

Anticipated acquisition by APi Group Corporation of Chubb Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6957/21

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 6 December 2021. Full text of the decision published on 17 December 2021.

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

SUMMARY

1. APi Group Corporation (**APi**) has agreed to acquire Chubb Limited (**Chubb**), which is currently wholly owned and controlled by Carrier Global Corporation (**Carrier**) (the **Merger**). APi and Chubb are together referred to as the **Parties** and, for statements referring to the future, as the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of APi and Chubb 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.
3. The CMA believes that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects.
4. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

5. APi is a provider of safety, specialty and industrial services, primarily to customers located in North America, along with more limited operations in Europe (principally in the Netherlands, Belgium, France, Sweden, Norway, and the UK).¹
6. The worldwide turnover of APi in 2020 was approximately £2,794 million, of which approximately £[~~3~~] million was generated in the UK.²
7. Chubb is a fire safety and security systems provider, offering to customers globally a range of services from the design, installation, and maintenance of fire protection and security systems to alarm monitoring.³
8. The worldwide turnover of Chubb in 2020 was approximately £[~~3~~] million, of which approximately £[~~3~~] million was generated in the UK.⁴

Transaction

9. Under a stock purchase agreement signed on 26 July 2021, APi will acquire from Carrier the entire share capital of Chubb, Carrier's wholly-owned subsidiary.^{5,i}
10. The Parties informed the CMA that the Merger was also the subject of review by the competition authorities in Canada and the Netherlands.⁶

Jurisdiction

11. The CMA believes that the Merger (as described in paragraph 9) is sufficient to constitute arrangements in progress or contemplation for the purposes of the Act.⁷
12. Each of APi and Chubb is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.

¹ Merger Notice dated 13 October 2021, submitted on behalf of the Parties (**Merger Notice**), page 10.

² Merger Notice, page 13.

³ Merger Notice, page 10.

⁴ Merger Notice, page 13.

⁵ The Merger involves the acquisition of Chubb, which, following a recent internal reorganisation by Carrier, comprises Carrier's fire and electronic security business, with the exception of Carrier's fire and security business in France (Merger Notice, page 7).

⁶ Merger Notice, page 10.

⁷ Section 33(1)(a) of the Act.

13. The UK turnover of Chubb exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied.
14. 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.
15. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 19 October 2021 and the statutory 40 working day deadline for a decision is therefore 13 December 2021.

Counterfactual

16. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).⁸ In an anticipated merger the counterfactual may consist of the prevailing conditions of competition, or conditions of competition that involve stronger or weaker competition between the merger firms than under the prevailing conditions of competition.⁹
17. In this case, the Parties submitted that the CMA should assess the competitive effects of the Merger against the pre-Merger conditions of competition (ie the prevailing conditions of competition).¹⁰
18. The CMA has not seen any evidence to support a different counterfactual, and third parties have not put forward submissions in this respect. Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

Competitive assessment

Frame of reference

19. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important

⁸ [Merger Assessment Guidelines](#) (CMA129), 18 March 2021 (**Merger Assessment Guidelines**), paragraph 3.1.

⁹ [Merger Assessment Guidelines](#), paragraph 3.2.

¹⁰ Merger Notice, page 23.

than others. The CMA will take these factors into account in its competitive assessment.¹¹

20. The Parties overlap in the *installation and maintenance of fire protection systems*,¹² which includes the provision and maintenance of fire detection and alarm systems (**D&A**), fire suppression systems, and portable fire extinguishers.¹³
21. The Parties submitted that the installation and maintenance of fire protection systems should not be further segmented by:
 - (a) **type of activity (ie installation and maintenance)** because, from a supply-side perspective, suppliers generally offer both the installation and maintenance of all fire safety products;¹⁴
 - (b) **type of fire protection products** because, while there is generally no demand-side substitutability between the specific fire protection products,¹⁵ most suppliers offer an array of fire protection products and customers can easily multisource or switch among the firms for the installation and maintenance of all or some of their fire protection systems.¹⁶
22. The Parties submitted that in previous cases the European Commission has considered that the relevant geographic frame of reference is national (ie the UK).¹⁷
23. The CMA received evidence from third parties which supports the above submissions from the Parties. For instance, third parties submitted that suppliers:
 - (a) typically offer both installation and maintenance services;¹⁸
 - (b) generally offer a wide range of fire protection products (ie not just fire suppression systems) and multisourcing is not uncommon;¹⁹

¹¹ [Merger Assessment Guidelines](#), paragraph 9.4.

