 2021.
[60] Note of the call with [✂] of 20 April 2021. Another competitor noted the index calculation and administration segment is a fairly competitive landscape. Note of the call with [✂] of 8 April 2021. Another competitor explained it mainly competes with Solactive, IHSM and S&P (Note of the call with [✂] of 10 May 2021).
[61] MI FMN, paragraph 15.91.
[62] MI FMN, paragraph 15.94.

intelligence that relates to the distribution, transportation, and refining of oil and natural gas.[63]

139. IHSM is active in both the upstream and downstream energy market intelligence sectors, whilst S&P is only active in the provision of downstream energy products.[64] Several of the Parties' competitors are active in both the upstream and downstream energy market intelligence sectors.[65]

140. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects with respect to the supply of downstream energy market intelligence in the UK, the CMA has considered:

*(a)* the relevant competitor set;

*(b)* shares of supply;

*(c)* closeness of competition between the Parties; and

*(d)* competitive constraints from alternative providers.

*Relevant competitor set*

141. In order to calculate shares of supply that reflect the competitive landscape, and to assess the extent to which other providers compete against the Parties, the CMA has considered whether different types of market intelligence providers impose an effective competitive constraint on the Parties' products.

142. The evidence from the Parties and third parties indicates that downstream energy market intelligence providers are active at a global level, meaning the Parties are constrained by global competitors, not just those active in the UK.[66] [67]

143. The Parties submitted that their downstream energy market intelligence products face competitive constraints from other providers of downstream energy market intelligence, such as Wood Mackenzie.[68] This is supported by

63 MI FMN, paragraph 15.98.
64 Upstream energy products focus on the discovery and extraction of fossil fuels, whilst downstream energy market intelligence is concerned with the refining and distribution of fossil fuels and associated refined products. MI FMN, paragraph 15.86(i).
65 MI FMN, Annex B.4 shows that 13 out of 17 competitors compete in both upstream and downstream energy sectors.
66 MI FMN, paragraph 12.63.
67 See, for example, note of the call with [✂] of 25 March 2021. Note of the call with [✂] of 29 April 2021.
68 MI FMN, paragraph 15.100(iii).

evidence from third parties[69] and internal documents,[70] although the evidence indicates that some of these providers are stronger constraints than others. This is discussed further below in the CMA's analysis of competitive constraints from alternative providers.

144. There are several subsegments within downstream energy, such as refined oil and natural gas. Some providers (including the Parties) provide market intelligence across multiple subsegments.[71] The CMA considers that there is limited demand-side substitutability between market intelligence products covering different subsegments. The CMA found, however, that some customers may seek to purchase market intelligence on a number of different subsegments together,[72] including because energy markets are often interconnected. [73]

145. The CMA has therefore assessed the impact of the Merger on competition in the broad downstream energy market intelligence sector but has taken into account the competitive dynamics at the subsegment level where appropriate.

*Shares of supply*

146. The Parties estimated that they had a combined share of [20-30]% (increment of [10-20]%) in 2020 in the supply of downstream energy market intelligence. These estimates are based on their revenues and estimates of their competitors' revenues based on public sources and corporate information websites.

[69] For example, see note of the call with [✂] of 16 April 2021; note of the call with [✂] of 19 April; and note of the call with [✂] of 6 May 2021. Among competitors, see note of the call with [✂] of 29 June 2021 and note of the call with [✂] of 25 March 2021.
[70] Both S&P and IHSM benchmark other providers of downstream energy market intelligence such as Wood Mackenzie. See for example, S&P Internal document, [✂], dated 4 October 2020, slides 13-14; and IHSM Internal document, [✂], dated 2 July 2019, slides 9-10.
[71] MI FMN, 15.104-15.105.
[72] In response to the Issues Letter, the Parties noted that a large proportion of S&P customers ([✂]%) purchased products from only one subsegment (ie oil, natural gas, coal or LNG market intelligence) in 2020. However, the CMA notes that despite a smaller proportion of customers purchasing products from multiple subsegments, these customers accounted for a large proportion of S&P's downstream energy market intelligence revenue ([✂]%) in 2020. [✂] IHSM's customers purchased products from multiple sub-commodities and [✂] IHSM's [✂] revenues [✂]. The CMA recognises that there may be niches within these sub-commodities and that this analysis does not fully capture customer purchasing patterns.
[73] Note of the call with [✂] of 25 March 2021.

**Table 5: Shares of supply for downstream energy market intelligence providers globally in 2020**

| ***Competitor*** | ***£'k*** | ***%*** |
|---|---|---|
| S&P Platts | [✂] | [10-20]% |
| IHSM | [✂] | [10-20]% |
| ***Combined*** | [✂] | ***[20-30]%*** |
| Wood Mackenzie * | [✂] | [20-30]% |
| LSEG | [✂] | [5-10]% |
| Bloomberg | [✂] | [5-10]% |
| Argus | [✂] | [0-5]% |
| IIR Energy | [✂] | [0-5]% |
| DTN (Televent) | [✂] | [0-5]% |
| Kpler | [✂] | [0-5]% |
| Energy Aspects | [✂] | [0-5]% |
| FGE | [✂] | [0-5]% |
| Kynetec | [✂] | [0-5]% |
| GlobalData | [✂] | [0-5]% |
| Other ** | [✂] | [10-20]% |
| *Total market* | [✂] | *100]%* |

Source: The Parties' submissions in Annex B.26 to the MI FMN.

Note: IHSM's revenues are split between OMDC and CSG. * Other trading names for Wood Mackenzie include Verisk and Genscape.** Competitors under 'Other' includes Kayrros, MSCI Barra, Rystad Energy, ClipperData, EnerData, SCI99, ICIS, Orbital Insight, JBC Energy, Vortexa, CRU, Aurora, FenWei, URSA, RIM Intelligence Co., StoneX, ICAP / Tullet, Energy Intelligence, Gulf Energy Information, Enervis, Commodity Essentials, Turner Mason, Euromoney (FastMarkets), NGI, Czarnikow, OilX, FIS, General Index, Spark (EEX-Kpler).

147. Based on these share of supply estimates, the Merger would lead to the consolidation of the second and third largest providers of downstream energy market intelligence. Only the Merged Entity's largest rival (Wood Mackenzie) would have a presence of a similarly significant scale, with a share of [20-30]%. The rest of the market is made up of a long tail of competitors with smaller shares such as LSEG ([5-10]%), Bloomberg ([5-10]%), Argus ([0-5]%) and IIR Energy ([0-5]%).[74]

148. Given the data limitations (eg the reliance on estimated competitor revenues) and the significant degree of product differentiation in downstream energy market intelligence (eg in terms of the extent and depth of coverage across different subsegments), the CMA has used the shares of supply as a broad indication of the market structure but has not placed substantial weight

[74] The Parties were not able to provide equivalent shares at the subsegment level but provided an indication of the largest providers in each subsegment. The CMA notes that some competitors are large across all subsegments, such as the Parties and Wood Mackenzie (as reflected by the downstream energy shares of supply), or across several subsegments (such as LSEG and Bloomberg). However, there are some niche providers who are relatively large within subsegments, such as FenWei for coal market intelligence and MSCI Barra for natural gas market intelligence. This reflects that there is a degree of product differentiation within the market and that competition between competitors can occur more closely within subsegments (which is not captured by market shares).

on them in its assessment.[75] In particular, the CMA notes that dynamics such as the importance of breadth of coverage to some customers or the constraint provided by smaller niche providers who compete with the Parties within particular subsegments may not be fully reflected in the shares and will be considered further below.

*Closeness of competition between the Parties*

149. In this section, the CMA considers the Parties' submissions[76] and third-party evidence in order to assess the competitive interaction between the Parties in the downstream energy market intelligence sector.

*Parties' submissions*

150. The Parties submitted that they are not close competitors within the downstream energy market intelligence sector. They submitted that their products are differentiated as they have different use cases and target different customer sets. In particular, the Parties note that S&P's products focus on short-term views whilst IHSM's focus on long-term views.[77]

151. The Parties provided an analysis of contract renewals lost by IHSM to demonstrate that they are not close competitors, and that they face competitive constraints from other downstream energy market intelligence providers.[78] Whilst this analysis provides some insight into competitive interaction between the Parties and their competitors, the CMA has placed limited weight on it as a result of the limitations on the data.[79]

[75] MI FMN, Annex B.26.
[76] The CMA also reviewed certain of the Parties' internal documents concerning the Parties' closeness of competition, as set out at paragraphs 165-167 below.
[77] Parties' response to the DE MI Issues Letter, slide 19.
[78] MI FMN, Annex B.7.
[79] This analysis shows that: (i) IHSM lost [✂] contract renewals to S&P's Platts between 2018 and 2021, (ii) IHSM lost [✂] contract renewals to [✂], and (iii) IHSM also lost contract renewals to [✂]. The CMA considers that this analysis does not provide a complete picture of the competitive interaction between the Parties as: (i) the data does not include contracts won or lost by S&P, (ii) the data from IHSM only includes contract renewals lost, not opportunities won, (iii) IHSM based its analysis on contracts where the loss was manually labelled as 'competition' in its CRM system, and this may not capture other potential losses to competitors that were not labelled as such, and (iv) IHSM was only able to identify the competitor to which it lost sales in around half of the cases where it lost a sales renewals, confirming that information for a significant number of losses is missing or unclear.

*Third-party views*

152. The CMA sent questionnaires to a range of downstream energy market intelligence customers.[80] The large majority of respondents[81] indicated that they purchased downstream energy market intelligence from S&P and a similar number indicated that they purchased these products from IHSM.[82] Respondents purchased a range of products from various subsegments within downstream energy.[83]

153. Responses to the CMA's downstream energy market intelligence questionnaire showed that several customers consider the Parties to be close competitors.[84] [85] The CMA asked the Parties' customers to name providers that would be able to provide substitutable alternatives[86] to each other's downstream energy market intelligence products. More than half of S&P's customers named IHSM (IHSM was the second most mentioned competitor by S&P customers) and several of IHSM's customers named S&P (S&P was the second most mentioned competitor by IHSM's customers). Some customers noted that the Parties compete especially closely within the natural gas and LNG market intelligence subsegments.[87]

154. Third parties noted some differentiation between the Parties' offerings, in particular that S&P specialises in short-term views, whereas IHSM offers long-term views.[88] Some respondents to the CMA's market intelligence questionnaire indicated that the Parties' offerings were 'weak substitutes' because of these differences.[89]

*CMA conclusion on closeness of competition between the Parties*

155. The CMA considers that evidence from customers indicates that the Parties are close competitors in the downstream energy market intelligence sector,

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[80] [✂]. Third-party responses to the CMA's market intelligence questionnaire (**MI Questionnaire**). The CMA only considered responses from third parties which specifically concerned market intelligence products. Accordingly, and for completeness, the CMA excluded responses which dealt with (eg) price assessments in its assessment of market intelligence products.
[81] [✂]. Third-party responses to the CMA's MI Questionnaire.
[82] [✂]. Third-party responses to the CMA's MI Questionnaire.
[83] In response to the CMA's MI Questionnaire, respondents purchased a range of market intelligence which included the following downstream energy market intelligence subsegments: coal, LPG, LNG, natural gas, NGL, and oil.
[84] [✂]. Third-party responses to the CMA's MI Questionnaire.
[85] Some third-party calls also indicated that S&P and IHSM are close competitors. Note of the call with [✂] of 11 May 2021. Note of the call with [✂] of 16 April 2021.
[86] These are products which customers ranked as 'very substitutable', 'weak substitutes' or 'parts of the products are substitutable'.
[87] Third-party responses [✂] to the CMA's MI Questionnaire.
[88] A number of respondents to the CMA's questionnaire noted that there were differences between the Parties' offerings. This differentiation was also noted in one third-party call where a customer stated that IHSM is more heavily involved in long-term forecasting than S&P. Note of the call with [✂] of 16 April 2021.
[89] Third-party responses to the CMA's MI Questionnaire.

notwithstanding some differentiation in their product offerings, which may limit the extent to which they are viable alternatives for some customers.

*Competitive constraints from alternative providers currently active in the UK*

156. In this section, the CMA considers the Parties' submissions, third-party evidence, and internal documents to assess the competitive constraints from alternative providers in the downstream energy market intelligence sector.

*Parties' submissions*

157. The Parties submitted that they are constrained by a range of providers and will continue to be constrained by these providers in the downstream energy market intelligence sector following the Merger. These providers include Wood Mackenzie (currently the largest provider) and other downstream energy market intelligence providers (such as LSEG, Bloomberg, Argus, ICIS, GlobalData, RS Energy, Enverus, Poten & Partners, LSEG, Rystad Energy, Energy Aspects, Energy Intelligence, AME Research, Kayrros, Kpler, Clipper Data, FGE, IIR Energy, and Commodity Essentials).[90]

158. The Parties also submitted that they face strong competition from niche providers within different subsegments of the downstream energy market intelligence sector (eg oil market intelligence).[91]

159. In the sections below, the CMA considers the evidence that it has received from third parties and the Parties' internal documents to assess the competitive constraints that the Parties face from alternative providers.

*Third-party views*

160. Evidence from third parties indicates that there are a range of competitors that exert competitive constraints on the Parties' offerings and will continue to do so following the Merger. The competitors mentioned in third-party calls include Wood Mackenzie and, less frequently, Argus, LSEG, Bloomberg, Energy Aspects, ICIS, Rystad and FGE.[92] However, some third parties noted that these competitors offered differentiated products to the Parties.[93]

161. Responses to the CMA's downstream energy market intelligence customer questionnaire also indicate that the Parties face constraints from a range of

[90] MI FMN, paragraph 15.100(iii).
[91] MI FMN, paragraph 15.112.
[92] Note of the call with [✂] of 16 April 2021. Note of the call with [✂] of 6 May 2021.
[93] Note of the call with [✂] of 29 June 2021. Note of the call with [✂] of 16 April 2021. Note of the call with [✂] of 6 May 2021.

alternative providers. When asked to name competitors that could offer a substitute to IHSM's products, customers identified Wood Mackenzie and S&P more frequently than any other competitors. Other downstream energy market intelligence providers mentioned include Bloomberg, Rystad, ICIS, Energy Aspects, FGE and Enverus.[94] [95]

162. When customers were asked to name competitors that could offer a substitute to S&P's product, they mentioned IHSM more frequently than any other competitor. This was followed by Wood Mackenzie and Argus. Other downstream energy market intelligence providers mentioned include Energy Aspects, Rystad, Bloomberg, ICIS, FGE.[96] [97]

163. Respondents provided mixed views on whether they were concerned about the Merger in relation to downstream energy market intelligence. Many respondents did not express any view on the Merger. Of those who did express a view, over half of the respondents mentioned that they were concerned about the impact of the Merger.[98] Some of the respondents that expressed concerns about the Merger suggested that it would reduce 'unique' and 'differing' perspectives within this sector,[99] which is consistent with a degree of differentiation between the Parties' offerings. Respondents who were not concerned indicated that the Merger would not affect them or that there were other alternatives in the downstream energy market intelligence sector.[100]

164. The CMA considers that the third-party evidence above is consistent with the shares of supply and indicates that S&P, IHSM and Wood Mackenzie are the three largest providers of downstream energy market intelligence, while also highlighting a degree of differentiation between the Parties' product offerings. This evidence also shows that there is a range of alternative providers that offer products that compete, to some extent, against the Parties' products, both overall and within different subsegments.

*Internal documents*

165. Evidence from the Parties' internal documents shows that the Parties benchmark each other and Wood Mackenzie most frequently in this sector

[94] Third-party responses to the CMA's MI Questionnaire.
[95] These are providers who offer 'very substitutable', 'weak substitutes' and 'somewhat substitutable' alternatives to ISHM's downstream energy market intelligence.
[96] Third-party responses to the CMA's MI Questionnaire.
[97] These are providers who offer 'very substitutable', 'weak substitutes' and 'parts of the product are substitutable' alternatives to S&P downstream energy market intelligence.
[98] Third-party responses to the CMA's MI Questionnaire.
[99] Third-party responses to the CMA's MI Questionnaire.
[100] Third-party responses to the CMA's MI Questionnaire.

but also discuss a range of other competitors relatively frequently. For example:

(a) many of IHSM's documents identify S&P and Wood Mackenzie as competitors.[101] These documents also benchmark IHSM's performance against a range of other providers, including Argus,[102] Bloomberg,[103] Energy Aspects,[104] and ICIS,[105] and mention a high competitive intensity in this sector;[106] and

(b) many of S&P's documents identify IHSM and Wood Mackenzie as competitors.[107] In some documents, S&P also benchmarks its performance against other competitors such as Argus,[108] LSEG,[109] Bloomberg,[110] Energy Aspects,[111] and ICIS.[112] S&P's internal documents also consider niche providers to be competitive constraints as they can have 'cheaper/better/faster angle[s]' compared to S&P.[113]

166. Evidence from internal documents indicates that the strongest constraint facing the Merged Entity would be from Wood Mackenzie, but that it would also face competitive constraints from at least five other providers in this sector (Argus, Bloomberg, Energy Aspects, ICIS, LSEG). The internal documents also indicate there are a range of smaller niche providers who may act as a constraint on the Parties within particular subsegments or in relation to certain downstream energy products.

[101] For example, see IHSM Internal document, [✂], dated 7 October 2020, slide 8; IHSM Internal document. [✂], dated 2 July 2019, slides 9-10; and IHSM Internal document, [✂], dated 4 November 2019, slide 25.
[102] For example, see IHSM Internal document, [✂], dated 1 October 2020, slide 3.
[103] For example, see IHSM Internal Document, [✂], dated 2 July 2019, slides 9-10; IHSM Internal document, [✂], dated 7 October 2020, slide 8; and IHSM Internal document, [✂], dated 4 November 2019, slide 25.
[104] IHSM Internal document, [✂], dated 7 October 2020, slide 8.
[105] IHSM Internal document. [✂], dated 2 July 2019, slide 9; IHSM Internal document, [✂], dated 4 November 2019, slide 25; [✂], slides 3-8.
[106] For example, see IHSM Internal document, [✂] dated 7 October 2020, slide 8.
[107] For example, S&P Internal document [✂], dated 4 October 2020, slides 13-14; S&P Internal document [✂], dated 18 July 2019, slide 44; S&P Internal document [✂] dated 18 December 2020, slides 4-8, 56-77, 124-150 and 162-180; and S&P Internal document [✂], dated 29 December 2019, slides 18 and 23.
[108] For example, see S&P Internal document [✂], dated 18 December 2020, slides 4-8, 56-77, 124-150 and 162-180; S&P Internal document [✂], dated 29 December 2019, slide 18 and 23; and S&P Internal document [✂], dated 4 October 2020, slide 13-14.
[109] For example, see S&P Internal document [✂], dated 29 December 2019, slide 18 and 23; and S&P Internal document [✂], dated 4 October 2020, slides 13-14.
[110] For example, see S&P Internal document [✂] dated 29 December 2019, slides 18 and 23; and S&P Internal document [✂], dated 4 October 2020, slides 13-14.
[111] S&P Internal document [✂], dated October 2018, slide 13; S&P Internal Document, [✂], July 2019, slide 44.
[112] S&P Internal document: [✂], January 2020, slides 85 and 88; S&P Internal document [✂] dated May 2019, [✂], slide 23.
[113] S&P Internal Document, [✂] July 2019, slide 44.

*CMA conclusion on competitive constraints from alternative providers*

167. Based on the evidence set out above, the CMA considers that following the Merger, the Parties will continue to be constrained by a number of competitors:

(a) Wood Mackenzie, the largest current provider offering coverage across downstream energy products who consistently appears in third-party evidence and internal documents as a strong, close competitor to the Parties;

(b) a set of at least five competitors (Argus, Bloomberg, Energy Aspects, ICIS, LSEG), many of which are present across a number of energy subsegments, and which are mentioned by third parties and internal documents as competing with the Parties, although less frequently than Wood Mackenzie; and

(c) a range of smaller providers who may provide a more limited constraint within downstream energy overall but may be particularly strong in a given subsegment and may add to the constraint faced by the Parties in such niches.

***Conclusion on horizontal unilateral effects in the supply of downstream market intelligence in the UK***

168. For the reasons set out above, the CMA believes that, while the Parties have a strong share of supply (with a relatively moderate increment arising as a result of the Merger) and that they compete relatively closely, post-Merger they will continue to face strong competition from several rivals, both within individual downstream energy market intelligence subsegments and overall.

169. 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 supply of downstream energy market intelligence in the UK.

