

Appendices and glossary

Appendices

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Glossary

Appendix A: Terms of reference and conduct of the inquiry

1. In exercise of its duty under section 33(1) of the Enterprise Act 2002 (the **Act**) the Competition and Markets Authority (**CMA**) believes that it is or may be the case that:
 - (a) arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation, in that:
 - (i) enterprises carried on by Veolia Environnement S.A. will cease to be distinct from enterprises carried on by Suez S.A.; and
 - (ii) the condition specified in section 23(1)(b) of the Act is satisfied; and
 - (b) the creation of that situation may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom (**UK**) for goods or services, including:
 - The supply of complex waste management contracts procured by local authorities in the UK;
 - The supply of non-hazardous commercial and industrial waste collection services in the UK;
 - The supply of non-hazardous municipal waste collection services in the UK;
 - The supply of services for the operation and maintenance (**O&M**) of local authority-owned energy recovery facilities in the UK;
 - The supply of non-hazardous waste incineration services at local level in the Teesside, Wilton 11, Marchwood, and Kemsley local areas;
 - The supply of organic waste composting services at open-windrow composting facilities at local level in the Coven and Packington local areas;
 - The O&M of water and wastewater treatment facilities for industrial customers in the UK; and
 - The supply of mobile water services in the UK.

2. Therefore, in exercise of its duty under section 33(1) of the Act, the CMA hereby makes a reference to its chair for the constitution of a group under Schedule 4 to the Enterprise and Regulatory Reform Act 2013 in order that the group may investigate and report, within a period ending on 17 July 2022, on the following questions in accordance with section 36(1) of the Act:
- (a) whether arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
 - (b) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services.

Andrea Coscelli
Chief Executive
Competition and Markets Authority
21 December 2021

Conduct of the Inquiry

1. We published the biographies of the members of the Inquiry Group conducting the phase 2 inquiry on our inquiry [webpage](#) on 21 December 2021 and an administrative timetable for the inquiry was published on 14 January 2022. At commencement of the inquiry, the statutory deadline was 6 June 2022. This deadline was subsequently extended until 17 July 2022 for the reasons set out in paragraph 10 below and subsequently extended again until 11 September 2022 for the reasons set out in paragraph 17 below.
2. On 28 January 2022, the CMA published an [Issues Statement](#) on the inquiry webpage setting out the areas on which it envisaged that the Phase 2 inquiry would focus.
3. On 16 and 24 February 2022 members of the Inquiry Group, accompanied by CMA staff, attended virtual/hybrid 'site visits' with the Parties and their advisers. Some attendees were present in person at the CMA's London office and some attended via video-conference. These arrangements were made because of the Coronavirus (COVID-19) pandemic and in accordance with the Government's associated guidelines.
4. We received written evidence from the Parties in the form of submissions and responses to information requests, including a large number of internal documents from the Parties. A non-confidential version of Veolia's [initial phase 2 submission](#) was published on the inquiry webpage on 18 March 2022. We also held separate hearings with each of the Parties on 13 and 14 April 2022.
5. Prior to the hearings, we sent the Parties a number of working papers (including non-confidential third party evidence) for comment. The Parties were also sent an annotated issues statement, which outlined our thinking at that stage. Veolia provided comments on those papers on 19 and 22 April 2022.
6. We invited a wide range of interested parties to comment on the Merger, including local authorities, commercial customers, competitors and industry experts. A number of third parties provided us with information by telephone or video conference hearings as well as by responding to supplementary written questions. Evidence was also obtained from third parties using written requests. The Parties provided us contact details of industry participants including customers and competitors. We contacted all of them as a part of

our evidence gathering. Evidence submitted during the CMA's Phase 1 investigation into the Merger was also considered.