¹² For completeness, the Parties also overlap in the supply of alarm monitoring services in the UK. However, given the limited nature of their overlap (API's revenue in relation to these activities is [REDACTED] in the UK in 2020, Merger Notice, pages 33 and 34) and the lack of third-party concerns, the CMA does not consider this further in this Decision.

¹³ Merger Notice, page 23.

¹⁴ Merger Notice, page 26.

¹⁵ Such as fire D&A, fire suppression systems, and portable fire extinguishers.

¹⁶ Merger Notice, page 26.

¹⁷ Merger Notice, page 26.

¹⁸ See for example: [REDACTED].

¹⁹ See for example: [REDACTED].

(c) tend to be based in the UK so they can supply large customers requesting national contracts.²⁰

24. For the reasons set out above, the CMA has considered the impact of the Merger on the installation and maintenance of fire protection systems in the UK. However, it was not necessary for the CMA to reach a conclusion on the frame of reference, since, for the reasons set out below, no competition concerns arise on any plausible basis.²¹

Horizontal unilateral effects

25. 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.²² Horizontal unilateral effects are more likely when the merging parties are close competitors.
26. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result in an SLC in relation to horizontal unilateral effects in the installation and maintenance of fire protection systems in the UK.

Share of supply

27. The Parties submitted that they have a combined share of supply in the installation and maintenance of fire protection systems in the UK of less than 10% (by value), with an increment of [0-5]% being brought about by the Merger.²³ Table 1 below shows the Parties' estimates of shares of supply of installation and maintenance of fire protection systems in the UK.

²⁰ See for example: [X].

²¹ In particular, the CMA considered that the evidence on shares of supply and alternative suppliers indicates that on any precise definition of the relevant market the Merger would be unlikely to result in a realistic prospect of an SLC.

²² [Merger Assessment Guidelines](#), paragraph 4.1.

²³ Merger Notice, page 30. These shares of supply estimates are based on an estimated UK market size for the supply of installation and maintenance of fire protection systems of £1.6 billion on page 396 of Appendix 25 of the Merger Notice. The Parties submitted that they were unable to provide the underlying secondary sources used to arrive at the estimated market size, Merger Notice, page 29.

Table 1: Parties' share of supply estimates in the supply of installation and maintenance of fire protection systems in the UK²⁴

Provider	Shares of supply estimates
Chubb	[0-5]%
APi Group	[0-5]%
Parties combined	[0-10]%
Johnson Controls International (Tyco)	c.5%
Protec Fire Detection Plc	c.5%
Marlowe Fire & Security	c.5%
Siemens Plc	<5%
Trinity Fire & Security Systems Ltd	<5%
Walker Fire (UK) Ltd	<5%
Jackson Fire & Security Ltd	<5%
Secom Plc	<5%

Source: Merger Notice, pages 30 and 31.

28. The CMA notes that the majority of APi's *installation and maintenance of fire protection systems* UK revenues were generated from the installation and maintenance of fire suppression systems specifically (a product within the wider category of fire protection systems).²⁵ However, even on the basis of narrower possible subsegmentations (ie on the basis of type of fire protection product), the Parties' estimated combined share of supply in the UK would remain below 10% in each plausible subsegment.²⁶
29. Third parties told the CMA that, for the installation and maintenance of fire protection systems in the UK, the Parties have a low combined share, with a low increment resulting from the Merger, and that there are a range of competitors of a similar size to the Parties.²⁷ The Parties' internal documents

²⁴ The CMA notes that the Parties' share of supply estimates only cover the shares of supply for those entities that the Parties consider to be their main competitors, Merger Notice, page 30. Accordingly, the share of supply estimates in Table 1 do not account for the activity arising from sales made by other, likely smaller, suppliers also active in this sector.