***Maritime and trade analytics***

*Parties' activities*

170. The Parties submitted that maritime and trade analytics market intelligence refers to products that allow entities to track and analyse trade flows between ports, countries and continents. These products provide in-depth data at the shipment level which includes data on:

(a) the companies involved in the trade flows;

(b) location information (eg country of origin, destination data, port of landing and unlading); and

(c) information on the shipments (eg bill of lading, cargo weight, container information and product classification).[114]

171. S&P is active in maritime and trade analytics market intelligence through its Panjiva business. IHSM is active through its PIERS business.

172. The Parties submit that the primary input for maritime and trade analytics is publicly available data and shipment data.[115] However, the Parties submitted that they face restrictions in collecting data in Europe (including the UK) for the following reasons:

(a) shipment-level company-specific data and import-export data is not made available in the EU or UK by government authorities (or other third-party data providers);[116] and

(b) the GDPR restricts the Parties' and other companies' ability to use, process and disseminate certain data in the EU and UK.[117]

173. As such, the Parties offer their customers less detailed information on European/UK trade relative to the US or other jurisdictions.[118]

174. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects with respect to the supply of maritime and trade analytics market intelligence in the UK, the CMA has considered:

(a) the relevant competitor set;

(b) shares of supply;

(c) closeness of competition between the Parties; and

(d) competitive constraints from alternative providers.

*Relevant competitor set*

175. In order to calculate shares of supply that reflect the competitive landscape, and to assess the extent to which other providers compete against the Parties, the CMA has considered whether different types of market

[114] MI FMN, paragraph 15.36.
[115] MI FMN, paragraph 15.36.
[116] MI FMN, paragraph 15.39.
[117] MI FMN, paragraph 15.40.
[118] MI FMN, paragraph 15.41.

intelligence providers impose an effective competitive constraint on the Parties' products.

176. The Parties submitted that maritime and trade analytics market intelligence providers are active at a global level and, as such, the Parties are constrained by global competitors, not just by those active in the UK.[119] The CMA did not receive any evidence from third parties that indicated otherwise.

177. The Parties submitted that their maritime and trade analytics market intelligence products face competitive constraints from other providers, such as Datamyne and Import Genius.[120] This is supported by evidence from third parties and internal documents.[121]

178. The Parties also submitted that they compete with supply chain intelligence providers.[122] These include consultancies that provide supply chain evaluation and optimisation products, as well as other supply chain market intelligence providers that offer insights into supply chain and related strategy based on filings data (rather than trade shipments). According to the Parties, there are different types of supply chain intelligence providers, based on the type of data they use and the outputs produced.[123] The Parties consider that these providers exert a strong constraint particularly in relation to European (including UK) maritime and trade analytics market intelligence, where the Parties are able to produce less detailed information due to data restrictions.[124] [125]

179. The evidence received by the CMA indicates that supply chain intelligence providers do not exert a material constraint on the Parties. The CMA contacted a range of supply chain intelligence providers,[126] all of which indicated that they do not compete with the Parties. Rather, they considered that maritime trade and analytics market intelligence is an input into supply chain intelligence.[127] This is also consistent with the Parties' submissions, which indicate that, whilst supply chain intelligence providers provide related offerings to Panjiva and PIERS, they generally offer additional value-added

[119] MI FMN, paragraph 12.63.
[120] MI FMN, paragraph 15.64(iii).
[121] Third-party responses to the CMA's MI Questionnaire.
[122] MI FMN, paragraph 15.66.
[123] Parties' response to CMA follow up questions dated 13 August, paragraph 15.2.
[124] MI FMN, paragraph 15.53 (ii). Parties' response to CMA follow up questions dated 13 August, paragraph 15.2.
[125] The Parties' submitted that Panjiva competes closely with supply chain market intelligence providers because it has a 'specific focus on supply chain evaluation' using trade flows (import and export data). The Parties note that certain groups of customers use Panjiva to inform their supply chain strategy and investment decision making. MI FMN, paragraph 15.49. The Parties have not, however, categorised Panjiva or PIERS as supply chain intelligence providers.
[126] The CMA sent out questionnaires to companies identified by the Parties as supply chain intelligence providers. MI FMN, paragraph 15.66.
[127] Third-party responses to the CMA's MI Questionnaire.

services such as data collation or advisory services.[128] Other evidence from third parties confirms that supply chain intelligence providers do not compete strongly against the Parties' products.[129]

180. The Parties' internal documents also suggest that supply chain intelligence providers exert a weak constraint on their activities. S&P's internal documents benchmark supply chain intelligence providers separately to maritime and trade analytics providers[130] and do not list any supply chain intelligence providers as Panjiva's '[✂]'.[131] [132] IHSM's internal documents show that supply chain intelligence providers[133] offer products which are complementary to IHSM's trade data (which includes PIERS).[134] No supply chain intelligence provider is shown to be a substitute to IHSM's trade data.

181. On this basis, the CMA considers that the Parties face competitive constraints from other maritime and trade analytics market intelligence providers. The CMA has therefore assessed the impact of the Merger on competition in the maritime and trade analytics market intelligence sector.

*Shares of supply*

182. The Parties estimate that they had a combined share of supply of [10-20]% (increment of [0-5]%) in 2020 in the supply of maritime and trade analytics market intelligence. The CMA did not consider this estimate to be a useful indication of the competitive interaction between the Parties and their competitors, as it includes supply chain intelligence providers (which, as explained above, the CMA considers to be at best weak competitive constraints).

183. The CMA has, therefore, considered shares of supply excluding supply chain intelligence providers. These estimates are based on the Parties' revenues and estimated revenues for competitors based on public sources and corporate information websites. Given the data limitations (eg arising from the reliance on estimated competitor revenues), the CMA has used the

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[128] Parties' response to CMA follow up questions dated 13 August, paragraph 15.2.
[129] Note of the call with [✂] of 8 April 2021. Note of the call with [✂] of 29 June 2021. Note of the call with [✂] of 21 April 2021. Further, none of the customers that the CMA contacted identified any supply chain intelligence providers as being close competitors to PIERS or Panjiva. Third-party responses to the CMA's MI Questionnaire.
[130] S&P Internal document, [✂], dated 4 September 2020, slide 6.
[131] S&P Internal document, [✂], dated 13 April 2021, page 2.
[132] However, two providers which are listed by the Parties as providers of supply chain intelligence (Bloomberg and Factset) are noted as new/second tier competitors. The CMA notes these providers also offer maritime and trade analytics market intelligence.
[133] The Parties consider that Bloomberg, FactSet and Concirrus are supply chain intelligence providers. MI FMN, paragraph 15.66.
[134] IHSM Internal document, [✂], dated 13 November 2020, slide 6.

shares of supply to give an indication of the market structure but has not given substantial weight to the shares in its assessment.[135]

184. Table 6 shows that the Parties had a combined share of supply of [30-40]% (increment of [10-20]%) in 2020 in the supply of maritime and trade analytics market intelligence.

**Table 6: Shares of supply for maritime and trade analytics market intelligence providers globally between 2018 and 2020 (excluding supply chain intelligence providers)**

| | | ***2020*** | | ***2019*** | | ***2018*** |
|---|---|---|---|---|---|---|
| ***Competitor*** | ***£'k*** | ***%*** | ***£'k*** | ***%*** | ***£'k*** | ***%*** |
| S&P SPGMI | [✂] | [20-30]% | [✂] | [20-30]% | [✂] | [10-20]% |
| IHSM | [✂] | [10-20]% | [✂] | [10-20]% | [✂] | [10-20]% |
| ***Combined*** | [✂] | ***[30-40]%*** | [✂] | ***[30-40]%*** | [✂] | ***[30-40]%*** |
| Datamyne | [✂] | [20-30]% | [✂] | [20-30]% | [✂] | [20-30]% |
| ImportGenius | [✂] | [10-20]% | [✂] | [10-20]% | [✂] | [10-20]% |
| ExportGenius | [✂] | [0-5]% | [✂] | [5-10]% | [✂] | [5-10]% |
| FactSet | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| Volza | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| Veritrade | [✂] | [5-10]% | [✂] | [5-10]% | [✂] | [5-10]% |
| PentaTransaction | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| Abrams Wiki | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| TradeSparq | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| TopEase | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| SEAIR | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| Trademo Intel | [✂] | [0-5]% | [✂] | [0-5]% | [✂] | [0-5]% |
| *Total market* | [✂] | *100%* | [✂] | *100%* | [✂] | *100%* |

Source: The Parties' submissions in MI FMN, Annex B.26.

185. Based on these estimates, the Merger would combine the second and fourth largest providers of maritime and trade analytics market intelligence, making the Merged Entity the largest provider. Datamyne is currently the largest provider with a share of [20-30]%, and its revenues have grown strongly over the last three years. ImportGenius also has a material presence, with a [10-20]% share of supply.

[135] MI FMN, Annex B.26.

186. The CMA notes that IHSM's share of supply has declined in the last three years, dropping from [10-20]% in 2018 to [10-20]% in 2020. This reflects that [✂]. For example, ImportGenius' revenues have grown significantly since 2018, with its share overtaking that of IHSM in 2020. There are also a large number of smaller providers whose revenues have increased over this period, although their individual shares of supply remain small.

*Closeness of competition between the Parties*

*Parties' submissions*

187. The Parties submit that they are not close competitors because there are differences in their product offering and customer set:

(a) **Data capabilities and use case**: PIERS provides US-export data derived from paper manifests, whilst Panjiva focuses on non-US datasets (and has little access to US export data from paper manifests). PIERS also offers data on bulk commodities (eg grain, coal and iron ore), whilst Panjiva does not have a strong offering in this subsegment.

(b) **Customer set:** PIERS serves primarily freight forwarders, shippers, customs, agencies, port authorities and corporates. Panjiva serves primarily procurement teams within corporates, financial institutions, and investigative government bodies (eg the FBI). In particular, the Parties submitted that only [0-5]% of Panjiva's customers in 2020 were also customers of PIERS; while only [10-20]% of PIERS' customers were also customers of Panjiva.[136] The Parties also note that they have differing top customers groups.[137]

188. The Parties also provided a win/loss analysis to demonstrate that they lose business more frequently to other competitors than to each other.[138] [139]

189. The Parties' made further submissions on the closeness of competition between PIERS and Panjiva in response to the CMA's Issues Letter. The Parties noted that the shift to digitalisation and technology-focussed competition means that [✂]. Whilst PIERS' business model [✂], Panjiva [✂]. The Parties also note that PIERS' platform functionality is [✂] whilst Panjiva [✂].

[136] MI FMN, Annex B.3.
[137] Parties' response to the M&T Analytics MI Issues Letter, slide 18.
[138] The analysis shows that (i) S&P's SPGMI (the division where Panjiva sits) only lost [✂] contract renewals and [✂] of these losses were to IHSM between 2018 and 2021, (ii) IHSM lost [✂] out of [✂] contracts renewals to S&P's SPGMI between 2018 and 2021, and (iii) S&P wins the most business from [✂], not from IHSM.
[139] MI FMN, Annex B.7.

*CMA's assessment*

190. The CMA notes that the Parties' win/loss analysis provides some insight into competitive interaction between the Parties and their competitors. However, the CMA has placed limited weight on this as it is subject to significant limitations.[140] [141]

191. The fact that PIERS and Panjiva currently have different customer sets, as the Parties submit, does not preclude them from being close competitors. Indeed, customers that single-source are, in general, less likely to purchase two competing products that are close substitutes.[142] The CMA further notes that the Parties overlap in five out of their seven main customer groups.[143]

192. The CMA notes that the shares of supply and internal documents show that PIERS has accounted for a declining part of the market in recent years. [✂], PIERS' revenues [✂]. The CMA also recognises that whilst S&P's internal documents frequently mention PIERS, they also consistently note PIERS' declining presence in this sector. For example:

    *(a)* One S&P internal document [✂].[144]

    *(b)* Another S&P internal document refers to the fact that [✂].[145]

    *(c)* Another S&P internal document, produced for marketing purposes, sets out that [✂].[146]

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[140] In particular, (i) the analysis does not include information on IHSM's wins, (ii) information on the identity of the competitor the customer has been won from (or lost to) is available only for [✂] IHSM's sales opportunities and [✂]% of S&P's sales opportunities, and (iii) the Parties' datasets are inconsistent with one another.

[141] The Parties' also submitted an analysis of Panjiva's Salesforce data, setting out the frequency of references (or 'mentions') that competitors received in each of Panjiva's sale opportunities. (Parties' response to the M&T Analytics MI Issues Letter, slide 20; email to the CMA from Andy Parkinson dated 4 October 2021.) Unlike the win/loss analysis (see paragraph 188), this analysis is not restricted to win/losses of existing customers only but, instead, includes all competitor mentions regardless of whether the opportunity relates to an existing customer. This analysis was submitted at a relatively late stage of the CMA's Phase 1 investigation, which is liable to limit the weight that the CMA can put on such submissions (given the limited time available to review and test the analysis appropriately). In any case, the CMA found that the analysis is subject to significant limitations. In particular, the CMA notes that: (i) competitor mentions were only identified for [✂]% of opportunities [✂] (ie no mentions were identified for [✂]% of cases), (ii) the analysis is based on only a certain extraction of the Salesforce data (and the CMA was therefore unable to assess this submission against the complete database), and (iii) the analysis does not set out in what context each competitor was mentioned (eg whether the referenced competitor was a challenger to the Parties or simply used as a point of comparison). Accordingly, the CMA has placed no weight on this analysis.

[142] Responses from customers in third-party calls and to the CMA's market intelligence questions indicates that they multisource from providers that offer differentiated products.

[143] Parties' response to the M&T Analytics MI Issues Letter, slide 18. The maritime and trade analytics market intelligence customer segments that the Parties both supply to include: (i) logistics, transportation, and distribution companies, (ii) public entities, (iii) manufacturers and industrial groups (iv) finance, banks, risk and insurance firms, and (v) companies active in chemical sector.

[144] S&P Internal document, [✂], undated, page 2.

[145] S&P Internal document, [✂], September 2019, page 3.

[146] S&P Internal document, [✂], August 2017, page 2.

193. The CMA considers that the evidence provided by the Parties indicates that the Parties are close competitors, but also that PIERS has been a weaker competitor in recent years.

*Third-party views*

194. Evidence from third parties indicates that PIERS and Panjiva are close competitors. For example, in third-party calls:

*(a)* One competitor noted that the biggest player in this sector is IHSM's PIERS followed by S&P's Panjiva. They also noted that PIERS and Panjiva have similar capabilities, even if there are differences in their pricing structure.[147]

*(b)* Another competitor noted that PIERS and Panjiva are leading players in this space given their significant history and coverage.[148]

195. Responses to the CMA's maritime and trade analytics market intelligence questionnaire indicate that the Parties are close competitors. For example, Panjiva was the provider that customers mentioned most frequently when asked to list PIERS' close competitors.[149] Similarly, PIERS was also the provider that customers mentioned most frequently when asked to list Panjiva's close competitors.[150]

*CMA view on closeness of competition between the Parties*

196. The CMA considers that evidence from third parties indicates that the Parties are generally viewed as close competitors. This is supported by evidence from internal documents (discussed at paragraphs 205-206), which shows that the Parties consider each other to be within their main competitors. However, the shares of supply and internal documents also show that PIERS has been a weaker (and continually weakening) competitor in recent years. The CMA's view is, therefore, that the Parties compete closely in the maritime and trade analytics market intelligence sector but that PIERS appears to be declining in competitive significance.

[147] Note of the call with [✂] of 8 April 2021.
[148] Note of the call with [✂] of 29 June 2021.
[149] Third-party responses to the CMA's MI Questionnaire. Customers said Panjiva offered very substitutable, substitutable, or somewhat substitutable products to PIERS.
[150] Third-party responses to the CMA's MI Questionnaire. Customers said PIERS offered very substitutable, substitutable or somewhat substitutable products to Panjiva.

*Competitive constraints from alternative providers*

197. In the section below, the CMA considers the Parties' submissions, third-party evidence, and internal documents in order to assess the competitive constraints from alternative providers in the supply of maritime and trade market intelligence.

*Parties' submissions*

198. The Parties submitted that they are constrained by a range of providers and will continue to be competitively constrained by these providers following the Merger.

(a) **Datamyne.** The Parties submitted that Datamyne is the closest competitor to both Parties and has an aggressive price offering. It has strong platform functionality with integrated supply chain software and analytics. In addition, it has an integrated offering with its parent company, which allows it to cover features such as tariff data and compliance screening.[151]

(b) **ImportGenius.** The Parties also note that ImportGenius is a strong, price-focused competitor. It provides real-time shipment records for all imports and exports of the US, Russia, India and 15 other countries at the bill of lading level. It is used by a range of customer segments including corporates, financial institutions, importers, providers, logistics and forwarders, lawyers, investors and government agencies. It actively targets both Parties' customers through Google Ads.

(c) **Others.** The Parties further note that they compete closely with other trade analytics providers (such as Export Genius, Penta Transaction, and FactSet) and that they face constraints from supply chain intelligence providers.[152] The Parties provided data showing Panjiva had lost a number of contracts to FactSet in particular, as well as new entrants Import Key and Import Yeti.[153]

199. In the sections below, the CMA discuses in further detail the evidence it has received from third parties and internal documents on the competitive constraints the Parties face from alternative providers.

[151] Parties' response to the M&T Analytics MI Issues Letter, slide 11.
[152] MI FMN, paragraph 15.64(iii) and 15.65. Parties' response to the M&T Analytics MI Issues Letter, slide 11.
[153] Annexes of supporting evidence to the Issues Letter – Trade Analytics (customer losses).

*Third-party views*

200. Evidence from third parties indicates that the Parties face strong competitive constraints from Datamyne and, to a lesser extent, ImportGenius. For example, in third-party calls:

(a) One competitor noted that the Parties, Datamyne, and Import Genius are the main competitors in this sector. This competitor indicated that Datamyne competes most closely with the Parties, followed by Import Genius. This competitor also noted that, unlike the top four providers, smaller providers may not offer advanced analytical tools and platforms to manipulate the data they provide.[154]

(b) One competitor considered that the main providers in this sector were PIERS, Panjiva, and Datamyne. This competitor did not think that it could compete with the Parties' coverage and history.[155]

(c) One customer also indicated that Datamyne and Import Genius are alternatives to the Parties' offerings. It considered that Datamyne would provide data that is equivalent to IHSM's PIERS but Import Genius had less coverage.[156]

201. Responses to the CMA's maritime and trade analytics market intelligence customer questionnaire also indicate that the Parties face constraints from these providers. When customers were asked to list Panjiva's closest competitors, PIERS was mentioned most often,[157] followed by Import Genius. Datamyne and three other trade analytics providers were also mentioned once.[158]

202. When customers were asked to list PIERS' closest competitors, customers mentioned Panjiva most frequently[159] followed by Datamyne. Import Genius and several other trade analytics providers were mentioned once.[160]

203. Around half of respondents on maritime and trade analytics market intelligence did not have any view on the Merger. Among those who did, responses were split as to whether they were concerned or not. Those who were concerned, mentioned issues such as reduced competition,[161] the

[154] Note of the call with [✂] of 8 April 2021.
[155] Note of the call with [✂] of 29 June 2021.
[156] Note of the call with [✂] of 21 April 2021.
[157] Third-party responses to the CMA's MI Questionnaire. Customers said PIERS offered very substitutable, substitutable, or somewhat substitutable products to Panjiva.
[158] Third-party responses to the CMA's MI Questionnaire.
[159] Third-party responses to the CMA's MI Questionnaire. Customers said Panjiva offered very substitutable, substitutable, or somewhat substitutable products to PIERS.
[160] Third-party responses to the CMA's MI Questionnaire.
[161] Third-party responses to the CMA's MI Questionnaire.

increased pricing power by the Merged Entity[162] and the weakening of competitors.[163] However, some respondents were not concerned about the Merger in relation to the maritime and trade analytics market intelligence sector, as they indicated they could obtain the required information from alternative sources.[164]

204. The CMA considers that the third-party evidence above is consistent with the shares of supply (set out above at paragraphs 182-186) and indicates that there are four main providers in the maritime and trade analytics market intelligence sector: PIERS, Panjiva, Datamyne and Import Genius. The CMA notes that post-Merger the Parties will face strong competitive constraints from two other providers, and that there are a number of other providers who may be suitable for some customers. Customers expressed mixed views as to whether the Merger could lead to price increases and reduced competition, with some indicating this was a possibility, and others indicating there are alternative sources available.