7. The initial enforcement order issued in phase 1 was revoked on 20 December 2021. A new initial enforcement order was served on the same date and derogations were granted under it and published on the inquiry [webpage](#).
8. Due to Suez's and Veolia's failure to comply with the requirements of their respective section 109 notices requesting information, the Inquiry Group paused the statutory timetable on 7 January 2022, pending receipt of the information sought. Notices of extension were published on the inquiry [webpage](#).¹ Following receipt of the outstanding information required by the section 109 notices, the Inquiry Group re-started the statutory timetable on 17 February 2022 and notices of termination of extension were published on the inquiry [webpage](#). The timetable was stopped for a total of 41 days, extending the statutory deadline to 17 July 2022. An updated administrative timetable was published on the inquiry webpage on 18 February 2022 to reflect this extension.
9. On 19 May 2022, we published a summary of our provisional findings report, a notice of provisional findings and a notice of possible remedies on the inquiry [webpage](#). On 23 May 2022, we published a non-confidential version of our provisional findings report on the inquiry [webpage](#).
10. We held response hearings with Veolia and Suez on 9 June 2022 and 7 June 2022 respectively. The response hearings were held in a hybrid format with some attendees attending in-person and some attending via MS Teams
11. On 16 June 2022, non-confidential versions of Veolia's response to the provisional findings and to our notice of possible remedies were published on the inquiry [webpage](#).
12. Following the signing of the relevant confidentiality ring undertakings required to protect the information, the confidential version of the provisional findings report was disclosed to certain of the Parties' external advisors on 22 June 2022. On 13 July 2022 a non-confidential version of Veolia's response to the confidential version of the provisional findings report was published on the inquiry [webpage](#).
13. After issuing the provisional findings report, we conducted response hearings with 20 third parties, including with the Parties' competitors for waste, water O&M and mobile water services, MRF operators and water customers. We

¹ The CMA issued three Notices of Extension as follows: 7 January 2022 (Suez), 11 January 2022 (Veolia) and 21 January 2022 (Suez).

also conducted response hearings with one third party that expressed an interest in the acquisition of the Veolia mobile water services UK business, which Veolia had proposed to divest as part of its remedies proposal and one third party that expressed an interest in the acquisition of Suez UK's waste management services, which Veolia had also proposed to divest as part of its remedies proposal.

14. Following the response hearings, we sent the Parties a further paper (including non-confidential third party evidence) for comment. A remedies working paper was also sent to the Parties on 20 July 2022 for comment. The confidential versions of both papers were disclosed into the confidentiality ring, referred to in paragraph 14 above.
15. On 30 June 2022, we issued a [notice of extension](#) of eight weeks to allow the CMA sufficient time to reach a fully reasoned final decision, having regard to the scope and complexity of the inquiry.² The deadline for the CMA's final decision following this extension changed to 11 September 2022. An updated administrative timetable was published on the inquiry [webpage](#) to reflect this decision.
16. A non confidential version of the final report has been published on the inquiry [webpage](#).
17. We would like to thank all those who have assisted us in our inquiry.

² In accordance with section 39(3) of the Enterprise Act 2002.

Appendix B: Regulatory environment

The regulatory environment in which the Parties operate

1. This Appendix details the regulatory landscape in which the Parties operate in the UK. It summarises:
 - (a) the public procurement rules, which govern how local authorities must procure certain of their waste management contracts; and
 - (b) the Environment Act 2021, of which certain provisions are or will become relevant to the Parties' operations.

Procurement

2. The main piece of legislation governing public procurement in England, Wales and Northern Ireland¹ is the Public Contracts Regulations 2015 (the **Regulations**).²
3. The Regulations establish a legal framework governing the procedures and principles for the award of public contracts which fall within the scope of the rules and exceed specified financial values. This legal framework is intended to ensure that bidders are treated equally and without discrimination and that the procedure is carried out in a transparent and proportionate manner.
4. The Regulations apply to bodies that are 'contracting authorities'³ seeking offers in relation to proposed 'public contracts',⁴ and are not specific to particular bodies or industries beyond those definitions. The scope of the Regulations includes local authorities tendering for goods, works and/or service contracts (provided that no exclusions apply) that are over certain financial thresholds⁵, including certain of the Parties' waste management contracts with local authorities.

¹ These regulations do not extend to Scotland where separate, but similar, regulations have been adopted.

² See also the Concession Contracts Regulations 2016 (SI 2016/273) (CCR 2016), the Utilities Contracts Regulations 2016 (SI 2016/274) (UCR 2016) and the Public Procurement (Amendments, Repeals and Revocations) Regulations 2016.