²⁵ Response to CMA request for information dated 1st October 2021, where the Parties submitted that the majority of APi's UK revenues are generated from the installation and maintenance of fire suppression systems (c.£ [redacted] m in the UK in 2020).

²⁶ The Parties submitted that their combined share of supply of installation and maintenance of fire protection systems in the UK would not exceed 10% should a subsegmentation be made according to different systems supplied, namely for: (i) fire detection and alarm, (ii) fire suppression systems, and (iii) portable fire extinguishers (Merger Notice, pages 32 and 33).

²⁷ For example, see [redacted].

also support the Parties' submissions that they have a low combined share for these activities.²⁸

30. The CMA has placed limited weight on the Parties' share of supply estimates, in particular because no underlying data for the estimates was provided to the CMA. Nevertheless, the CMA notes that third parties and the Parties' internal documents support the Parties' submissions that they have a low combined share of supply, with a low increment as a result of the Merger, with a range of competitors of a similar size.

Closeness of competition and other competitive constraints

31. The Parties submitted that their respective offerings are complementary in nature, due to API's US-focussed business, relative to Chubb's activities focussing elsewhere.²⁹ In that regard, in the UK, the Parties would not be considered particularly close competitors.
32. The Parties submitted that the Merged Entity will face strong competition from several other larger suppliers in the UK, including Johnson Controls International, Marlowe Fire & Security, Protec Fire Detection and a tail of smaller providers (of a similar size to API's fire protection systems revenues in the UK).³⁰
33. No third party told the CMA that the Parties were close competitors in these markets in the UK. Third parties told the CMA that this sector is characterised by strong competition from a range of suppliers in the UK, with limited differentiation between such suppliers and the Parties' offerings.³¹ No respondents to the CMA's invitation to comment expressed concerns about the merger.
34. The Parties' internal documents do not suggest that they monitor one another or compete closely with one another in this sector.³² Additionally, the Parties' internal documents also broadly confirm that there is a range of alternative suppliers for the installation and maintenance of fire protection systems in the

²⁸ For example, see Annex 11 - MD Review 13 Nov -Final.pdf, slide 3 supplied by the Parties in response to CMA request for information dated 7th September 2021.

²⁹ Merger Notice, page 10.

³⁰ Merger Notice, pages 29, 30 and 31.

³¹ For example, see [REDACTED]. For completeness, the CMA also sought to understand whether the competitive strength of providers varied across the different segments of the installation and maintenance of fire protection systems or according to the size of the provider. Third-party evidence indicated that providers broadly offer a similar service across the different segments, whilst smaller providers are generally able to contest for similar contracts attained by the Parties. [REDACTED].

³² See annexes provided in support of the Parties' response to CMA request for information dated October 1st 2021, in particular: Annex 4.19 Q39231 -[REDACTED].pdf, Annex 4.34 bnb - [REDACTED].pdf, Annex 4.39 [REDACTED] Assessment Outcome Notification Letter - Chubb.pdf, Annex 4.41 [REDACTED].pdf, Annex 4.44 Chubb [REDACTED].pdf, Annex 4.50 [REDACTED].pdf, Annex 4.7 [REDACTED].pdf.

UK, including large suppliers such as Johnson Controls International and Protec.³³

35. For the reasons above, the CMA does not consider the Parties to be particularly close competitors for these activities and that the Merged Entity will continue to face competition from other alternative suppliers post-Merger.

Conclusion on horizontal unilateral effects

36. On the basis of the above, the CMA considers that there is a range of suppliers active in this sector, who are all able to compete closely irrespective of their individual share of supply, and the Parties are not particularly close competitors for these activities in the UK.
37. 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 installation and maintenance of fire protection systems in the UK.

Barriers to entry and expansion

38. 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.³⁴
39. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Decision

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

Eleni Gouliou
Director, Competition and Markets Authority
6 December 2021

³³For example, see Annex 11 - MD Review 13 Nov -Final.pdf, supplied by the Parties in response to a CMA request for information dated 7th September 2021, slide 3.

³⁴ [Merger Assessment Guidelines](#), paragraph 8.40.

End notes

ⁱ The Merger included a put option granted by APi in respect of Carrier's business fire and security business in France. The parties subsequently informed us that this option was exercised in November.