*Internal documents*

205. The CMA reviewed a number of internal documents from the Parties and found the following:

*(a)* S&P documents suggest that, other than PIERS, Panjiva considers its [✂] competitors to be Datamyne and Import Genius but also consistently reference a wide range of other providers too. For example:

(i) PIERS, Datamyne and Import Genius are listed as [✂].[165] In particular, the document notes that Datamyne and Panjiva are [✂].

(ii) PIERS, Datamyne and Import Genius are identified as the three [✂] to Panjiva in one internal document.[166] However, other competitors such as Factset, Bloomberg, Penta Transaction, Export Genius and Volza are listed as [✂].

(iii) In the same document, Datamyne is identified as Panjiva's [✂] whilst PIERS is listed as Panjiva's [✂].[167]

[162] Third-party responses to the CMA's MI Questionnaire.
[163] Third-party responses to the CMA's MI Questionnaire.
[164] Third-party responses to the CMA's MI Questionnaire.
[165] S&P Internal document, [✂], dated 14 August 2019, page 1.
[166] S&P Internal document, [✂], dated 13 April 2021, page 2 and 3.
[167] S&P Internal document, [✂], dated 13 April 2021, pages 2 and 3.

(iv) In another internal document, PIERS, Datamyne and Import Genius are three of the five customs data resellers who are benchmarked.[168] Other competitors listed in this internal document include Zepol and Manifest Journals.[169]

(v) In one internal document, S&P has conducted a competitor analysis sheet for maritime and trade analytics market intelligence providers.[170] The competitors included in this analysis are Datamyne, IHSM, Import Genius, Export Genius, Penta Transaction and Volza.

*(b)* IHSM's internal documents show that, other than Panjiva, PIERS considers Datamyne and Import Genius to be its [✂] competitors but also refer to an array of other providers too. For example:

(i) Panjiva, Datamyne, Global Trade Tracker and Trade Data Monitor are noted as four competitors [✂].[171] Other providers such as Factset, Bloomberg, and supply chain intelligence providers are listed as [✂].[172] [173]

(ii) One internal document benchmarks a range of competitors. These include Datamyne, Import Genius, and Zepol.[174] [175]

(iii) PIERS notes that it faces [✂].[176]

206. The CMA considers that the Parties' internal documents[177] show that they benchmark their products primarily against each other, Datamyne, and ImportGenius, but also monitor a range of other providers. The CMA's view is that two competitors (Datamyne and Import Genius) would exert the strongest competitive constraint on the Parties following the Merger, but that there is also a range of other providers that also compete with the Parties to

[168] S&P Internal document, [✂], dated 23 July 2019, page 1.
[169] The CMA notes that Manifest Journals were not included in the Parties' share of supply estimates (as set out in Table 6). In any event, the CMA considers the inclusion of these additional competitors in the Parties' internal documents could be indicative of market fragmentation beyond the level set out in the Parties' submissions to the CMA. The CMA understands that Zepol was acquired by Datamyne in 2015.
[170] S&P Internal document, [✂], 22 July 2020.
[171] IHSM Internal document, [✂], dated 13 November 2020, slide 6.
[172] The CMA understands these terms to mean, in essence, that such competitors' offerings were considered to be [✂] to the Parties' products, rather than [✂].
[173] See Parties' response to the M&T Analytics MI Issues Letter – Internal Documents Rebuttal, pages 21-22. The CMA notes that Global Trade Tracker and Trade data are close competitors to IHSM's Global Trade Atlas and not PIERS.
[174] IHSM Internal document, [✂], 21 October 2020, page 28.
[175] The CMA notes that Zepol was acquired by Datamyne in 2015.
[176] IHSM Internal document, [✂], dated 11 March 2019, slide 19.
[177] The CMA notes that many of the Parties' internal documents were created in recent years, during a period of PIERS becoming weaker as a competitor (as discussed already at paragraph 186 above).

some extent, including FactSet, Bloomberg, Export Genius, Volza, and Penta Transaction.

*CMA view on competitive constraints from alternative providers*

207. The CMA considers that the evidence indicates Datamyne and Import Genius impose a significant constraint on the Parties in the supply of maritime and trade market intelligence. The constraint from Datamyne and Import Genius appears to be increasing, particularly relative to that of PIERS, which is noted in internal documents to be [✄] and has a [✄] share. Further, the Parties' internal documents suggest that there are a range of smaller providers who have grown their revenues over the last three years and may be increasingly stronger competitors in the supply of maritime and trade market intelligence.

### *Conclusion on horizontal unilateral effects in the supply of maritime and trade market intelligence*

208. For the reasons set out above, the CMA believes that the Parties have a material share of supply (with a moderate increment arising as a result of the Merger). However, PIERS has seen a decline in its shares of supply over the last three years, whilst other competitors have increased their share of revenues. Post-Merger, the Merged Entity will continue to face strong competition from Datamyne and Import Genius, who are frequently mentioned in internal documents and by third parties. There are also several smaller competitors, such as FactSet, who have grown significantly over the last three years and are referenced consistently as constraints in internal documents, which are likely to continue to compete against Merged Entity.

209. 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 maritime and trade market intelligence in the UK.

## Commodity price assessments

### *Approach to identifying overlaps in commodity price assessments*

210. The Parties produce price assessments in a range of regions and commodities, and at different levels of granularity. To identify areas of overlap, the Parties first used five dimensions to categorise their price assessments into distinct 'category groupings': commodity group,

assessment family, market, product, and region.[178] In total, the Parties identified 809 'category groupings'.

211. The Parties then identified 'overlaps' by reference to category groupings that include at least one price assessment from both S&P and IHSM. This resulted in [✂] overlaps within the following commodity groups: agriculture, coal, LNG, metals, natural gas, oil, petrochemicals, power and shipping.[179]

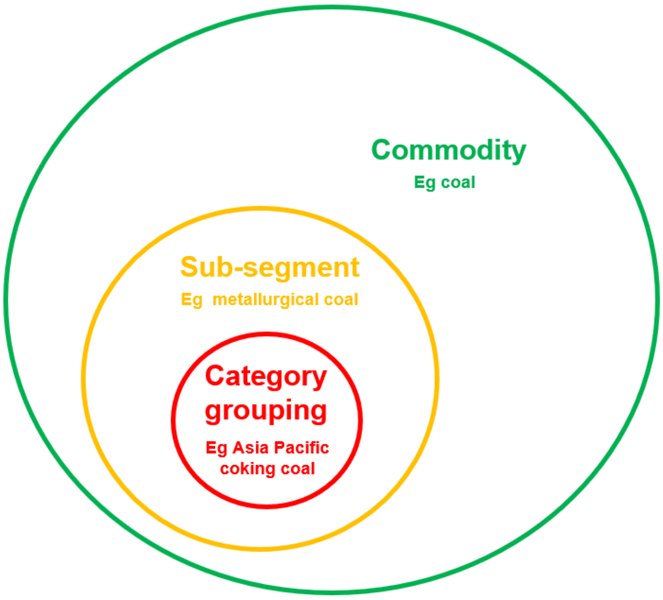
212. The CMA considers that competition may take place between the Parties and its competitors at different levels of granularity (as illustrated at Figure 1):

*(a)* at a commodity group level (eg coal);

*(b)* at a subsegment, ie assessment family level (eg metallurgical coal); and

*(c)* at a category grouping level (eg Asia Pacific coking coal).[180]

**Figure 1: Relationship between levels within commodity groups**




Source: CMA illustration based on the Parties overlap analysis in Annex C.14 of the CPA FMN.

213. The extent to which competition occurs at the different levels of granularity is discussed below.

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[178] For example, 'Coal' would be a commodity group, 'Metallurgical coal' an assessment family, 'seaborne hard coking coal' a market, 'Asia Pacific coking coal' a product and 'Asia Pacific' a region. The Parties were not able to map S&P and IHSM's price assessments at a more granular level.
[179] CPA FMN, Annex C.15, page 2.
[180] The 'commodity group level' represents the broadest categorization of commodity price assessments, and the 'category grouping level' represents the narrowest.

*Relevant competitive constraints*

214. In order to assess whether the Merger may give rise to horizontal unilateral effects in the supply of commodity price assessments, the CMA has considered the competitive constraints facing the Parties in the areas of overlap at the commodity group level.

215. The evidence from the Parties and third parties indicates that commodity price assessment providers are active at a global level and, as such, the Parties are constrained by global competitors, not just by those active in the UK.[181]

216. Moreover, the evidence from the Parties and third parties shows that competition between commodity price assessment providers is usually no broader than at the commodity group level.[182]

217. The CMA also considered the extent to which the Parties' price assessments compete against (i) benchmark and non-benchmark price assessments, and (ii) different types of providers, including:

*(a)* other PRAs;

*(b)* market intelligence providers; and

*(c)* other sources of price data (eg exchanges and brokers).[183]

*Competitive constraints from benchmark and non-benchmark price assessments*

218. The Parties submitted that benchmark price assessments are constrained in terms of price and quality by non-benchmark providers because there is always a risk that the benchmark provider could be displaced if there are fundamental errors in its calculation, or if it fails to remain attractive to customers.[184]

219. Third parties supported the view that benchmark providers are constrained by non-benchmark providers. Two competitors mentioned that non-benchmarks are important for keeping the benchmark provider 'honest' and driving innovation.[185] Most customers who responded to the CMA's

[181] Note of the call with [✂] of 31 March 2021 and note of the call with [✂] of 1 April 2021.
[182] CPA FMN, paragraph 12.151.
[183] Other sources of price data include posted price data and price assessments produced by other providers, such as exchanges or brokers.
[184] CPA FMN, paragraphs 1.6-1.7.
[185] Note of the call with [%] of 31 March 2021, paragraph 20; Note of the call with [%] of 1 April 2021, paragraph 9.

investigation indicated that providers of benchmark price assessments have a greater incentive to offer better prices, quality, or service when there are other credible price assessment providers active in the same market.[186]

220. However, the CMA found that not all price assessment providers exert the same degree of competitive constraint. Customers only consider some non-benchmark providers to be credible alternatives to benchmark providers.[187] This is consistent with the Parties' own overlap analysis (discussed further at paragraphs 243-249), which acknowledges that only certain providers' price assessments have the potential to replace the benchmark.

221. The CMA also considers that non-benchmark providers are constrained by benchmark providers. The potential to displace the current benchmark and the 'right to referee' future benchmarks is likely to incentivise non-benchmark providers to innovate and try to produce price assessments of a similar or higher quality to the benchmark provider.

222. The CMA therefore considers that benchmark and non-benchmark providers exert important competitive constraints on one another, although the constraint imposed by non-benchmark providers varies depending on whether it is perceived by market participants as a credible replacement for the benchmark. The CMA analyses this further in its assessment of the specific commodity overlaps.

223. Price assessments and other sources of pricing data can be supplied through different types of providers: PRAs, market intelligence providers, and others, such as exchanges and brokers. The CMA assesses the competitive constraints each type exerts on the Parties below.

*Other PRAs*

224. The Parties submitted that they are competitively constrained by PRAs and will continue to be constrained by these providers following the Merger.[188]

225. The CMA considers that PRAs are the Parties' closest competitors. This is consistently supported by evidence received from third parties.[189] All the competitors and customers that the CMA spoke to noted that the Parties

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[186] Third-party responses to the CMA's commodity price assessment questionnaire (**CPA Questionnaire**).
[187] For example, in response to the CMA's CPA Questionnaire, customers were able to name several close competitors to the Parties. However, out of these competitors, customers said that only a small number of these providers would be able to credibly replace S&P or IHSM benchmarks for a range of commodity groups.
[188] CPA FMN, paragraphs 12.83-12.95.
[189] For example, see note of the call with [✂] of 14 June 2021 and note of the call with [✂] of 6 May 2021.

compete with other PRAs.[190] PRAs also generally adhere to the IOSCO Principles,[191] which can be an important indicator of credibility.[192] [193]

226. Not all PRAs active in the same commodity group compete equally closely. For example, PRAs active in different subsegments (eg aromatics vs polymers) or regions (eg Asia vs North America) are unlikely to be close competitors.[194] Commodity price assessments can vary significantly across subsegments and regions, and different commodities often form part of different supply chains.[195] From a demand-side perspective, price assessments for different products are unlikely to be substitutes.[196] There are only limited cases where it is possible to use a price assessment from a nearby region where there is no price assessment in the target region.[197] From a supply-side perspective, it can be difficult for PRAs to enter a different subsegment or region, even when they are already established in the relevant commodity group.[198]

227. Based on this evidence, the CMA considers that the Parties face the strongest constraint from PRAs active in the same commodity subsegment and region (ie overlapping at the category grouping level) but may, in some instances, face a weaker constraint from PRAs active in the broader commodity grouping.

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190 Among competitors, see, for example, note of the call with [✄] of 1 April 2021. Among customers, see, for example, note of the call with [✄] of 6 May 2021.

191 The Parties told the CMA that there is not an externally verifiable source for all IOSCO adherent price assessment providers and, similarly, they are not aware of all instances of competitors that internally adhere to the IOSCO Principles (CPA FMN, paragraph 12.38). As such, the CMA has relied on information from the Parties and third parties concerning providers' IOSCO adherence in these markets – see, in particular, CPA FMN, Annex C.14, 'Competitors' tab.

192 Adherence to IOSCO Principles is different from formal IOSCO compliance (which involves an additional assurance review). Compliance with IOSCO Principles is not always necessary or expected for commodity price assessment providers but is effectively expected when a market participant's commodity price assessment benchmarks are regulated by the EU BMR as the Principles are mirrored within the EU BMR; however, only a small number of benchmarks are regulated by the EU BMR. As an alternative to formal IOSCO compliance, many price assessment providers internally adhere to IOSCO Principles, without seeking formal IOSCO compliance (CPA FMN, paragraphs 12.31 to 12.39).

193 For completeness, the CMA notes that evidence provided by third parties (as set out below) suggests that adherence to IOSCO Principles is not necessary but helps to establish credibility in this sector, whereas no third parties told the CMA that IOSCO compliance was necessary or expected. In this regard, the CMA notes that, for example, the Parties' CMM and OMDC divisions' prices assessments are not all IOSCO compliant but do adhere to a number of IOSCO Principles and are capable of producing an array of benchmark price assessments (CPA FMN, paragraph 1.23 and as further set out in our competitive assessment below).

194 In response to the CMA's CPA Questionnaire, a number of customers indicated that PRAs may not be credible alternatives to all benchmark price assessments within a particular commodity.

195 For example, see note of the call with [✄] of 28 April 2021.

196 For example, see note of the call with [✄] of 6 May 2021; note of the call with [✄] of 1 April 2021.

197 One third-party gave the example that where there is a location where there is no spot market, but a close analogue exists in a nearby market, it may be possible to use the price from the nearby market making certain adjustments. Note of the call with [✄] of 7 May 2021.

198 For example, [✄] noted that PRAs build their reputation market by market. According to this third party, even in adjacent markets it is very difficult for PRAs to compete because they lack credibility (even if the new PRA is trained by a credible PRA in the market) (see note of the call with [✄] of 1 April 2021).

228. On this basis, the CMA has assessed competition both within commodity groups and category groupings but has placed more weight on the latter in its assessment.

*Market intelligence providers*[199]

229. The Parties submitted that they compete with market intelligence providers.[200] According to the Parties, market intelligence providers often supply price assessments as part of their overall market intelligence offering,[201] and these can include benchmark and non-benchmark price assessments. They can also act as aggregators of price assessments from multiple providers. The Parties submitted that a number of market intelligence providers are important competitors (including CCF, Wood Mackenzie, Nexant and MMSA), with Wood Mackenzie already providing benchmarks and producing assessments which are capable of operating as benchmarks.[202]

230. The CMA found that market intelligence providers generally exert a limited competitive constraint on the Parties, with some exceptions. First, many market intelligence providers do not produce their own price assessments. Instead, they use price assessments produced by other providers (such as PRAs) as inputs into their market intelligence offerings. These market intelligence providers do not impose a competitive constraint on the Parties' price assessments.

231. Second, most of the evidence received by the CMA suggests that, even where market intelligence providers produce their own price assessments, they generally do not compete closely with PRAs. For example, when asked to list competitors that compete closely with the Parties, customers rarely mentioned market intelligence providers.[203] Moreover, market intelligence providers do not usually adhere to IOSCO Principles and, as such, are less likely to be seen as credible providers within these markets.[204]

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199 For the purposes of this section of the commodity price assessment analysis, when referring to 'market intelligence providers', the CMA refers to providers who's primary activities relate to the supply of market intelligence rather than providers who offer supplementary market intelligence alongside another primary product, such as price assessments.
200 For further information on the activities of market intelligence providers more generally, please see paragraphs 56-58.
201 The Parties submitted, for example, that UXC Consulting provides benchmarks on nuclear power.
202 Parties' response to the CPA Issues Letter, slide 11.
203 In response to the CMA's CPA Questionnaire, only a small number customers mentioned that one market intelligence provider (Wood Mackenzie) has the ability to credibly replace S&P's and IHSM's (including PCW and OMDC) petrochemical benchmark price assessments. Customers did not mention market intelligence providers for any other sectors of concern.
204 For example, see CPA FMN, paragraph 1.14. See also note of the call with [✂] of 11 May 2021.

232. The CMA found that, exceptionally, some market intelligence providers produce their own price assessments, adhere to certain IOSCO Principles, and are perceived by customers as credible rivals to PRAs. Where appropriate, the CMA has included these market intelligence providers in its competitive assessment.

*Other sources of price data (eg exchanges and brokers)*

233. The Parties submitted that they compete against other sources of price data, such as exchanges and brokers. According to the Parties, exchanges have access to a significant pool of data from their trading activities, from which they can calculate price assessments themselves and/or supply data to third-party price assessment providers. The Parties submitted that exchanges publish prices which can be used as benchmarks and are frequently competing to win further benchmark positions. They stated that ZCE has benchmarks, and CME and SGX settlement prices can be used as reference prices.[205] Likewise, brokers also collect a significant amount of pricing data and have historically provided benchmarks for certain commodities.[206] The Parties submitted that certain brokers are credible providers of price assessments for petrochemicals specifically (eg SCB and Fusion) and compete to provide benchmark price assessments, and TP ICAP is capable of providing benchmark price assessments.[207]

234. The CMA notes that not all exchanges and brokers produce their own price assessments.[208] As such, those exchanges and brokers are not credible alternatives to PRAs.

235. Where brokers and exchanges do produce price assessments, customers and competitors gave several reasons why they are not of the same quality of those of PRAs:

(a) brokers and exchanges do not generally undertake journalistic activity, which is important for understanding market trends; [209]

(b) broker prices do not typically adhere to the IOSCO Principles and are generally not of the same quality as those of PRAs;[210]

[205] Parties' response to the Petrochemicals CPA Issues Letter, slide 11.
[206] The Parties provided the example of Freight Investor Services, which provides one of the longstanding benchmarks for coal (visit the Freight Investor Services website).
[207] Parties' response to the Petrochemicals CPA Issues Letter, slide 11.
[208] Parties' email to the CMA dated 2 July 2021, paragraphs 1.1-1.4.
[209] Note of the call with [✂] of 1 April 2021.
[210] Note of the call with [✂] of 20 April 2021.

(c) price assessments produced by brokers and exchanges are perceived as marketing tools to generate trades and transaction fees, while PRAs are perceived as independent, given that their revenues derive only from selling subscription licenses to customers.[211]

236. The CMA found that a few customers consider price assessments produced by brokers and exchanges to be substitutable for those of PRAs, but only for limited use cases, and not as a replacement for benchmark price assessments:

(a) One customer indicated that the possibility of using prices published by non-PRAs such as exchanges varies depending on the market under consideration. This is because in certain markets trades can be based on future reference prices published by exchanges. However, this customer also noted that PRA assessments usually relate to more granular geographies than future assessments supplied by exchanges.[212]

(b) One customer noted that its ability to substitute from PRA price assessments to pricing data from brokers was limited. In order to use pricing data from brokers, the customer would have to carry out specific analytical work.[213]

(c) A competitor said that price assessments from non-PRAs such as brokers and exchanges are 'good enough' for certain customers, but that in many cases these price assessments do not meet the requirements of market participants.[214] It also noted that there are some trading platforms that compete with PRAs in particular commodity group sectors (eg coal).[215]

(d) When asked to list competitors that could credibly replace the Parties' benchmark price assessments, customers rarely mentioned brokers and exchanges.[216]

(e) One customer explained that second look reference commodity price assessment (a form of non-benchmark price assessment) is not

[211] Note of the call with [✂] of 31 March 2021 and note of the call with [✂] of 7 May 2021.
[212] Note of the call with [✂] of 11 May 2021.
[213] Note of the call with [✂] of 28 April 2021.
[214] Note of the call with [✂] of 31 March 2021.
[215] Note of the call with [✂] of 31 March 2021.
[216] In response to the CMA's CPA Questionnaire, only a small number customers mentioned that brokers or exchanges have the ability to credibly replace S&P's and IHSM's benchmark price assessments.

substitutable but complementary to the brokers and exchanges price assessments. [217]

237. On this basis, the CMA considers that other sources of price data, such as brokers and exchanges, do not generally constrain the Parties in the supply of commodity price assessments. However, where the CMA has found evidence that specific suppliers constrain the Parties in specific overlaps, it has taken that into account in its competitive assessment.

*Conclusion on relevant constraints*

238. The CMA considers that:

*(a)* Some PRAs exert a stronger constraint on the Parties' price assessments than others, depending on whether they provide benchmark price assessments and/or have the potential to displace the incumbent benchmark provider.

*(b)* PRAs compete against the Parties' price assessments at a commodity group level to some extent, but they compete to a greater extent when they are active in the same commodity subsegment and region (ie overlapping at category grouping level).

*(c)* With a few exceptions, non-PRAs (such as market intelligence providers, exchanges, and brokers) generally exert weak competitive constraints on the Parties.

*Methodology for assessing concentration and closeness of competition in the provision of commodity price assessments*

239. The Parties submitted market shares at the commodity level and an overlap analysis at the category grouping level to show: (i) the competitive interaction between them, and (ii) the competitive constraints they face from other competitors. In this section, the CMA considers the robustness of these analyses in assessing market concentration and the closeness of competition between the Parties and its competitors at a commodity and category grouping level.

*Share of supply estimates at the commodity level*

240. The Parties submitted market share estimates at the commodity level. These estimates were based on their own revenues, public data sources, and their

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[217] Note of the call with [✂] of 6 May 2021.

best internal estimates of their competitors' revenues for each commodity sector.

241. The Parties' original share of supply estimates included a range of providers, including PRAs and non-PRAs. For the reasons set out above, however, the CMA considered that only some non-PRAs exert a competitive constraint on the Parties. As such, the CMA has included only PRAs and selected non-PRAs in its competitor set.

242. The CMA found shares of supply for PRAs at the commodity level to be a useful indication of the size of existing PRAs and new entrants. However, as set out above, the CMA considers that the main constraints faced by the Parties are at more granular levels and, as such, the competitive dynamics and available alternatives vary considerably across category groupings. This means that shares of supply at the commodity group level are not very informative of the closeness of competition between the Parties and the constraints they face from competitors. Moreover, the CMA notes that commodity level shares of supply may be based on over-inclusive competitor set which may overstate the importance of competitors that are not credible alternatives to the Parties' price assessments.

*Overlap analysis*

243. In addition to the share of supply estimates, the CMA and the Parties also carried out an overlap analysis at the category grouping level. This consisted of identifying the credible competitors to the Parties that would remain within each category grouping post-Merger.

244. The Parties proposed their own competitor set and overlap analysis. They identified [✂] overlap categories.[218] For each overlap, the Parties listed (i) the status of S&Ps' and IHSM's price assessments (ie whether it is a benchmark), (ii) the name of the third-party benchmark provider (if any), (iii) the 'Tier 1' competitors, and (iv) the 'Tier 2' competitors.

245. Tier 1 competitors include any competitors that offer benchmarks in the relevant category grouping. They also include competitors whose price assessments are not benchmarks but, in the opinion of the Parties, have the requisite attributes to serve as a benchmark. The Parties used their own judgment to determine which competitors and price assessments should be

[218] The Parties noted that there are competitors who supply price assessments for products where neither Party is active, thus the category groupings where one or both Parties are active are not the whole market (Parties' response to the CPA Issues Letter, slides 39-40). This is why the CMA's overlap analysis is complementary to the shares of supply: the latter captures those relevant competitors active across the commodity, while the analysis at category grouping level allows assessment at a more granular level, as explained at paragraph 248.

included in this category. According to the Parties, some of the criteria that they used to determine this include: frequency of price assessments; transparency over the pricing methodology; competitor's reputation and track record of providing high quality price assessments and; competitor's business outlook and stability.[219] The Parties classified all remaining competitors that supply price assessments, but did not meet these criteria, as Tier 2 competitors.

246. The CMA considers that there are some limitations to the Parties' overlap analysis. In particular, the Parties did not offer a clear and robust methodology for distinguishing between Tier 1 and Tier 2 providers (other than for those already accepted as benchmarks in the category grouping), mainly relying on the Parties' own subjective assessment of their competitors and making it difficult to verify or measure objectively. Furthermore, the Parties proposed changes to the list of Tier 1 and Tier 2 competitors at several points during the investigation.

247. The CMA produced its own overlap analysis. It used the Parties' submissions as a starting point to identify the category groupings where the Parties overlap. In terms of the competitor set, the CMA included all PRAs, except for the ones that the Parties initially identified as Tier 2 providers (ie, providers that the Parties themselves identified as not being able to compete against benchmark providers). This was consistent with the evidence that the CMA received from third parties, which did not mention these Tier 2 providers as credible replacement for the Parties' benchmark price assessments.[220] The CMA only included non-PRA competitors in the overlap analysis where it found independent evidence (eg from third parties or internal documents) that those non-PRAs are credible competitors to PRAs in a given commodity.[221] On this basis, the CMA found that [✄] of the [✄] overlap categories potentially raised concerns.[222]

248. The CMA considers that the overlap analysis provides a helpful view of competition in price assessments. In particular, (i) it assesses competition at

[219] CPA FMN, Annex C.15, paragraph 5.1 (b).
[220] The Parties considered the exclusion of Tier 2 competitors to be an overly restrictive approach by the CMA (Parties' response to the Petrochemical CPA Issues Letter, slide 23). However, the CMA notes that, with regard to petrochemical price assessments, when asked to list competitors who could credibly replace an existing benchmark, no third party listed any competitor who was categorised as a Tier 2 provider by the Parties as a credible replacement for S&P's or IHSM's benchmarks. Similarly, the Parties did not provide evidence to suggest that any Tier 2 competitor would in the future be capable of credibly replacing the benchmark. As such, the CMA received no evidence to justify the inclusion of any Tier 2 competitors in its analysis.
[221] Where a competitor was identified as a credible competitor, the CMA used the Parties' identification of which specific overlaps within a commodity they are Tier 1 competitors.
[222] The Parties also overlap in the following commodity price assessment sectors: LNG, metals, natural gas, power, shipping or agriculture (excluding biofuels). However, the CMA considers that the Merger is unlikely to raise competition concerns in these sectors given the Parties' low combined shares of supply and the small increments arising from the Merger.

a more granular level than the share of supply estimates, (ii) it provides a useful indication of the number of credible constraints that the Parties face in specific overlaps, and (iii) it shows how these constraints may vary between different category groupings even within the same commodity.

249. Given the above characteristics, the CMA considers that shares of supply and the overlap analysis are complementary pieces of analysis but has placed greater weight on the latter in its assessment of the potential impact of the Merger on competition.

*Competitive assessment of specific commodity groups*

250. The sections below consider the impact of the Merger on competition of specific commodity groups, taking into account:

*(a)* shares of supply;

*(b)* closeness of competition between the Parties (including through the overlap analysis); and

*(c)* competitive constraints from alternative providers.

251. The CMA will consider the overall closeness of competition between the merger firms in the context of the other constraints that would remain post-merger. For example, where the CMA finds evidence that competition mainly takes place among few firms, any two would normally be sufficiently close competitors that the elimination of competition between them would raise competition concerns, subject to evidence to the contrary.[223] Given the relatively concentrated nature of supply in relation to commodity price assessments and to avoid unnecessary repetition in its analysis, the CMA has therefore assessed closeness of competition and competitive constraints from alternative providers together.

*Biofuel price assessments[224]*

252. The Parties overlap in [✄] out of the total [✄] biofuel price assessment categories. The CMA found that:

*(a)* based on global revenues in 2020, S&P and IHSM are the two largest PRA providers of biofuel price assessments, with S&P being materially larger than any other PRA provider. The Parties estimated that they had

[223] Merger Assessment Guidelines, paragraph 4.10.
[224] Note that the CMA has distinguished between 'Agriculture' and 'Biofuels' as commodity groups and focuses here on Biofuels.

a combined share of supply of [50-60]% (increment of [10-20]%) in 2020.[225]

(b) The CMA's overlap analysis indicates the Merger will reduce the number of benchmark providers from three to two, leaving the Parties and Argus as the only credible providers of benchmarks.

(c) Customers identified a very small number of competitors as being able to credibly replace the Parties' benchmark biofuel price assessments (S&P, IHSM and Argus).[226]

253. As noted above, the Parties indicated that they believe that the test for reference is met in respect of the supply of biofuel price assessments in the UK.

254. Accordingly, the CMA believes that the Merger gives rise to a realistic prospect of an SLC in the supply of biofuel price assessments in the UK.

*Coal price assessments*

255. The Parties overlap in [✂] out of [✂] coal price assessment categories. The CMA found that:

(a) in 2020, the Parties had a combined [40-50]% share of coal price assessments provided by PRAs, with a [20-30]% increment arising from the Merger. The Merger would make the Parties the largest PRA provider in this commodity.[227]

(b) The Merger would reduce the number of benchmark providers from four to three, leaving the Parties and Argus as providers of most benchmarks (with Euromoney (Fastmarkets) following as a distant third) according to the CMA's overlap analysis. Moreover, in some of these overlaps, the Parties and Argus provide a composite price assessment, which has the potential to further reduce the rivalry between them.[228]

(c) Customers only identified a small number of competitors that could credibly replace the Parties' benchmarks.[229]

[225] CPA FMN, Annex C.27.
[226] Third-party responses to the CMA's CPA Questionnaire.
[227] CPA FMN, Annex C.27.
[228] CPA FMN, Annex C.14.
[229] Third-party responses to the CMA's CPA Questionnaire.

256. As noted above, the Parties indicated that they believe that the test for reference is met in respect of the supply of coal price assessments in the UK.

257. Accordingly, the CMA believes that the Merger gives rise to a realistic prospect of an SLC in the supply of coal price assessments in the UK.

*Oil price assessments*

258. The Parties overlap in [✂] out of [✂] oil price assessment categories. The CMA found that:

*(a)* In 2020, the Parties had a combined [60-70]% share of oil price assessments provided by PRAs. S&P is by far the largest provider with a [60-70]% share (the Merger would result in a [5-10]% increment).[230]

*(b)* While the Parties identified several PRAs that could replace the benchmark in most overlap areas, the CMA's overlap analysis shows that only three credible PRAs currently provide benchmark price assessments – the Parties and Argus.[231]

*(c)* Customers identified a range of close competitors to both Parties, but S&P was mentioned most often as a competitor to IHSM. Argus was also mentioned frequently as a competitor to both IHSM and S&P, with few other providers being mentioned more than once.[232]

259. As noted above, the Parties indicated that they believe that the test for reference is met in respect of the supply of oil price assessments in the UK.

260. Accordingly, the CMA believes the Merger gives rise to a realistic prospect of an SLC in the supply of oil price assessments in the UK.

*Petrochemicals price assessments*

*Nature of the Parties' products*

261. S&P supplies petrochemical price assessments through Platts. IHSM supplies petrochemical price assessments through two entities: OMDC and PCW.

[230] CPA FMN, Annex C.27.
[231] CPA FMN, Annex C.14.
[232] Third-party responses to the CMA's CPA Questionnaire.

- *Parties' submissions*

262. The Parties' submissions note a number of similarities between PCW and Platts. In particular they both (i) offer daily price assessments for petrochemicals,[233] (ii) follow the IOSCO Principles,[234] (iii) provide price assessments that are listed on exchanges,[235] and (iv) are used by customers for contractual purposes.[236]

263. The Parties submitted that OMDC, by contrast, is predominantly a market intelligence provider that does not compete closely against PRAs, such as Platts, for the following reasons:

*(a)* OMDC does not undergo the IOSCO assurance review process;

*(b)* OMDC does not provide any exchange-traded benchmarks;

*(c)* OMDC focuses on analytics and market intelligence, and its price assessments cannot be purchased as a standalone product (unlike Platts and PCW, which offer standalone price assessment products without analytics or market intelligence);

*(d)* OMDC price assessments are typically used for general business planning and not as benchmarks in contracts; [237]

*(e)* OMDC focuses on North American petrochemical price assessments, with a very limited presence in Asia and Europe. Platts, on the other hand, competes primarily in Asia and Europe, with a limited presence in North America;[238]

*(f)* OMDC and Platts have different subsegment (otherwise known as assessment family) focuses;[239]

*(g)* OMDC and Platts calculate price assessments using different methodologies;[240] and

*(h)* OMDC only offers weekly or monthly spot price assessments, rather than the daily price assessments offered by PRAs such as Platts and

[233] CPA FMN, paragraphs 12.68 and 15.44 (iv)(b)(I).
[234] CPA FMN, paragraphs 12.47 and 12.68.
[235] CPA FMN, paragraph 12.68 and Annex C.14.
[236] Third-party responses to the CMA's CPA Questionnaire confirm that customers of PCW and Platts use these price assessments for contractual purposes. See also CPA FMN, paragraphs 12.53 and 12.68.
[237] CPA FMN, paragraph 15.44 (iv)(a).
[238] CPA FMN, paragraph 15.44 (iv)(a).
[239] Parties' response to the Petrochemicals CPA Issues Letter, slide 5.
[240] Parties' response to the Petrochemicals CPA Issues Letter, slide 29.

PCW. [241] Unlike Platts, OMDC price assessments are not used for spot transactions that settle over a week.[242]

264. In response to the Issues Letter, the Parties submitted a further analysis aimed at showing the lack of competition between Platts and OMDC. Specifically, the Parties provided:

(a) information on OMDC's lost opportunities in relation to Market Advisory Services (**MAS**)[243] from October 2017 to September 2021, which suggests that only a small proportion of OMDC's MAS customer losses were to S&P ([✄]% by volume and [✄]% by value), with a similar amount by volume and/or value lost to other competitors such as [✄], and a significant larger number and value of losses to [✄].[244]

(b) A review of sales data to identify switching between Platts and OMDC MAS covering wins and losses between 2018 and 2020.[245] The Parties reviewed their historical sales data, matched the customer names shown in the two sets of sales data, and also contacted individual sales representatives responsible for the customers with the aim of identifying switches between the Parties. Based on the combined feedback from both sets of sales teams, the Parties could only identify [✄] of customers switching between Platts and OMDC, out of [✄] won and lost customers for Platts, [✄] won and lost customers for OMDC.[246]

265. The Parties also submitted that in more volatile markets daily price assessments are a critical part of Platts' offerings,[247] and this would preclude the substitution of OMDC's weekly/monthly price assessments with those offered by Platts on a daily frequency.[248,249]

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[241] CPA FMN, paragraphs 1.23(iii), 1.36(viii)(b)(III).
[242] Parties' response to the Petrochemicals CPA Issues Letter, slide 30.
[243] OMDC's MAS includes both petrochemical price assessments and market intelligence services. Accordingly, for the purposes of this analysis, the full value of the relevant opportunities is shown without implementing an assumption on the proportion of revenues which relates to price assessments.
[244] Annex to the Parties' response to the Petrochemicals CPA Issues Letter – 'OMDC MAS losses to competition'.
[245] The Parties identified a customer as 'won' if they showed zero purchases for at least two consecutive years but started purchasing petrochemicals price assessments products in the following year, and a customer as 'lost' if they showed positive purchases of petrochemicals price assessments for at least two consecutive years but stopped purchasing petrochemicals price assessments the following year. The requirement for two years' worth of historical data to define won and lost customers means that the data available for 2016 to 2020 identifies Platts and OMDC's wins and losses during the period 2018 to 2020.
[246] Annex to the Parties' response to the Petrochemicals CPA Issues Letter – 'Customer switching evidence'.
[247] Parties' response to the Petrochemicals CPA Issues Letter, slide 30.
[248] However, the Parties provided no indication of the proportion of petrochemical contracts that would require a daily price assessment to settle.
[249] The CMA notes that the majority of price assessments (by count) offered by Platts are weekly price assessments and not daily price assessments. (Annex to the Parties' response to the Petrochemical CPA Issues Letter - Assessment Frequency. This annex shows 60% of the price assessments offered by Platts are weekly price assessments, whilst 30% are daily and 10% are monthly price assessments.)

266. The Parties submitted that, post-Merger, they will continue to face competition from a large number of petrochemicals price assessment providers on a commodity, subsegment, and category grouping level. These competitors include ICIS, Argus, Tecnon-Orbichem and PolymerUpdate.[250] The Parties further submitted that they will be constrained across all their activities: where they offer the benchmark, where they offer non-benchmarks, and where they are trying to offer a new benchmark.[251]

- *CMA assessment*

267. As set out above, it is clear from the Parties' submissions that there are significant similarities in the collection, distribution, and use of Platts and PCW price assessments. The CMA has assessed the impact of their combination as part of its broader shares of supply analysis, overlap analysis, and market investigation in the sections below.

268. As for OMDC, the CMA found evidence that it also competes closely with Platts:

*(a)* the Parties' overlap analysis shows that OMDC's price assessments are the benchmark for several category overlaps (suggesting that they may be used in contracts).[252] Customers indicated that they use OMDC and Platts price assessments for contractual purposes.[253]

*(b)* The Parties initially identified OMDC as a Tier 1 competitor in petrochemical price assessments. As the investigation progressed, they changed its classification to Tier 1 only where it provides benchmarks and Tier 2 overall at the commodity group level.[254] The CMA notes that the Parties did not make a similar distinction for any other providers.

*(c)* OMDC and Platts overlap in several category groupings, meaning that many of their price assessments are for the same geographic regions and subsegments. Moreover, despite differences in their geographic and subsegment focus, OMDC and Platts overlap in [✂] out of the total [✂] overlaps between IHSM and S&P.

[250] CPA FMN, paragraphs 15.44(ii), 15.48-15.57.
[251] Parties' response to the Petrochemicals CPA Issues Letter, slides 15-16.
[252] Out of the total [✂] IHSM benchmarks, [✂] are provided through IHSM's OMDC (as discussed further at paragraph 285).
[253] The majority of customers who purchased petrochemicals benchmark price assessments from IHSM indicated they also used these in contracts. The CMA also followed up with respondents who indicated that S&P is a close competitor to IHSM in the petrochemical price assessment sector (and vice versa) and asked these customers whether they were referred to the specific price assessments provided by IHSM's OMDC or PCW. Responses indicated that customers of both OMDC and PCW use price assessments for contractual purposes.
[254] Response to CMA follow up questions dated 2 July 2021, paragraphs 9.1-9.5.

(d) Similar to other IHSM price assessments, OMDC's price assessments are not formally IOSCO complaint but follow most IOSCO Principles.[255] In this respect, OMDC is more similar to other PRAs than to most market intelligence providers, which do not generally adhere to any IOSCO Principles.

(e) No customer mentioned differences in methodology as a factor that prevents IHSM's OMDC from competing closely with Platts (and vice versa). The CMA notes the Parties have not made this distinction for any other competitor.[256]

(f) Most of the customers who responded to the CMA's questionnaire consider OMDC to be a close competitor to Platts within the petrochemical price assessment sector, and most consider that it could replace Platts benchmarks (and vice versa). [257] [258]

(g) Although some customers noted that their ability to substitute between price assessments of different frequencies is dependent on the liquidity of the market,[259] only a small number of customers indicated that differences in frequency prevented the Parties from competing closely.[260]

(h) OMDC and Platts overlap in the provision of weekly and monthly price assessments.[261]

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[255] CPA FMN paragraphs 1.23(iii) and 12.82. The CMA notes that other of IHSM's price assessments are also non-compliant for IOSCO purposes but otherwise generally comply with the IOSCO Principles (see for example CPA FMN paragraph 1.23(iv)).
[256] Responses to the CMA's follow up petrochemicals price assessment questions.
[257] In response to the CMA's CPA questionnaire, a number of third parties indicated that IHSM was a close competitor to S&P, and the majority of these customers considered that IHSM could credibly replace S&P's petrochemical benchmark price assessments. Similarly, a number of third parties indicated that S&P was a close competitor to IHSM, and the majority of these customers considered that S&P could credibly replace IHSM's petrochemical benchmark price assessment. The CMA asked respondents who indicated that S&P is a close competitor to IHSM in the petrochemical price assessment sector (and vice versa) whether they were referring to IHSM's OMDC or PCW. The majority who responded considered IHSM's OMDC and S&P to be close competitors within the petrochemical price assessment sector. The CMA considers that the majority of customers who did not respond are also likely to be referring to OMDC and not PCW as the Parties' submissions show they only purchase OMDC price assessments. Many of those who clarified whether they were referring to OMDC or PCW in their responses mentioned that IHSM's OMDC price assessments could replace S&P's petrochemical benchmark price assessments. Further, the CMA considers that the majority of customers who did not respond are also likely to be referring to OMDC and not PCW as the Parties' submissions show they only purchase OMDC price assessments.
[258] Third-party responses to the CMA's CPA questionnaire; third-party responses to the CMA's follow up petrochemical questions.
[259] Third-party responses to the CMA's follow up questions on petrochemical price assessments. These respondents noted that in sufficiently liquid or actively traded markets weekly and/or monthly price assessments would not be a suitable substitute for daily price assessments.
[260] Third-party responses to the CMA's follow up questions on petrochemical price assessments.
[261] Parties' response to the Petrochemicals CPA Issues Letter, Annex 6 'Platts' Petchem price assessment by frequency'. Annex 1 to the Parties' response to CMA follow-up questions dated 18 August 2021.

269. On the basis of evidence received, the CMA considers that there are a wide range of circumstances in which OMDC's price assessments compete closely with those of Platts, particularly where customers do not require price assessments with a daily frequency.

270. Further, even in sectors where OMDC's monthly price assessment cannot replace Platts' daily price assessments, the reverse may be possible (ie customers can use Platts' daily price assessments to estimate the monthly price).[262] In these instances, Platts exerts an asymmetric constraint on OMDC's petrochemical price assessment offerings.

271. The CMA considered the Parties' submissions in response to the Issues Letter regarding their sales and losses data. This analysis was limited at a relatively late stage of the CMA's Phase 1 investigation, which is liable to limit the weight that the CMA can put on such submissions (given the limited time available to review and test the analysis appropriately). In any case, the CMA considers that there are fundamental weaknesses which limit the probative value of this analysis, with the analysis providing limited insight into whether and why customers switched between the Parties, and which products were driving this decision. In particular:

    *(a)* OMDC MAS covers both its price assessment and market intelligence offering, as OMDC price assessments are not sold separately by IHSM. It is therefore not possible to know whether the customers identified as won or lost were purchasing OMDC's products primarily to gain access to its price assessments or to its market intelligence. It is to be expected that customers who were primarily interested in OMDC's market intelligence would switch to rival market intelligence providers, rather than to rival PRAs. This applies equally to the Parties' lost opportunity analysis and does not detract from the closeness of competition between the Parties' price assessments.

    *(b)* The Parties state they have identified only [✂] instances of customers switching between the Parties. However, there is a greater degree of overlap between the Parties' customers than this suggests: between [✂]% and [✂]% of customers won or lost by one Party had been a customer of the other during the period examined[263] And a large

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[262] In response to the Issues Letter, the Parties indicated that monthly price assessments do not necessarily represent the monthly average of the daily price assessments. However, they did not provide further explanation of this or why this would mean that a daily price assessment could not be a good substitute for a monthly price assessment.

[263] More specifically, [✂] out of [✂] ([✂]%) OMDC won customers were a customer of Platts at some point during 2016-20; [✂] out of [✂] ([✂]%) OMDC lost customers were a customer of Platts at some point during 2016-20; [✂] out of [✂] ([✂]%) Platts won customers were a customer of OMDC at some point during 2016-20; and [✂] out of [✂] ([✂]%) Platts lost customers were a customer of OMDC at some point during 2016-20.

proportion of the records for these overlapping customers had no information on the reason for the win or loss (either the sales representative could not be contacted or did not know the circumstances for the customer's decision).[264]

272. Given that this analysis cannot identify switching between the Parties in relation to petrochemical price assessments specifically, and provides little insight into whether overlapping customers actually switched between the Parties, the CMA has put little weight on this analysis.

273. As a result, the CMA considers that IHSM competes closely against S&P's Platts in petrochemical price assessments, including through PCW and OMDC. The CMA has further assessed competition between the Parties on the basis of their shares of supply, the overlap analysis, and third-party evidence.

*Shares of supply*

274. The Parties' share of supply estimates are based on their own revenues, public data sources, and their best internal estimates of their competitors' revenues in the petrochemical sector.[265]

275. The Parties have not been able to calculate OMDC's standalone revenues in petrochemicals price assessments, as OMDC supplies price assessments and market intelligence as part of a bundle. As an estimate of OMDC's share of supply, the Parties have assumed that [✂]% of these revenues relate to price assessments.[266]

276. In spite of these limitations, the CMA considers that these market shares are a useful indication of the market structure and level of concentration.[267]

[264] There was no information on the reason for the circumstances of the win/loss for: [✂] out of [✂] OMDC wins of customers which overlapped with Platts; [✂] out of [✂] OMDC losses of customers which overlapped with Platts; [✂] out of [✂] Platts wins of customers which overlapped with OMDC and [✂] out of [✂] Platts losses of customers which overlapped with OMDC.
[265] CPA FMN Annex C.27 and Annex C.27A.
[266] CPA FMN Annex C.27 and Annex C.27A.
[267] The CMA notes that Wood Mackenzie has been mentioned by some customers as a credible alternative to PRAs. The CMA has taken this into account in its competitive assessment below.

**Table 7: Global petrochemicals price assessment shares of supply in 2020 (incl. PRAs, Wood Mackenzie, and IHSM's OMDC)[268]**

| *Competitors* | *GBPm* | *%* |
|---|---|---|
| S&P | [✂] | [20-30]% |
| IHSM* | [✂] | [10-20]% |
| **Combined** | [✂] | **[30-40]%** |
| ICIS | [✂] | [40-50]% |
| Chemorbis | [✂] | [5-10]% |
| SCI99 | [✂] | [5-10]% |
| Argus | [✂] | [5-10]% |
| PU Daily | [✂] | [0-5]% |
| Polymer update | [✂] | [0-5]% |
| Wood Mackenzie / Verisk | [✂] | [0-5]% |
| Methanol Market Services Asia | [✂] | [0-5]% |
| Tecnon-Orbichem | [✂] | [0-5]% |
| Townsend Solutions | [✂] | [0-5]% |
| Plastics In Europe** | [✂] | [0-5]% |
| Mintec | [✂] | [0-5]% |
| Profercy | [✂] | [0-5]% |
| Turner Mason | [✂] | [0-5]% |
| SunSirs | [✂] | [0-5]% |
| **Total** | [✂] | **100%** |

Source: Market shares in CPA FMN, Annex C.27.

Notes:* IHSM's revenues are split between PCW and OMDC. Out of IHSM's [10-20]% share of supply in the petrochemical price assessment sector, [0-5]% is attributed to PCW and [10-20]% to OMDC. [269] ** On a conservative basis, the CMA has included Plastics In Europe (otherwise known as PIEWEBB) in the shares of supply table, because the Parties have listed the entity as a PRA.[270] However, the CMA notes that the Parties' have been inconsistent in their descriptions of Plastics in Europe being a PRA, and also make reference to it operating as a market intelligence provider.[271]

277. As Table 7 shows, the Parties estimate that in 2020 they had a combined share of supply of [30-40]% (with an increment of [10-20]%) at the commodity level. Post-Merger, they would be the second largest provider in this segment after ICIS. The Parties and ICIS would have a combined [70-

[268] The CMA's shares of supply includes all PRAs and selected non-PRAs that third parties identified as credible replacement to the Parties' petrochemical benchmark price assessments (as described at paragraphs 288-302).
[269] The Parties submitted that the CMA should treat PCW as an independent competitor to the Parties, given that the Parties have an in-principle agreement with the U.S. Department of Justice to divest PCW to a third party (Parties' response to the Petrochemicals CPA Issues Letter, slide 13). However, the divestment of PCW is conditional on a number of events that will be determined after the CMA's Phase 1 decision (including on the European Commission's decision on whether to clear the merger or refer it to a Phase 2 investigation). As such, the CMA considers that the divestment of PCW is not sufficiently certain to consider it as an independent competitor for the purposes of its Phase 1 decision.
[270] CPA FMN, Annex C.27.
[271] Parties' response to CMA follow-up questions dated 16 September 2021.

80]% share of the market, with the next largest competitor (Chemorbis) remaining a distant third with approximately a [5-10]% share.[272]

278. The Parties also submitted market shares at the subsegment level.[273] The Parties overlap in [✂] out of [✂] subsegments identified, which include: aromatics and methanol, gasoline components, intermediates, olefins, polymers (including recycled polymers), and solvents.[274] These [✂] subsegments account for 96% of the total petrochemical price assessment sector.[275] After removing non-PRAs (with the exception of Wood Mackenzie and IHSM's OMDC), the CMA found that the Parties have a combined share of at least [20-30]% (increment of at least [10-20]%) in every subsegment overlap. Post-Merger, the Parties would be the second largest provider after ICIS, and the Parties and ICIS would have a combined share of at least [60-70]% in all subsegment overlaps. The most concentrated subsegment following the Merger would be gasoline components, where the Parties and ICIS would have a combined share of [80-90]%.

279. The Parties also submitted market shares at the subsegment level.[276] The Parties overlap in [✂] out of [✂] subsegments identified, which include: aromatics and methanol, gasoline components, intermediates, olefins, polymers (including recycled polymers), and solvents.[277] These [✂] subsegments account for 96% of the total petrochemical price assessment sector.[278] After removing non-PRAs (with the exception of Wood Mackenzie and IHSM's OMDC), the CMA found that subsegment the Parties have a combined share of at least [20-30]% ([10-20]%) in every subsegment overlap. Post-Merger, the Parties would be the second largest provider after ICIS, and the Parties and ICIS would have a combined share of at least [60-70]% in all subsegment overlaps. The most concentrated subsegment following the Merger would be gasoline components, where the Parties and ICIS would have a combined share of [80-90]%. The CMA considers that the Parties' combined share of supply is sufficiently high to raise competition concerns. The Merger would lead to increased concentration within the petrochemicals price assessment sector, which is already concentrated.

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[272] While the CMA puts limited weight on shares in these markets (see paragraphs 239-242), it notes that even on the basis of shares including all competitors identified by the Parties (including those the CMA does not consider to impose a competitive constraint on the Parties), the supply of petrochemical price assessments is still highly concentrated, with the Parties having a combined share of [30-40]% and the two largest providers post-Merger (ICIS and the Merged Entity) having a combined share of [60-70]%. CPA FMN, Annex C.27.
[273] CPA FMN, Annex C.27.
[274] CPA FMN, Annex C.27.
[275] Parties' Response to the Petrochemicals CPA Issues Letter, slide 15.
[276] CPA FMN, Annex C.27.
[277] CPA FMN, Annex C.27.
[278] Parties' Response to the Petrochemicals CPA Issues Letter, slide 15.

*Overlap analysis*

280. The Parties overlap in [✂] out of [✂] petrochemicals price assessments. The CMA assessed the extent of competition within these overlap areas by considering (i) the number of benchmarks that the Parties and their competitors offer across these overlap areas, and (ii) the extent to which credible rivals to existing benchmark providers are active in these overlap areas.

281. The CMA included in this overlap analysis only competitors that, based on the available evidence, currently provide a benchmark or appear able to challenge an existing benchmark. As such, the CMA made the following adjustments to the Parties' proposed competitor set in petrochemical price assessments:

*(a)* competitors classified as Tier 2 by the Parties were not included. This is consistent with the evidence that the CMA received from third parties, which did not mention these providers as credible replacements for the Parties' benchmark price assessments.

*(b)* Competitors classified as Tier 1 by the Parties were only included if the CMA found supporting evidence to confirm that they impose a competitive constraint on the Parties. The CMA did not include the Tier 1 competitors added by the Parties in the final iteration of their analysis, as it did not find evidence to suggest that they are a competitive constraint (this includes PolymerUpdate, JLC, and RIM Intelligence).

*(c)* The CMA included non-PRA competitors to the extent that third-party evidence confirmed that they are strong competitors. This includes OMDC (for reasons discussed above). It also includes Wood Mackenzie (a market intelligence provider), which was identified by some customers as a credible replacement for IHSM's benchmarks. This is to some extent consistent with the Parties' submissions, which identified Wood Mackenzie as being able to challenge the benchmark provider in two category groupings.[279]

282. The Parties suggested that the CMA should consider the overlap analysis at the assessment family (ie subsegment level) and the geographic level.[280] They provided an analysis to show that the petrochemical price assessment sector is not as concentrated when assessed at this level. The CMA considers that the category grouping level is the appropriate level to assess

[279] CPA FMN, Annex C.14.
[280] Parties' response to the Petrochemicals CPA Issues Letter, slides 42-49.

concentration as it already takes into account the assessment family and geographic region of price assessments.

283. The Parties also argued that various other competitors should be included in the CMA's overlap analysis. The CMA considers each of these below:

(a) the Parties argued that companies identified as credible competitors should be included whenever present in a category grouping, not just in category groupings where they had been identified as Tier 1 by the Parties. The CMA set out its approach to identifying the competitor set at paragraphs 243-249.

(b) The Parties argued that JLC and OilChem should be included as third parties had identified these as close competitors to the Parties.[281] While a small number of third parties identified these providers as close competitors to S&P and/or IHSM, these third parties did not consider them capable of replacing the Parties' benchmarks. As such, the CMA did not include them in the credible competitor set (see paragraphs 243-249).[282]

(c) The Parties argued that CCF and ZCE should be included in the competitor set as they already provide benchmarks. Neither of these competitors were mentioned by third parties as either being close competitors to the Parties or capable of replacing the Parties' benchmarks, so they were not been included in the credible competitor set (see paragraphs 290-299).[283]

(d) The Parties argued that PolymerUpdate should be included in the competitor set, as it is mentioned in Platts' internal documents and is distributed by Bloomberg and LSEG.[284] [285] However, the CMA notes that the Parties originally considered PolymerUpdate to be a Tier 2 provider and only submitted that it could be a Tier 1 provider at a late stage in the CMA's investigation. Further, the Parties describe PolymerUpdate as 'a PRA based in India and with main focus in this region'.[286] The Parties

[281] OilChem is also known as Longzhong.
[282] The CMA notes that the inclusion of JLC and Oilchem would not affect its analysis in any event, as they are only present in category groupings which already include three or more alternatives to the Parties and so are less concentrated in any event.
[283] The CMA notes that the inclusion of CCF and ZCE would not affect its analysis in any event, as they are only present in category groupings which already include three or more alternatives to the Parties and so are less concentrated in any event.
[284] Parties' response to the Petrochemicals CPA Issues Letter, slides 10, 11, 25; email from the Parties to the CMA, 6 August 2021.
[285] In response the Issues Letter, the Parties suggested that the CMA has excluded specialist price assessments providers (eg PolymerUpdate) even though they exert strong competitive constraints in particular assessment families (ie subsegments). However, the CMA has included specialist providers in its assessment when it is supported by evidence (eg Plastics in Europe).
[286] Email from the Parties to the CMA, dated 6 August 2021.

provided no internal document references to support their claims. Finally, the CMA notes that no third party mentioned PolymerUpdate as a credible replacement to the Parties' benchmarks or even a close competitor to either of the Parties (see paragraphs 290-299). As such, the CMA did not include it in the credible competitor set.

*(e)* The Parties argued that Nexant should be included as it appears in [✂] data. Given that it is impossible to identify [✂] correspond to price assessment purchases (as described at paragraph 271), that third parties did not mention Nexant as a close competitor or credible replacement of the Parties' benchmarks (see paragraphs 290-299), and that the Parties themselves identified Nexant as a Tier 2 competitor, it has not been included in the credible competitor set.

*(f)* The Parties also suggested that Mintec, a recent PRA entrant, should be included in the overlap analysis as they currently provide a contract reference price assessment for polymers.[287] No third party mentioned Mintec as a credible replacement to the Parties' benchmark price assessments, nor did any third party mention Mintec as a close competitor to either of the Parties (see paragraphs 290-299). As such, the CMA did not include it in the credible competitor set.

284. The table below sets out the number of benchmarks supplied by the competitors identified by the CMA as currently providing a benchmark or being able to challenge an existing benchmark.

[287] Parties' response to the Petrochemicals CPA Issues Letter, slide 11.

**Table 8: Credible providers of petrochemical benchmark price assessments**

| *Provider offering benchmarks* | *Number of benchmarks* |
|---|---|
| SP | [✂] |
| IHSM | [✂] |
| **Combined** | [✂] |
| ICIS | [✂] |
| ARGUS | [✂] |
| TECNON-ORBICHEM | [✂] |
| WOOD MACKENZIE | [✂] |
| PLASTICS IN EUROPE | [✂] |
| CHEMORBIS | [✂] |
| SCI99 | [✂] |

Source: CMA's analysis of Annex C.14 to CPA FMN.

285. As Table 8 shows, the Parties and ICIS provide the vast majority of benchmarks in the areas of overlap. IHSM supplies the benchmark in [✂] categories ([✂] through OMDC and [✂] through PCW),[288] and S&P supplies the benchmark in [✂] category groupings.[289] Based on the number of benchmarks provided, they are the second and third largest providers. Other credible benchmark providers in this sector include ICIS ([✂]), Argus ([✂]) Tecnon-Orbichem ([✂]), Wood Mackenzie ([✂]), Plastics in Europe ([✂]), Chemorbis ([✂]), and SCI99 ([✂]).[290] Together, these other rivals account for less than [10-20]% of the number of benchmarks in these areas.[291]

286. The CMA also assessed the extent to which these competitors are active within different category grouping overlaps. This is because, in principle,

[288] Email from the Parties to the CMA, dated 23 August 2021.
[289] In [✂] out of [✂] overlaps, both of the Parties provide benchmark price assessments for the petrochemical price assessment category group. In [✂] out of [✂] overlaps, one of the Parties offers the benchmark whilst the other offers a non-benchmark price assessment. In [✂] out of [✂] overlaps, both Parties offer non-benchmark price assessments.
[290] The CMA notes that, for certain of these category groupings, there are multiple benchmarks providers ([✂] out of [✂] petrochemical category groupings). As the Parties submitted, (at CPA FMN paragraphs 1.34(iii) and 12.166), competition between benchmark providers can be strong where there is no single incumbent, as each provider attempts to gain a larger share of the market. The CMA understands that, even in these markets, non-benchmark providers also exert a competitive constraint as they try to replace the benchmarks (and, in some cases, may be particularly competitive given the higher chance of replacing a single benchmark in markets that already use multiple benchmarks).
[291] The Parties submitted an alternative version of this analysis showing how many benchmarks each provider offers across all categories where the Parties are active (Parties' response to the Petrochemicals CPA Issues Letter, slide 41). The CMA does not put weight on this as it includes category groupings where the Parties do not overlap. However, the CMA notes that even on this basis the Merged Entity would be the largest provider of petrochemical benchmark price assessments ([✂] benchmarks, including [✂] from Platts, [✂] from OMDC and [✂] from PCW, compared to ICIS's [✂]) and the next largest provider has significantly fewer benchmarks (Argus with [✂]).

there could be sufficient competition in areas where there is one benchmark provider and several credible rivals, even if those rivals do not currently provide a benchmark. The CMA found, however, that in most overlaps (74%), there are currently at most four credible providers active (including the Parties). Following the Merger, therefore, only two credible providers (ICIS and Argus) would remain in most overlap areas. Other credible providers are present in only a minority of overlaps.

- *Conclusion from the overlap analysis*

287. The CMA considers that the Merger would lead to a significant increase in concentration in the petrochemicals price assessment sector. It would bring together two of the largest benchmark providers in the areas of overlap, leaving two providers (the Parties and ICIS) providing over [90-100]% of the benchmarks in these areas, and leaving few remaining credible rivals.

*Third-party evidence*

288. The CMA gathered evidence from a range of petrochemical price assessment customers. A large number of the respondents indicated that they purchased petrochemical price assessments from S&P and a similar number indicated that they purchased these products from IHSM.[292] The majority of customers who purchased benchmark price assessments indicated that they also used these in bilateral and/or derivates contracts.[293] Most of S&P and IHSM customers that responded used petrochemical price assessments for both contractual and non-contractual purposes. [294]

289. The CMA asked IHSM's and S&P's customers to list all providers that compete closely with each party in the petrochemical price assessment sector and to indicate which providers could provide a credible replacement to the Parties' benchmarks. In addition, the CMA asked customers to rank providers in terms of their credibility as viable alternatives for the Parties' price assessments.

292 Many respondents purchased petrochemical price assessments from either S&P and IHSM. Some respondents purchased petrochemical price assessments from both Parties.
293 The vast majority of S&P's customers of petrochemicals price assessments that responded to the CMA's questionnaire indicated that the petrochemicals price assessments they purchase from S&P are considered a benchmark. Almost all S&P customers who purchased petrochemicals benchmark price assessments from S&P indicated they also used these in contracts. Almost all IHSM's customers of petrochemicals price assessments that responded to the CMA's questionnaire indicated that the petrochemicals price assessments they purchase from IHSM are considered a benchmark. The majority of customers who purchased petrochemicals benchmark price assessments from IHSM indicated they also used these in contracts.
294 Most of S&P customers of petrochemicals price assessments that responded to the CMA's CPA questionnaire indicated that they used price assessments for both contractual and non-contractual purposes. The majority of IHSM customers of petrochemicals price assessments that responded to the CMA's CPA questionnaire indicated that they used price assessments for both contractual and non-contractual use.

- *Responses from S&P’s customers*

290. The CMA asked customers to list all the providers that compete closely with S&P’s petrochemical price assessments. Many respondents identified ICIS, IHSM and (to a lesser extent) Argus, while a small number mentioned SCI99, Longzhong, and Jin Lianchuang.

291. Customers indicated that four of these providers (ICIS, IHSM and Argus and SCI) have the resources, technical expertise, and credibility to replace S&P’s benchmarks.[295] In particular, many customers identified ICIS[296] and IHSM,[297] several customers identified Argus,[298] and one customer said that SCI99 would be capable of replacing S&P’s petrochemical benchmarks.[299]

292. The CMA asked S&P’s customers to rank these providers in terms of their credibility as viable alternatives to S&P’s petrochemical price assessments. S&P’s customers responded as follows:

*(a)* most customers who ranked IHSM considered that they provide a credible[300] or somewhat credible replacement for S&P’s benchmark price assessments.[301]

*(b)* The majority of the customers who ranked ICIS thought that they provided very credible replacements for S&P’s benchmark price assessments.[302]

*(c)* Most customers who ranked Argus thought that they provided credible replacements for S&P’s benchmark price assessments.[303]

*(d)* SCI99 was considered a credible competitor by one customer, in particular for its ‘strong influence in Asia’.[304]

293. The evidence above shows that S&P faces a limited number of credible constraints from other providers in the petrochemicals price assessments sector. IHSM is an important competitive constraint to S&P, as customers consider it to be one of at most four providers in a position to offer a credible replacement for S&P’s benchmark price assessments within this sector.

[295] Third-party responses to the CMA’s CPA Questionnaire.
[296] Third-party responses to the CMA’s CPA Questionnaire.
[297] Third-party responses to the CMA’s CPA Questionnaire.
[298] Third-party responses to the CMA’s CPA Questionnaire.
[299] Third-party responses to the CMA’s CPA Questionnaire.
[300] Third-party responses to the CMA’s CPA Questionnaire.
[301] Third-party responses to the CMA’s CPA Questionnaire.
[302] Third-party responses to the CMA’s CPA Questionnaire.
[303] Third-party responses to the CMA’s CPA Questionnaire.
[304] Third-party responses to the CMA’s CPA Questionnaire.

294. Responses from S&P's customers, therefore, suggest that the Merger would result in the loss of an important competitive constraint on S&P.

- *Responses from IHSM's customers*

295. The CMA asked customers to list all the providers that compete closely with IHSM's petrochemical price assessments. Many respondents identified ICIS, Platts/S&P and (to a lesser extent) Argus, while a small number mentioned Wood Mackenzie, Tecnon-Orchichem, SCI99, GTT, Chemorbis and Plastics in Europe.

296. Customers indicated that a number of these providers (ICIS, S&P, Argus, Tecnon-Orbichem, SCI99, Chemorbis), Plastics in Europe and Wood Mackenzie) have the resources, technical expertise, and credibility to replace IHSM's benchmarks.[305] The CMA notes that only three of these providers were mentioned more than once or twice as having the ability to replace IHSM's benchmarks: ICIS, S&P or Argus.

297. The CMA asked IHSM's customers to rank these providers in terms of their credibility as viable alternatives to IHSM's petrochemical price assessments. IHSM's customers responded as follows:

*(a)* many customers who listed S&P thought that it provided very credible or credible replacements for IHSM's benchmark price assessments;

*(b)* most customers who listed ICIS thought that it provided very credible or credible replacements for IHSM's benchmark price assessments;

*(c)* most customers who mentioned Argus thought that it provided very credible or credible replacements for IHSM's benchmark price assessments; and

*(d)* there were a small number of customers who mentioned several other providers between them (with each mentioned once or twice): Tecnon-Orbichem, SCI99, Chemorbis, Plastics in Europe and Wood Mackenzie.

[305] ICIS: see responses to the CMA's CPA Questionnaire from [✂].
S&P/Platts: see responses to the CMA's CPA Questionnaire from [✂].
Argus: see responses to the CMA's CPA Questionnaire from [✂].
Tecnon Orbichem: see responses to the CMA's CPA Questionnaire from [✂].
Chemorbis: see responses to the CMA's CPA Questionnaire from [✂].
SCI99: see responses to the CMA's CPA Questionnaire from [✂].
Plastics in Europe: see responses to the CMA's CPA Questionnaire from [✂].
Wood Mackenzie: see responses to the CMA's CPA Questionnaire from [✂].

These customers rated them as very credible, credible, or somewhat credible replacements for IHSM's benchmark price assessments.[306]

298. The evidence above shows that IHSM faces a limited number of credible constraints from other providers in the petrochemicals price assessments sector. S&P is an important competitive constraint to IHSM, as customers generally consider it to be one of only three providers in a position to offer credible replacements for IHSM's benchmark price assessments within this sector.

299. Responses from IHSM's customers, therefore, suggest that the Merger would result in the loss of an important constraint on IHSM.

- *Conclusion on third-party evidence*

300. Evidence from third parties indicates that the Parties are close competitors in petrochemical price assessments. A significant number of S&P's customers listed IHSM as one of its closest competitors (and vice versa). The CMA also notes that a relatively large number of customers considered that each of the Parties has the resources, technical expertise, and credibility to replace the other's benchmarks (only ICIS was mentioned more often as a potential replacement). Moreover, most of these customers considered that the Parties provided very credible or credible replacements for each other's benchmarks.

301. Third-party responses also show that the Parties face limited constraints from alternative providers. Respondents most frequently named only two providers (excluding the Parties) who: (i) offer very credible or credible replacements to the Parties, and (ii) have the resources, technical expertise, and credibility to replace S&P's and/or IHSM's petrochemical benchmarks.

302. Overall, the third-party evidence that the CMA received shows that:

*(a)* the Parties are generally viewed as close competitors to each other;

*(b)* there are only a small number of providers that could replace the Parties' benchmark price assessments; and

*(c)* other providers pose only a limited competitive constraint on the Parties' petrochemical offerings.

[306] Third-party responses to the CMA's CPA Questionnaire.

***Conclusion on horizontal unilateral effects in the supply of petrochemical price assessments in the UK***

303. For the reasons set out above, the CMA believes that the Parties have a significant combined share of supply and the Merger will increase concentration in an already concentrated market; that there is a significant degree of competitive interaction between the Parties; the Merged Entity would face significant competitive constraints from only one other provider (ICIS); and that other providers pose only a limited competitive constraint (both on a commodity and category grouping level).

304. Accordingly, the CMA found that the Merger raises significant competition concerns as a result of horizontal unilateral effects in relation to the supply of petrochemical price assessments in the UK.

## Vertical effects

305. Vertical effects may arise when a merger involves firms at different levels of the supply chain, for example, a merger between an upstream supplier and a downstream customer or a downstream competitor of the supplier's customers.[307]

306. The merged entity may use its control of an important input to harm its downstream rivals' competitiveness, for example by refusing to supply the input (total foreclosure) or by increasing the price or worsening the quality of the input supplied to them (partial foreclosure). This theory of harm is referred to as input foreclosure.[308]

307. In the present case, the CMA assessed whether the Merger could result in the Merged Entity foreclosing rivals by engaging in the strategies described above in relation to:

    *(a)* using credit ratings to foreclose rival fixed-income indices providers;

    *(b)* using CUSIPs to foreclose rival bond issuance platforms;

    *(c)* using LXIDs to foreclose rival leveraged loan market intelligence providers.

308. The CMA assessed these theories of harm by analysing whether the Merged Entity would have the ability and incentive to use its control of the relevant

[307] Merger Assessment Guidelines, paragraph 7.1.
[308] Merger Assessment Guidelines, paragraph 7.9. This may occur irrespective of whether the merger firms have a pre-existing commercial relationship.

inputs to harm the competitiveness of its downstream rivals, and whether this strategy would substantially lessen overall competition.[309]

### *Input foreclosure of fixed-income indices using credit ratings*

*Credit ratings*

309. S&P is an important provider of credit ratings. In 2020, it generated £[✂] of revenue from the issuance of credit ratings globally. Credit ratings revenue accounted for [✂] of S&P's financial year 2020 revenue ([✂]%) and [✂] of S&P's financial year 2020 adjusted operating profit ([✂]%). S&P supplies credit ratings research and data via RatingsDirect and RatingsXpress.[310] IHSM is not active in the supply of credit ratings.

310. There are two other major providers of credit ratings – Moody's and Fitch – and several smaller providers. In 2020, Moody's generated £2.6 billion of revenue from the issuance of credit ratings globally whereas Fitch generated £1.05 billion of revenue. Other providers active in this space are DBRS Ratings (Morningstar), Kroll Bond Rating Agency Europe and AM Best Europe-Rating Services.[311]

311. The ESMA generates share estimates for credit rating issuance. In 2020, ESMA estimates that S&P had a share of 40% based on turnover in the EU (including the UK), compared with 33% for Moody's, and 18% for Fitch. Outside of the three major ratings agencies, DBRS Ratings has a share of 3% and all the other providers have shares below 1%. At worldwide level S&P's share of supply is 38.7% and Moody's', 36.9%. They are followed by Fitch which has a share of 14.5%. There is a long tail of smaller players with shares of supply below 2.5%.[312]

312. The CMA's market investigation confirmed that there are three major credit ratings agencies active in the UK. This view was supported by third parties.[313]

*Fixed-income indices*

313. Measured by assets under management, the Merged Entity would have a share of [5-10]% for the licensing of fixed-income indices for the creation of

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[309] Merger Assessment Guidelines, paragraph 7.10.
[310] GI FMN, paragraph 3.2.
[311] Vertical relationships FMN (updated chapter submitted on 8 September 2021), Table 3.1.
[312] Vertical relationships FMN (updated chapter submitted on 8 September 2021), Table 3.1.
[313] Note of the call with [✂] of 18 May 2021, note of the call with [✂] of 23 April 2021, note of the call with [✂] of 2 July 2021, note of the call with [✂] of 7 September 2021, note of the call with [✂] of 10 September 2021, note of the call with [✂] of 10 May 2021.

funds (with an increment of [0-5]%), and of [0-5]% for the licensing of fixed-income indices as a form of market data (with an increment of [0-5]%). Bloomberg would remain the largest provider by a large margin, with a [70-80]% share in the licensing of fixed-income indices for the creation of funds, and a [50-60]% share in the licensing of fixed-income indices as a form of market data. Other providers of fixed-income indices include ICE, FTSE Russell, and J.P. Morgan.

*Ability*

314. The CMA considered different ways in which the Merged Entity could attempt to harm its downstream rivals through input foreclosure. Potential input foreclosure strategies include S&P refusing to supply credit ratings to competing providers of fixed-income indices (total foreclosure) or increasing the price or worsening the terms of the supply of credit ratings (partial foreclosure). Some third parties that provide fixed-income indices expressed concerns that the Merged Entity could engage in such strategies.[314]

315. In assessing ability, the CMA considered whether the Merged Entity would be able to harm the competitiveness of its rivals by engaging in this conduct. The CMA therefore assessed (i) the role of multiple credit ratings in fixed-income indices, (ii) the importance of access to S&P's credit ratings specifically for fixed-income index providers, and (iii) the cost of licensing credit ratings for fixed-income indices relative to the overall costs of providing fixed-income indices.

316. Customers and competitors indicated that there are practical advantages to using the credit ratings of multiple agencies for fixed-income indices.[315] One credit rating agency explained that many fixed-income index providers include ratings from different agencies in order to increase stability, as well as to avoid the status of the index being determined by the choices of a single agency.[316] Similarly, another third party indicated that using multiple credit rating agencies improves the coverage of the fixed-income index.[317] However, some providers of fixed-income indices are able to successfully operate using the ratings of no more than two agencies.[318]

317. The CMA found that the evidence on the importance of S&P's credit ratings for fixed-income indices is mixed. Some fixed-income indices providers

[314] Note of the call with [✂] of 21 May 2021, note of the call with [✂] of 9 June 2021, note of the call with [✂] of 20 April 2021.
[315] Note of the call with [✂] of 21 May 2021 and note of the call with [✂] of 18 May 2021.
[316] Note of the call with [✂] of 25 May 2021 and note of the call with [✂] of 21 May 2021.
[317] Note of the call with [✂] of 9 June 2021.
[318] Note of the call with [✂] of 8 April 2021 and note of the call with [✂] of 12 May 2021.

consider them to be essential.[319] Certain downstream customers, including those who use fixed-income indices as a form of market data, expressed similar views.[320] However, the CMA also found that customers would, in some circumstances, be willing to use the credit ratings of alternative agencies. A UK customer told the CMA that investors do not have a strong preference over the rating agency that is used for fixed-income indices, and another third party said that a foreclosure strategy would be unsuccessful because fixed-income indices providers would switch to using credit ratings from other agencies. [321]

318. The Parties provided evidence that the cost of S&P's credit ratings for fixed-income index providers is modest relative to their revenues.[322] For example, the Parties submitted that the fee paid by IHSM for licensing S&P's credit ratings for its fixed-income indices was £[✂] in 2020. In the same year, IHSM's revenue from the licensing of fixed-income indices was £[✂]. Therefore, the cost of S&P's credit ratings represents only [0-5]% of IHSM's revenue associated with fixed-income indices. For other major providers of fixed-income indices, the cost of licensing S&P's ratings are an even lower proportion of their revenues. The CMA considers that this would limit the effectiveness of any strategy of partial input foreclosure based on increasing the cost of licensing credit ratings to rival fixed-income index providers, as even a relatively large price increase would not affect competitors' ability to compete effectively with the Merged Entity.

319. The available evidence is therefore mixed in relation to both the Merged Entity's upstream market power and the importance of S&P's credit ratings in shaping competition downstream. It was not, however, ultimately necessary for the CMA to conclude on whether the Merged Entity would have the ability to engage in a foreclosure strategy because, for the reasons set out below, the CMA considers that it would not have the incentive to engage in such a strategy in any case.

*Incentive*

320. In assessing whether the Merged Entity would have the incentive to pursue an input foreclosure strategy, it is necessary to take into account the costs and benefits of such a strategy.

[319] Note of the call with [✂] of 14 April 2021 and note of the call with [✂] of 9 April 2021.
[320] Note of the call with [✂] of 18 May 2021 and note of the call with [✂] of 2 July 2021.
[321] Note of the call with [✂] of 25 May 2021 and note of the call with [✂] of 14 July 2021.
[322] Vertical relationships FMN (updated chapter submitted on 8 September 2021), paragraph 3.66(i)(d).

(a) The costs may include a loss of credit ratings licensing revenues from providers (and customers) of other fixed-income indices.

(b) The benefits would derive from higher revenues arising from an increased share in the supply of fixed-income indices.

321. The past commercial strategies of S&P and IHSM are relevant to the extent that they can reveal information about the effectiveness of this type of strategy and the nature of the industry. The Parties submitted that S&P is already active in fixed-income indices and has not attempted to favour its business by restricting rivals' access to its credit ratings, suggesting that S&P has no incentive to engage in this conduct.[323]

*Potential loss in upstream sales*

322. The CMA's Merger Assessment Guidelines note that the loss in upstream sales is likely to be lower if the Merged Entity has strong market power upstream.[324] As discussed above, the CMA received some evidence showing that S&P's credit ratings are important to some providers of fixed-income indices.

323. The Parties submitted that they have no incentive to engage in a strategy of input foreclosure because this would threaten S&P's credit ratings business:

(a) S&P earns relatively moderate fees from licensing credit ratings for the use in the construction of fixed-income indices. In 2020, these amounted to c.£[✂].[325] These revenues would be lost entirely if the Merged Entity were to engage in a strategy of total input foreclosure and could be put at risk if the Merged Entity were to engage in a strategy of partial input foreclosure by degrading the terms on which the credit ratings are provided to rivals.

(b) S&P earns much higher revenues, however, from providing credit ratings to customers who provide products linked to fixed-income indices that use S&P ratings. For example, [✂] is a customer of S&P's credit ratings data and issues funds tracking fixed-income indices which use S&P credit ratings as an input. In 2020, these revenues amounted to $[✂],[326] and the business unit these activities are a part of had a gross profit margin of [✂]%.[327] It is likely that S&P generates a significant proportion of these

[323] Vertical relationships FMN (updated chapter submitted on 8 September 2021), paragraph 3.66(ii)(c).
[324] Merger Assessment Guidelines, paragraph 7.19(c).
[325] S&P/IHSM response to Q12 of the CMA's RFI dated 2 June 2021.
[326] S&P/IHSM response to Q1 of the CMA's RFI dated 13 July 2021.
[327] Measure of profitability used is EBITA margin. S&P/IHSM response to Q12 of the CMA's RFI dated 2 June 2021.

sales as a result of its credit ratings being used in the construction of fixed-income indices used by customers such as Vanguard. Any foreclosure strategy aimed at reducing or preventing rival fixed-income index providers from accessing S&P's credit ratings would therefore threaten a substantial income stream.

*Potential gain in downstream sales*

324. The Merged Entity will benefit from an input foreclosure strategy if it reduces the competitiveness of rival fixed-income indices providers and causes customers to switch away from rivals and towards the Merged Entity. The Merged Entity's gains will depend on the proportion of rivals' lost sales which are diverted to the Merged Entity's products. As the CMA's Merger Assessment Guidelines state, the gain in downstream sales from input foreclosure will be greater if the Merged Entity has a more successful downstream product.[328]

325. As noted above, the Merged Entity would not have a strong position in fixed-income indices:

*(a)* as noted above, it would have a relatively low share of [5-10]% in fixed-income licensing for the creation of funds and [0-5]% for licensing as a form of market data.

*(b)* Third-party views support this position; customers[329] told the CMA that neither Party's fixed-income indices are a 'must have' product.[330] According to these customers, the only fixed-income indices that may have this status are those supplied by Bloomberg.[331] Furthermore, a customer indicated that it would be possible to switch away from IHSM's fixed-income indices to a number of alternative providers.[332] Third parties also noted that fixed-income indices are not the focus of S&P's indices businesses, and that its offering does not include any key fixed-income indices.[333]

326. On this basis, the CMA considers that the Merged Entity would not have the incentive to engage in an input foreclosure strategy. Attempting to foreclose large 'must-have' fixed-income indices providers such as Bloomberg would

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[328] Merger Assessment Guidelines, paragraph 7.19(b).
[329] Note of the call with [✂] of 23 April 2021 and note of the call with [✂] of 27 April 2021.
[330] An exception to this in Credit Default Swap (CDS) indices, where customers and competitors indicate that IHSM has a large share of supply and its indices are considered 'must have' in this area. Note of the call with [✂] of 23 April 2021 and note of the call with [✂] of 14 April 2021.
[331] In particular, Bloomberg's Global Aggregate group of indices (Note of the call with [✂] of 8 April 2021 and note of the call with [✂] of 27 April 2021).
[332] Note of the call with [✂] of 2 July 2021.
[333] Note of the call with [✂] of 10 May 2021.

materially increase the risk of customers and competitors switching to rival credit rating agencies, thereby threatening a considerable S&P income stream. Attempting to foreclose smaller rivals would result in S&P receiving a low share of any diverted sales, given its modest position downstream in fixed-income indices.

*CMA's conclusion*

327. For the reasons set out above, the CMA considers that, although it is unclear whether the Merged Entity would have the ability to engage in a total or partial foreclosure strategy against rival providers of fixed-income indices using S&P's credit ratings, it would not have the incentive to do so. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the provision of fixed-income indices in the UK.

***Input foreclosure of issuance platforms using CUSIP identifiers***

328. The CMA has investigated whether the Merged Entity could harm IHSM's current and future rivals in issuance platforms by (i) refusing to provide CUSIPs to customers using platforms other than IHSM's bond issuance platform for primary issuance (total foreclosure), or (ii) worsening the terms under which the Merged Entity provides CUSIPs to customer using platforms other than IHSM's bond issuance platform for primary issuance (partial foreclosure).[334]

*CUSIP identifiers*

329. S&P manages and operates the CUSIP system as an autonomous and independent business within S&P (CUSIP Global Services (**CGS**)) on behalf of the American Banker Association (the **ABA**). The ABA is the ultimate owner of all relevant intellectual property rights to the CUSIP system. ABA

[334] One third party raised the possibility that the Merged Entity could make S&P's credit ratings available on a preferential basis to customers using IHSM's bond issuance platforms. First, the Parties submitted that S&P's revenue from ratings issuance was £[✂] in 2020 whereas the revenues generated by IHSM's bond issuance platforms were approximately £[✂]. As such, the CMA considers that S&P would have no incentive to engage in such a practice as it would risk added regulatory scrutiny and S&P losing credit ratings revenues as a result. Second, based on third-party feedback from customers [third-party response [✂] to CMA RFI of 31 August 2021, third-party response [✂] to CMA RFI of 31 August 2021], the CMA understands that S&P credit ratings are not essential because they can be replaced with other credit ratings for the purpose of bond issuance. Furthermore, most customers [third-party response [✂] to CMA RFI of 31 August 2021, third-party response [✂] to CMA RFI of 31 August 2021] did not consider that automated ratings would advantage IHSM's issuance platforms. Accordingly, the CMA considers there is no realistic prospect of an SLC arising from this vertical relationship and it is not considered further in this Decision.

has concluded a long-term agreement with S&P to set out how the CUSIP system will be managed.

330. Under the ABA agreement, [✂].[335]

331. The Parties submitted that the first-hand supply of CUSIPs (along with related descriptive data via data-feeds) is a global market. This is consistent with the precedent set out by the European Commission's antitrust investigation, which identified a global market for the 'first-hand electronic distribution and licensing of US ISINs (records and numbers) via data feeds'.[336] Under the ABA agreement, S&P is the only entity authorized to issue and assign CUSIPs to newly issued financial instruments. The CMA therefore believes that the first-hand supply of CUSIPs represents one global market.

332. CUSIPs have various use cases such as portfolio analysis and electronic trading.[337] The CMA found that CUSIPs are assigned, among others, prior to bond issuance being formally completed.[338] While some third parties indicated that CUSIPs are essential for both bond issuance and secondary trading[339], the Parties submitted that all securities that do not have CUSIPs associated with them (c.[✂]%) would have an alternative identifier, mainly ISINs.[340] Furthermore, banks or other entities party to the issuance process may themselves create temporary identifiers that serve as provisional data points before the formal CUSIP is issued.[341]

*Issuance platforms*

333. As noted at paragraph 78, IHSM offers three categories of issuance platforms: (i) municipal bond platform (a workflow tool for US municipal bond issue that targets US investors and underwriters); (ii) fixed-income book building platform (a platform that includes tools that are used in the issuance

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[335] Access to ISIN identifiers with embedded CUSIP numbers is governed by the CGS licencing arrangements (Note of the call with [✂] of 10 June 2021). ISINs are recognized by the International Standards Organization as security identifiers for cross-border securities transactions. They are used by banks and other financial institutions in order to identify financial instruments. The CUSIP number is embedded in the US ISIN code: an ISIN comprises the letters 'US' and is followed by the CUSIP number plus another cross-check number.
[336] AT.39592 (2011), Commitments Decision.
[337] Third-party response [✂] to CMA RFI of 22 July 2021. The CMA notes that CUSIPs are also used to identify and track securities within a given index. This ensures that the relevant index can be updated to reflect changes in its constituents. As noted, under the ABA agreement, CGS has to charge fair, reasonable and non-discriminatory licence fees. Furthermore, there is already a vertical relationship with S&P's pre-existing indices business, but the CMA understands that CGS has never restricted access to CUSIPs to support S&P's indices business. Accordingly, and due to lack of third-party concerns in relation to this, the CMA considers there is no realistic prospect of an SLC arising from this vertical relationship and it is not considered further in this Decision.
[338] Note of the call with [✂] of 10 June 2021; note of the call with [✂] of 20 May 2021.
[339] Third-party response [✂] to CMA RFI of 20 May 2021; third-party response [✂] to CMA RFI of 28 July 2021.
[340] S&P/IHSM response to Q2 (c) of the CMA's RFI dated 2 June 2021. As explained in footnote 335 above, S&P is responsible for the issuing of US ISINs as well.
[341] Vertical relationships FMN (updated chapter submitted on 8 September 2021), footnote 151.

of corporate fixed-income assets); and (iii) an equity book building platform (a platform that includes workflow tools that are used in connection with the issuance of equities). The municipal bond platform together with the fixed-income book building platform are referred to as ‘bond issuance platforms’.

334. In order to allow users to track financial instruments, bond issuance platforms allow issuers to assign identifiers to these instruments. This involves several steps: first, a ‘dummy’ identifier is typically assigned to a new issue bond during the marketing process. This facilitates the ‘pricing talk’ and communication of interest and terms between investment firms.[342] Second, after the bond has been priced and final allocations are assigned, underwriters usually apply for a CUSIP (or US ISIN), which is then assigned by CGS. Finally, once the identifier has been assigned, the issuer or bank needs to fill in the relevant data-field on the issuance platform in order to attribute an identifier to the security.

335. The CMA understands that, when requesting CUSIPs or US ISINs, the issuer or bank negotiates and contracts directly with CGS. IHSM is not involved, other than by offering the option of applying for a CUSIP through a portal available on its bond issuance platform. The portal does not significantly alter the standard process explained above. It simply provides a direct link to CGS and allows users to make use of various inputs that they have already added to the platform (for example, terms and conditions of the issuance typically shared with other syndicate underwriters).

336. There are few competitors to IHSM’s bond issuance platform. One recent entrant is DirectBooks, which started as a project sponsored by nine banks (Bank of America, Citi, Goldman Sachs, J.P. Morgan, Morgan Stanley and Wells Fargo, Barclays, Deutsche Bank, and BNP Paribas). DirectBooks entered the issuance platform market in 2019. The CMA received evidence from third parties suggesting that there may be additional new entrants in the near future.

337. Table 9 sets out the Parties’ share of supply estimates in relation to bond issuance platforms. IHSM’s corporate fixed-income book building platform has a share of over [50-60]% in North America and circa [50-60]% in EMEA. Proprietary systems have a share of under [50-60]% in North America and circa [50-60]% in EMEA. DirectBooks has a share of under [50-60]% in both regions. In the US,[343] IHSM’s municipal bond issuance platform has a share

[342] Usually CUSIPs are not applied for until after final allocations are determined to avoid underwriters paying for identifiers that are not subsequently needed. Many proposed new issues do not advance from the marketing to ‘book building’ and the pricing stages because during the marketing process, issuers may not find the terms of the sale acceptable (Third-party submission [✄] of 21 April 2021).
[343] Municipal bonds are only issued by US municipalities.

of over [80-90]%, with the remainder being accounted for by Napa (c.[5-10]%) and in-house systems (c.[10-20]%).

**Table 9: Share of supply estimates (fixed-income and municipal issuance platforms)**

| ***Competitor*** | ***Estimated market share (%)*** | |
|---|---|---|
| | ***North America (fixed-income book building) / US (municipal bond platform)*** | ***EMEA*** |
| ***Fixed-income book building*** | | |
| IHSM | Over [50-60]% | c. [50-60]% |
| Proprietary systems (BAML, Citi) | Under [50-60]% | c. [50-60]% |
| DirectBooks | Under [50-60]% | Under [50-60]% |
| ***Municipal bond platform*** | | |
| IHSM | Over [80-90]% | [✂][344] |
| Napa | c.[5-10]% | NA |
| In-house systems (eg CofA, JPM (Deal Room), Citi) | c.[10-20]% | NA |

Source: S&P/IHSM response to Q10 of the CMA's RFI dated 2 June 2021.

338. The third-party feedback received during the CMA's market investigation indicates that IHSM's product is the leading provider of bond issuance platforms.[345] Furthermore, according to the evidence gathered by the CMA, DirectBooks' share of issuances is currently minimal.[346]

*Ability*

339. The CMA has considered whether the Merged Entity would have the ability to use CUSIPs to foreclose IHSM's rival bond issuance platforms.

340. The Parties submitted that there is no vertical relationship between the supply of CUSIPs and the activities of IHSM's bond issuance platform. According to the Parties, CUSIPs are not necessary inputs into IHSM's bond issuance platform. They are optional data-fields, which the customers can

[344] The Parties provided shares of supply for municipal bond platforms only for the US because municipal bonds are only issued by US municipalities.
[345] Third-party submission [✂] of 21 April 2021. A third party explained it is not aware of alternatives for IHSM's bond issuance platform (Third-party response [✂] to CMA RFI of 16 July 2021).
[346] Note of the call with [✂] of 20 May 2021.

decide to fill in at their discretion. IHSM is not involved in this process, other than providing the data-fields.

341. The CMA found, however, that CUSIPs and US ISINs are an integral part of the primary bond issuance process. Third parties indicated that these identifiers are essential for both bond issuance and secondary trading.[347] Moreover, a respondent to the CMA's investigation explained that the businesses of other issuance platforms would be negatively impacted if S&P were to use CUSIPs to favour IHSM's bond issuance platform.[348]

342. As set out at paragraph 335, the CMA also found that IHSM's bond issuance platform has a 'portal' functionality, which allows customers to request CUSIP issuances from within IHSM's bond issuance platform. As such, the CMA considers that there is a vertical relationship between CUSIPs and IHSM's bond issuance platform.

343. One third party expressed a concern that the Merged Entity could give preferential treatment to the customers of IHSM's bond issuance platforms by issuing CUSIPs more quickly to them than to users of rival bond issuance platforms.[349] This customer explained that the Merged Entity could make CUSIPs available to issuers using IHSM's bond issuance platform immediately and before the bond prices are known. This would remove the need for 'dummy' identifiers. By contrast, clients of rival issuance platforms would obtain CUSIPs on a delayed basis, which would require them to continue using dummy variables during the initial part of the bond issuance process, and it may also require them to cancel or correct any trades entered under dummy numbers. According to this third party, this timing advantage would effectively increase the cost of CUSIPs for anyone using rival bond issuance platforms.

344. The Parties confirmed that S&P has some flexibility in the time in which it issues a CUSIP following a request. They noted that S&P endeavours to issue a new CUSIP within 24 hours of a valid request; customers can also request, for an additional fee, an express CUSIP issuance whereby CGS will issue a CUSIP within 60 minutes of a valid request, again on a best efforts basis. However, the Parties submitted that primary and secondary issuances are not time-sensitive processes. Where an express request is made, whether S&P issues a CUSIP within (for example) 15 minutes or within 55

[347] Third-party response [✂] to CMA RFI of 20 May 2021; third-party response [✂] to CMA RFI of 28 July 2021.
[348] Note of the call with [✂] of 20 May 2021.
[349] Third-party submission [✂] of 21 April 2021.

minutes should not make any meaningful difference from a customer standpoint.

345. The CMA has received mixed third-party feedback as to whether the issuance of CUSIPs is sufficiently time-sensitive to cause customers to switch to another bond issuance platform. While some customers consider the timing of CUSIPs is essential,[350] a third party explained that book building can commence without a CUSIP being available.[351]

346. The Parties submitted that, in any event, the Merged Entity would not be able to distinguish between CUSIP customers who use IHSM's bond issuance platform from those who use other issuance platforms. The Parties noted that many customers request CUSIPs through the S&P's standard request form located on its website. The Parties submitted that, aside from customers using IHSM's portal to request CUSIPs, S&P has no visibility into whether CUSIP customers are (i) using IHSM's bond issuance platforms, (ii) using a third-party issuance platform, or (iii) using no third-party issuance platform at all.

347. The Parties further submitted that the ABA agreement precludes S&P from engaging in any kind of foreclosure strategy. S&P manages CUSIPs on behalf of the ABA, whose incentive is to license and disseminate CUSIPs as widely as possible. As part of the ABA agreement, [✂]. Any foreclosure strategy would not be in the ABA's best interests and would potentially breach S&P's agreement with the ABA.

348. The ABA explained that it [✂].[352]

349. The ABA also explained that, [✂].[353]

*CMA's conclusion*

350. For the reasons set out above, the CMA considers the Merged Entity would not have the ability to foreclose rivals of IHSM's issuance platforms by refusing to supply or by worsening the terms under which it supplies CUSIPs to customers using rival bond issuance platforms. It is not clear that S&P would be able to distinguish between CUSIP customers using IHSM's bond issuance platform from those using rival platforms. Moreover, the CMA understands that the ABA agreement effectively precludes S&P from

[350] Third-party response [✂] to CMA RFI of 31 August 2021.
[351] Third-party response [✂] to CMA RFI of 31 August 2021; third-party response [✂] to CMA RFI of 3 August 2021.
[352] Note of the call with [✂] of 10 June 2021.
[353] Note of the call with [✂] of 10 June 2021.

engaging in any kind of foreclosure strategy. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to bond issuance platforms in the UK.

***Input foreclosure of leveraged loans market intelligence using LXIDs***

351. The CMA investigated whether the Merged Entity could harm S&P's rivals and competition in leveraged loan coverage and analysis by (i) ceasing to licence IHSM's LXIDs to providers of leveraged loan coverage and analysis other than S&P (total foreclosure); or (ii) engaging in strategies worsening the terms of provision of LXIDs to providers of leveraged loan coverage and analysis other than S&P (partial foreclosure).[354]

*LXIDs*

352. The Parties submitted that LXIDs do not constitute a separate market. There are other loan identifier systems. For example, LSEG maintains the Loan Identification Numbers (**LIN**),[355] and Bloomberg maintains the Financial Instrument Global Identifier (**FIGI**).[356]

353. According to the Parties, LXIDs are supplied alongside IHSM's loan pricing data and loan reference data, and are therefore not commercialised or supplied on a standalone basis. LXIDs are an internal IHSM identifier used to track individual loans as part of IHSM's loan pricing and reference data services. IHSM indicated that it only assigns an LXID to a loan when it has sufficient accompanying information from the market to be able to populate the core properties of the loan in order to identify it.

354. The evidence from the market investigation indicates, however, that LXIDs are now widely used independently of the IHSM's loan pricing and reference data. For example, a competing provider of loan data explained that LXIDs have broad coverage and its customers use them to map loan data across different datasets, such that its business would be disadvantaged if it were no longer able to access LXIDs.[357] A third party indicated that the identifier is valuable in itself, and not only because it is attached to IHSM's underlying data.[358] Overall, several third parties confirmed that LXIDs have an important

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[354] The partial foreclosure strategies could include the following (among others): (i) raising the price of licensing for the use of LXIDs to providers of leveraged loan coverage and analysis other than S&P; and/or (ii) not providing necessary information for the use of LXIDs to providers of leveraged loan coverage and analysis other than S&P on a timely basis.
[355] The LIN number is used to identify loans within LSEG's loan pricing and reference data.
[356] The FIGI is used to identify loans within Bloomberg's loan pricing and reference data.
[357] Note of the call with [✂] of 9 June 2021.
[358] Note of the call with [✂] of 26 April 2021.

use that is independent of IHSM's loan data.[359] As such, the CMA considers that LXIDs form part of a separate product market of loan identifiers.

355. Since IHSM supplies LXIDs as part of its loan pricing and reference data offering, IHSM's shares of loan pricing and reference data can give an indication of its market position in loan identifiers. Within loan pricing data, IHSM's share is [50-60]%. Within loan reference data it is [5-10]%.[360]

*Leveraged loans market intelligence*

356. Table 10 sets out the Parties' estimates of shares of supply for leveraged loan market intelligence in 2020.

**Table 10: Parties' estimates of shares of supply in leveraged loan market intelligence (2020)[361]**

| *Competitor* | *Revenue (£k)* | *Share (%)* |
|---|---|---|
| S&P Global (LCD) | [✂] | [20-30]% |
| Fitch (LevFin Insights) | N/A | 25-30% |
| LSEG (LPC) | N/A | 20-25% |
| Debtwire | N/A | 5-10% |
| Reorg | N/A | 5-10% |
| Others | N/A | 15-30% |
| *Total market* | [✂] | *100%* |

Source: Vertical relationships FMN (updated chapter submitted on 8 September 2021), Table 5.2

357. The CMA found that leveraged loans market intelligence products are, to some extent, differentiated in terms of content and functionality. For example, LCD includes a leveraged loan index for benchmarking use, but it does not offer a covenant review service (like Fitch) or have a particular distressed debt focus (like Debtwire).

*Ability*

*LXIDs in LLMI*

358. One third party expressed a concern that the Merged Entity could seek to use its upstream position in LXIDs to foreclose downstream competitors of LLMI. In particular, the Merged Entity could prevent LLMI rivals from displaying LXIDs in an attempt to divert customers to LCD.[362]

[359] Note of the call with [✂] of 9 June 2021; note of the call with [✂] of 25 May 2021; note of the call with [✂] of 22 July 2021; [✂] response to the CMA's RFI of 16 July 2021; note of the call with [✂], of 29 July 2021.
[360] Vertical relationships FMN (updated chapter submitted on 8 September 2021), Table 3.3.
[361] Vertical relationships FMN (updated chapter submitted on 8 September 2021), Table 5.2.
[362] Note of the call with [✂] of 25 May 2021.

359. The Parties submitted that S&P's LCD product does not use LXIDs, either internally in the creation of content, or externally by displaying them to its customers.[363] The Parties further submitted it is not possible for LCD users to search for content using the LXID of a loan.[364] According to the Parties, this shows that LXIDs are not a critical input to the supply of LLMI.[365]

360. The CMA understands several other providers of LLMI do not use LXIDs in their product. These competitors either use alternative identifier systems such as LINs or FIGIs, or otherwise do not make extensive use of identifiers.[366] At most, some LLMI providers noted that access to LXIDs would improve their product by not imposing a burden on customers who want to map loans across multiple identifier systems.[367]

361. UK customers of LCD told the CMA that they do not use LXIDs in connection with LCD. These customers told the CMA that they relied on alternative methods for searching and using LLMI content, including borrower names[368] or alternative identifiers.[369] While many of them indicated that LXIDs had wide adoption as an identifier system for loans, few viewed LXIDs and LLMI as being closely-related products.[370]

362. The CMA found only one example of a competing LLMI provider who uses LXIDs for a component of its product. This product component, however, does not compete directly with LCD.[371] Moreover, this LLMI provider displays LXIDs only to a small proportion of its customers, all of whom are loan pricing and reference data customers of IHSM.[372] The CMA considers, therefore, that even if S&P were to attempt an input foreclosure strategy, it would at most be able to impact a small proportion of a single rival's sales.[373] Accordingly, the CMA believes that the Merged Entity would not have the ability to engage in this input foreclosure strategy.

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363 An exception to this is constituent-level data on S&P's leveraged loans indices. This data may be provided alongside LXIDs if the customer requests for it. As part of LCD's news and research, S&P also calculates US leveraged loan indices, for which it sources loan pricing data from LSEG, and the ELLI (a leveraged loan index), for which it sources loan pricing data from IHSM (including LXIDs). The ELLI is only supplied as part of the LCD subscription. S&P submitted that ELLI is of relatively low importance to LCD customers as the most important aspects of the LCD product are its news coverage of the primary market (new issuance) of leveraged loans and related deeper topical research on market trends. (Vertical relationships FMN (updated chapter submitted on 8 September 2021) paragraph 5.20 and footnote 123).
364 Vertical relationships FMN, paragraph 5.12.
365 Vertical relationships FMN (updated chapter submitted on 8 September 2021), paragraph 5.21(i)(a).
366 Vertical relationships FMN (updated chapter submitted on 8 September 2021), paragraph 5.21(i)(b)(ii).
367 Note of the call with [✂] of 21 June 2021, and third-party response [✂] to the CMA's RFI of 22 July 2021.
368 Note of the call with [✂] of 15 September 2021.
369 Third-party response [✂] to CMA RFI of 15 September 2021.
370 One customer made this point explicitly - see third-party response [✂] to CMA RFI of 31 August 2021.
371 Vertical relationships FMN, paragraph 5.21(ii)(a).
372 Third-party response [✂] to the CMA's questions of 15 September 2021.
373 The CMA also notes that S&P's incentives to engage in such a strategy would be low, given that LCD does not compete with that part of the LLMI competitor's offering.

*CMA's conclusion*

363. For the reasons set out above, the CMA believes that LXIDs are not an important input for the provision of LLMI products, particularly those that compete with LCD. Several of the main products in this space use alternative identifier systems or none at all. Even the LLMI products that use LXIDs do so only for a small part of their product offering, and for the benefit of relatively few customers. The CMA has put particular weight on the views that it received from UK customers in making this assessment.

364. The CMA believes that the Merged Entity would therefore not have the ability to foreclose rival providers of leveraged loan market intelligence by denying them the use of LXIDs. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of vertical effects in relation to the supply of leveraged loan market intelligence using LXIDs in the UK.

## Conglomerate effects

365. Conglomerate effects may arise in mergers of firms that are active in the supply of goods or services that do not form part of the same market but which are nevertheless related in some way.

366. A common concern is that conglomerate mergers may result in the foreclosure of current or potential rivals – that the merged entity will be able to use its strong position in one market (the adjacent market) to exclude rivals in another (the focal market).

367. This loss of sales by competitors is not problematic in and of itself, and linked sales of related products can result in efficiencies. However, competition concerns may arise if such a strategy would result in rivals in the focal market becoming less effective competitors (eg by denying entrants growth opportunities), which may result in higher prices or lower quality in the longer term.

368. The CMA has assessed whether the Merger could give rise to conglomerate effects through the bundling of market intelligence and issuance platforms.

### *Bundling of market intelligence and issuance platforms*

*Bundling of S&P's desktop solution (CapIQ) with IHSM's issuance platform*

369. One third party raised the possibility that the Merged Entity could foreclose S&P's rivals in the supply of desktop solutions by engaging in commercial or

technical bundling of S&P’s market intelligence platform (CapIQ) with IHSM’s issuance platform. This theory of harm was presented as follows:

*(a)* most banks use a single main capital markets market intelligence desktop solution across the organisation. Although they use other desktop solutions for specific purposes, there is generally one main desktop solution across the bank. This is more cost effective, allows easier communication across teams, and gives uniform access to financial identifiers and data.

*(b)* Book building software – which is a part of an issuance platform – is not currently offered within any market intelligence platform, despite being a part of the capital raising workflow.

*(c)* IHSM is the leading provider of book building software. Although there are other recent entrants into this space, none of them are credible competitors.

*(d)* The Merged Entity could engage in commercial or technical bundling of IHSM’s issuance platform and S&P's CapIQ. Since the capital markets division of investment banks would have no alternative but to use CapIQ in order to have access to IHSM’s book building software, this could incentivise investment banks to adopt CapIQ as the main desktop solution across other divisions.

*(e)* Banks make up a large proportion of revenues generated by market intelligence platforms, so this would place CapIQ’s rivals at a significant competitive disadvantage.

370. The CMA considered whether the Merged Entity would have the ability and incentive to foreclose S&P’s rivals in the supply of market intelligence products and lessen competition by bundling CapIQ with IHSM’s issuance platform.

*Capital markets market intelligence platforms*

371. S&P is active through CapIQ in the supply of capital markets market intelligence platforms. Other providers of capital markets market intelligence include Factset, Morningstar (Pitchbook), and LSEG. The Parties estimate S&P’s and Morningstar’s share for the supply of aggregated desktops is [10-20]% whereas LSEG and Bloomberg have shares of [20-30]% and [10-20]%.

*Bond Issuance platform*

372. IHSM's estimated shares for the supply of corporate fixed-income book building and municipal bond issuance platform are set out in Table 9. IHSM's equity book building platform has an estimated share of [70-80]% in the US, and shares of under [5-10]% in EMEA and APAC. The main provider of equity book building platforms in Europe is Dealogic with shares of supply under [70-80]%.

373. The third-party feedback received during the CMA's market investigation indicates that IHSM provides the leading issuance platform. A third party explained that, although there are other players in this segment, IHSM has the most mature offering. According to this third party, DirectBooks competes to some extent against IHSM's platform. Having recently launched, however, it currently covers only a small section of the market and offers only a fraction of the functionality of IHSM's product. Similarly, Dealogic, another competitor of IHSM's issuance platform, does not offer services at the same scale or with as many options as IHSM's product.[374] Another third party indicated IHSM's issuance platform is 'well positioned across the capital markets space and it is unique as it provides the infrastructure for the issuance of equity and fixed-income securities'.[375] Finally, as set out at paragraph 338, according to the evidence gathered by the CMA, DirectBooks' share of issuances is currently minimal.[376]

374. As set out at paragraph 77, investment banks use issuance platforms when acting as underwriters on behalf of institutions who are raising funds by selling bonds or other securities. In particular, Equity capital markets (**ECM**) and Debt capital markets (**DCM**) teams within investment banks regularly work on equity and debt issuances and require access to book building solutions.

375. The CMA understands that ECM/DCM bankers need access not only to an issuance platform, but also to a capital markets market intelligence desktop solution. The book building capabilities of issuance platforms are not currently integrated into any standard desktop market intelligence terminal.

[374] Note of the call with [✂] of 10 September 2021. The third party also indicated there are other start-ups in this segment, but explained they will need considerable time to gain a significant market share. Another third party [✂] confirmed DirectBooks is still a small company (with just one year of operation). The third party further explained DirectBooks' offering is limited. Note of the call with [✂] of 20 May 2021; note of call with [✂] of 15 September 2021.
[375] Note of the call with [✂] of 22 July 2021.
[376] Note of the call with [✂] of 20 May 2021.

Rather the issuance platforms and the standard desktop market intelligence platform are standalone products.[377]

*Ability*

376. The CMA considered the following conditions to assess the Merged Entity's ability to foreclose rival capital markets market intelligence platforms using a bundling strategy: (i) the importance of using IHSM's issuance platform, including whether there are viable alternatives for IHSM's issuance platform; (ii) the attractiveness to customers of an integrated offering including IHSM's issuance platform and S&P's desktop, and (iii) the likelihood that a combination of IHSM's issuance platforms and S&P's capital markets market intelligence platform would succeed in foreclosing S&P's market intelligence platform rivals.

- *Parties' submissions*

377. The Parties submitted, first, there are credible alternatives to IHSM's issuance platform in Europe.[378] As set out above, these include primarily Dealogic, DirectBooks and bank proprietary systems. According to the Parties, DirectBooks' competitive threat is strengthened by its sponsorship by a number of the world's largest investment banks. The Parties noted that the banks currently using and/or sponsoring the DirectBooks platform account for [✂]% of IHSM's fixed-income book building revenues in 2020.

378. Second, the Parties submitted IHSM's book building solutions and CapIQ are used by different teams. As set out above, ECM/DCM bankers use IHSM's book building solutions whereas S&P's CapIQ is used primarily by M&A/corporate advisory teams.

379. Third, the Parties submitted investment banks are powerful customers and would therefore be able to resist the bundle.

*(a)* the top 10 investment banks that use CapIQ account for $[✂] of spend on the Parties' products overall in 2020 and could easily retaliate in other product areas if the Merged Entity were to attempt a strategy which would harm them. Furthermore, these investment banks are also the main customers for S&P and IHSM's combined market intelligence and

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[377] The Parties explained there is a limited relationship between bond issuance platforms and market intelligence services. Buy-side users of IHSM's web portal used by buy-side investors to view deals, place indications of interest orders and receive allocations with new issues available in the market (ie DealMonitor) are able to use the platform to review the deal terms that have been communicated by the banks. However, this 'intelligence' relates only to those deals on the DealMonitor platform published by the banks. DealMonitor does not comprise information on all deals in the marketplace.
[378] Parties' submission of 17 September 2021.

financial services divisions (they represent [✂]% of the Parties' total ACV) and are also significant customers of the Parties' other divisions (eg S&P Ratings).

(b) The Parties have a wider relationship with investment banks, as these are not only their customers, but also their providers in certain segments. The investment banks provide, for instance, inputs to IHSM's [✂]. Banks also provide various inputs to S&P, [✂].

(c) Large investment banks have the ability to self-supply issuance platforms. The Parties listed [✂] IHSM customers that are no longer using IHSM's issuance platforms as they have built their own.

380. Fourth, the Parties further submitted that banks multi-source market intelligence platforms to serve different use cases within banks. According to the Parties, the Merged Entity's potential bundling practices are unlikely to influence this purchasing pattern because CapIQ is not suitable for all internal use cases. Moreover, switching desktops is burdensome for customers as such a process involves retraining employees on new desktops, changing processes such as models and alerts, and sync-ing data with other systems.

381. Fifth, the Parties submitted that a bundling strategy aimed solely at investment banks would not lead to the foreclosure of the Merged Entity's rivals because market intelligence providers do not derive a large proportion of their revenues from investment banks. For example, [20-30]% of CapIQ's revenues are derived from investment banking customers. The Parties also estimate that none of CapIQ's rivals derives more than [10-20]% of its revenue from investment banks.[379]

382. Sixth, the Parties submitted that there is already significant customer overlap between the book building customers of IHSM and CapIQ customers – [80-90]% of the book building customers of IHSM by revenue are already customers of CapIQ. Thus, according to the Parties, there is very limited potential to leverage into new customers (providing further disincentive to engage in such behaviour).

383. Finally, the Parties submitted IHSM's issuance platform was initially intended to be a community platform and therefore subject to equivalent rights and obligations for participating banks. The issuance platform was originally created under the supervision of the International Capital Markets

[379] [✂]% of FactSet's users are investment banks. [✂]% of Bloomberg's users are investment banks. [✂]% of LSEG's users are investment banks. [✂]% of Morningstar's users are investment banks. The complainant has however explained [✂]% of its revenues derive from investment banks.

Association. Although the issuance platform is now owned by IHSM, IHSM's contracts with customers still include the principle of equal rights and obligations for participating banks which prevents IHSM from engaging in commercial bundles for banks that would result in material different pricing for IHSM's issuance platform.

- *Third-party evidence*

384. As set out at paragraph 372 and Table 9, the CMA understands there are a number of alternatives to IHSM's issuance platform. One competitor is DirectBooks, which started as a project sponsored by nine banks (Bank of America, Citi, Goldman Sachs, J.P. Morgan, Morgan Stanley and Wells Fargo, Barclays, Deutsche Bank, and BNP Paribas). The CMA considered whether there is any possibility of banks reacting to the bundling strategy by sponsoring DirectBooks more aggressively but concluded, based on the available evidence, this would not be sufficient to prevent harm to competition. For example, a third party indicated that it is unlikely DirectBooks will be able to exert strong competitive pressure on IHSM in the immediate future. This third party explained that, although DirectBooks was funded a couple of years ago, the company launched its first product last year and still lacks a large portion of the functionality of IHSM's issuance platform.[380]

385. The CMA reached out to customers to assess the impact on competition of the bundling strategy described above. All the respondents to the CMA's market investigation use several desktop solutions to meet diverse business needs.[381]

386. Overall, the third-party feedback indicated there are no benefits for customers to integrate IHSM's issuance platforms and S&P's desktop solution. Only one customer[382] mentioned that such an integration would be valuable and potentially efficient for its ECM team. Other respondents to the CMA's market investigation explained that they do not see any clear advantages in the technical integration of S&P's CapIQ and IHSM's issuance platform because these are separate products with different use cases.[383]

[380] Note of the call with [✂] of 10 September 2021. See also note of the call with [✂] of 20 May 2021.
[381] Third-party response [✂] to CMA RFI of 16 July 2021, note of the call with [✂] of 15 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021.
[382] Third-party response [✂] to CMA RFI of 14 September 2021.
[383] Note of the call with [✂] of 15 September 2021, third-party response [✂] to CMA RFI of 31 August 2021, third-party response [✂] to CMA RFI of 14 September 2021.

387. The CMA has received mixed feedback in relation to the attractiveness of a commercial bundle that includes IHSM's issuance platform and S&P's desktop solution. Some customers told the CMA that a lower price for a bundled product would be a benefit, provided they need all the services from the bundle.[384] However, another customer explained that, while there might be efficiency benefits should the Merged Entity decide to engage in such a bundling strategy, it would consider the potential for a loss of competition when making its purchasing choices.[385]

388. The CMA received evidence from third parties suggesting that S&P would not have the ability to foreclose rival market intelligence platform providers by bundling CapIQ with IHSM's issuance platform.

389. First, as mentioned above, all the third parties that responded to the CMA's merger investigation multi-source desktop solutions (including CapIQ and competing products) to meet the diverse needs of their teams and not all of them have a 'main' desktop solution. In fact, most respondents told the CMA their desktop solutions are business- and product-specific.[386] Furthermore, based on the available evidence, the CMA understands customers focus not only on the price of desktop solutions, but also on their content, features, functionality, and the accuracy of their data.[387]

390. Second, half of the customers that responded to the CMA's market investigation stated that access to one platform for one team would not impact the choice of platform for employees in other teams.[388] For instance, a third party indicated that although most platforms have overlapping data and functionality, data and information requirements of different teams (product or coverage teams) are often very different.[389]

391. Finally, most respondents explained that a bundle between IHSM's issuance platform and CapIQ is not likely to make S&P the main desktop solution within investment banks.[390] One third party particularly explained that, although CapIQ is currently bundled with the S&P Market Intelligence

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[384] Third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021.
[385] Third-party response [✂] to CMA RFI of 16 July 2021.
[386] Third-party response [✂] to CMA RFI of 15 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 31 August 2021, note of the call with [✂] of 15 September 2021.
[387] Third-party response [✂] to CMA RFI of 16 July 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 9 September 2021, third-party response [✂] to CMA RFI of 31 August 2021, third-party response [✂] to CMA RFI of 15 September 2021.
[388] Third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 14 September 2021, third-party response [✂] to CMA RFI of 31 August 2021.
[389] Third-party response [✂] to CMA RFI of 14 September 2021.
[390] Third-party response [✂] to CMA RFI of 14 September 2021; third-party response [✂] to CMA RFI of 14 September 2021.

commercial deals, and available broadly across the organisation, that 'has had little impact in the CapIQ take up.' In the third party's view, it is therefore unlikely that the bundling strategy would have any impact on CapIQ's position.[391]

*CMA's conclusion*

392. For the reasons set out above, the CMA considers the Merged Entity does not have the ability or incentive to foreclose S&P's desktop solutions rivals by bundling IHSM's issuance platform together with CapIQ. In particular, the CMA understands that banks already multi-source market intelligence platforms, and that this potential bundling strategy would not influence their purchasing patterns. Moreover, there is already significant customer overlap between IHSM's issuance platform customers and CapIQ customers, limiting the potential of this bundling strategy to leverage into new customers. The Parties also have broader commercial relationships with investment banks that could be affected by this bundling strategy, further limiting their incentive to do so. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of conglomerate effects in relation to desktop solutions in the UK.

## Barriers to entry and expansion

393. 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.[392]

394. The CMA has considered the barriers to entry and expansion for the relevant products below.

### *Financial indices*

395. The CMA has not had to conclude on barriers to entry or expansion for financial indices as the Merger does not give rise to competition concerns on any basis.

[391] Third-party response [✂] to CMA RFI of 31 August 2021.
[392] Merger Assessment Guidelines, from paragraph 8.40.

***Market intelligence***

396. The CMA has not had to conclude on barriers to entry or expansion for downstream energy market intelligence or maritime and trade analytics market intelligence as the Merger does not give rise to competition concerns on any basis.

***Commodity price assessments***[393]

397. The Parties submitted that there are no significant barriers to entry and expansion into commodity price assessments (including petrochemical price assessments), especially for non-benchmark price assessments,[394] and that there is significant supply-side substitutability, including when producing new price assessments for commodity areas where the provider is not already active.[395]

398. The Parties consider that there are three key requirements for market entry, these being:

*(a)* reputation as a credible provider of price assessments;

*(b)* access to price data; and

*(c)* adherence to financial regulation (including to the IOSCO Principles).[396]

399. The Parties do not consider these requirements to be particularly onerous on third parties looking to enter or expand in this sector and, in support, provided examples of a non-benchmark price assessment displacing a benchmark price assessment and a list of PRA entrants in the price assessment sector during the past 10 years.[397] [398]

400. From this evidence, the CMA notes:

*(a)* **benchmarks are not frequently displaced.** Benchmarks are not frequently displaced by non-benchmark price assessments (eg for petrochemical price assessments, the Parties could only provide 6 examples of displacements occurring during the previous 10 years). When benchmarks are successfully challenged, it is usually by well-

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[393] In relation to commodity price assessments, for the reasons set out at paragraphs 35-36, the CMA has only considered the barriers to entry and expansion for petrochemical price assessments.
[394] See for example Parties' response to the petrochemicals CPA Issues Letter, slides 3, 5 and 27. The CMA notes, however, that no specific evidence was provided by the Parties in support of this particular submission.
[395] CPA FMN, para 12.168.
[396] CPA FMN, para 12.123.
[397] CPA FMN, Annex C.25.
[398] CPA FMN, Annex C.11.

established players (eg for petrochemical price assessments, the Parties' evidence suggests that displacements were only achieved by S&P, Argus, and ICIS); and

*(b)* **there have been few new entrants.** Very few of the new entrants set out by the Parties were identified as credible competitors by third parties,[399] and the majority of the new entrants listed by the Parties have low shares of supply (based on the figures set out above).

401. Third parties told the CMA that it is very difficult to enter or expand these markets, for example:

*(a)* one potential entrant told the CMA that it had considered entering the pricing reporting business, only to find that there are extremely high barriers to entry;[400]

*(b)* one competitor stated that the main barrier to entry is the credibility of the provider, which can be affected by the longevity of the business (overall and within a specific commodity), as well as compliance with IOSCO Principles);[401]

*(c)* one competitor told the CMA that PRAs build reputation market by market and that it is therefore very difficult for a PRA active in one market (eg petrochemicals) to enter another market (eg agriculture). The competitor further explained it would take 10-15 years for the PRA to build credibility in an adjacent market, which may not make it commercially viable for a PRA to enter the space;[402]

*(d)* one customer stated that it is difficult for a new entrant to become the benchmark commodity price assessment or even a credible rival without having enough network, leverage, subscribers, and critical mass. This customer explained that a provider's credibility could prove to be a barrier to customers switching to their price assessment;[403]

*(e)* one competitor noted that it can be challenging to encourage customers to switch to a different price assessment because price assessments are used for (eg) contract settlement, so would often require the entire supply chain, rather than just a single customer, to switch over to use a

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[399] CPA FMN, Annex C.14 and third-party responses to the CMA CPA questionnaire.
[400] Note of the call with [✂] of 25 March 2021. The CMA notes that this company provides a small number of price assessments as a legacy of a previous acquisition.
[401] Note of the call with [✂] of 31 March 2021.
[402] Note of the call with [✂] of 1 April 2021.
[403] Note of the call with [✂] of 6 May 2021.

new price assessment.[404] Given that benchmarks typically yield much higher margins than non-benchmark price assessments, this difficulty in successfully challenging existing benchmarks acts as a disincentive for potential competitors to enter the market in the first place.

402. For the reasons set out above, in particular because benchmark price assessments are rarely displaced and there is limited evidence to suggest that a credible competitor could establish itself (especially quickly or at a reasonable cost), the CMA believes that entry or expansion would not be sufficiently timely or likely to prevent a realistic prospect of an SLC in petrochemical price assessments as a result of the Merger.

***Non-horizontal effects***

403. The CMA has not had to conclude on barriers to entry or expansion for non-horizontal effects as the Merger does not give rise to competition concerns on any basis.

## Conclusion on substantial lessening of competition

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

*(a)* the supply of biofuels price assessments in the UK;

*(b)* the supply of coal price assessments in the UK;

*(c)* the supply of oil price assessments in the UK; and

*(d)* the supply of petrochemicals price assessments in the UK.

## Decision

405. Consequently, the CMA believes that it is or may be the case that (i) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and (ii) the creation of that situation may be expected to result in an SLC within a market or markets in the United Kingdom.

406. The CMA therefore believes that it is under a duty to refer under section 33(1) of the Act. However, the duty to refer is not exercised whilst the CMA

[404] Note of the call with [✂] of 31 March 2021.

is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.[405] The Parties have until 26 October 2021[406] to offer an undertaking to the CMA.[407] The CMA will refer the Merger for a phase 2 investigation[408] if the Parties do not offer an undertaking by this date; if the Parties indicate before this date that they do not wish to offer an undertaking; or if the CMA decides[409] by 2 November 2021 that there are no reasonable grounds for believing that it might accept the undertaking offered by the Parties, or a modified version of it.

**Colin Raftery**
**Senior Director**
**Competition and Markets Authority**
**19 October 2021**

[405] Section 33(3)(b) of the Act.
[406] Section 73A(1) of the Act.
[407] Section 73(2) of the Act.
[408] Sections 33(1) and 34ZA(2) of the Act.
[409] Section 73A(2) of the Act.