³ 'Contracting authorities' means 'the State, regional or local authorities, bodies governed by public law or associations formed by one or more such authorities or one or more such bodies governed by public law, and includes central government authorities, but does not include Her Majesty in her private capacity' (s2 of the Regulations).

⁴ 'Public contracts' means 'contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities and having as their object the execution of works, the supply of products or the provision of services' (s2 of the Regulations).

⁵ See UK Government website (Cabinet office): [Procurement Policy Note – New Thresholds Values and Inclusion of VAT in Contract Estimates](#), December 2021, accessed by the CMA on 10 May 2022 for the latest applicable financial thresholds.

Choice of procedures

5. A contracting authority running a procurement process for a public contract under the Regulations should select the appropriate procedure to follow.⁶ There are five main types of procedure:

- (a) **Open procedure:** A single stage process without a separate selection stage where the contracting authority invites all interested bidders to submit tenders for the contract that are then evaluated and the contract is awarded without negotiation.
- (b) **Restricted procedure:** A two-stage process where any bidder may request to participate in the procurement but only a minimum of five shortlisted bidders invited by the contracting authority following a selection stage may submit tenders for the contract which are then evaluated and the contract is awarded without negotiation.
- (c) **Competitive dialogue:** Where, after a selection stage, the contracting authority invites a minimum of three shortlisted bidders to take part in a dialogue process with the aim of identifying the solution best suited to meet the contracting authority's needs. Bidders may be further shortlisted at various points following evaluation of tenders. When the dialogue process is complete, final tenders are invited from those bidders remaining in the process. Negotiation is permitted with the successful bidder in order to confirm and finalise its tender, provided this does not distort competition or cause discrimination and provided its tender is not materially modified.
- (d) **Competitive procedure with negotiation:** Where, after a selection stage, a minimum of three shortlisted bidders is invited to submit initial tenders and to take part in a negotiation process to improve their tenders. Suppliers may be further shortlisted following evaluation of initial and subsequent tenders. The possibility of negotiations after final tenders have been submitted is not expressly provided for.
- (e) **Innovation partnership:** used where a contracting authority has identified a need for an innovative product, services or works that is not available on the market.

⁶ The use of Competitive Dialogue and Competitive Procedure with Negotiation must be justified on one of the grounds laid down in the Regulations. Veolia submitted that Competitive Dialogue Procedures and Competitive Procedures by Negotiation are the most commonly used routes for the larger, multifaceted waste management contracts Source: Veolia's Response [98].

Procedural steps

6. Once the contracting authority has selected the relevant procedure, it must follow the procedure as set out in the Regulations. This will typically involve the following steps:⁷
- (a) **Pre-market engagement:** the contracting authority may conduct market consultations with a view to preparing the procurement and informing economic operators of their procurement plans and requirements.
 - (b) **Advertisement:** the contract will be advertised and will identify the required criteria for suitable bidders, for example financial evaluation methodologies and affordability targets. The advertisement will invite expressions of interest by a certain time.
 - (c) **Pre-qualification and evaluation of pre-qualification responses** (if applicable): this stage involves determining whether potential bidders have necessary legal, financial, and economic standing and the technical and professional ability to perform the contract. If the contracting authority is using the competitive dialogue or competitive procedure with negotiation routes, a minimum of three bidders meeting the selection criteria must be invited to participate in the next stage.

When deciding whether to limit the number of qualified bidders, and in determining what might be an appropriate number, the following factors should be taken into account:

- (i) how competitive is the market;
- (ii) scope of requirements/solutions to be explored during the negotiation/dialogue stage;
- (iii) greater number of bidders will most likely increase competitiveness of the process;
- (iv) dialogue/negotiation with a greater number of bidders will increase cost of the process;
- (v) suppliers will be assessing their chances of being successful in the competition and a large number of shortlisted bidders invited to

⁷ The timing and format of the steps may differ depending on which type of procedure is used.

participate might discourage some suppliers from participating in the process or impact the level of their engagement.⁸

- (d) **Invitation to tender** (if applicable): based on the outcome of the step (c) above, selected bidders are invited to bid for the contract.
- (e) **Dialogue/negotiation** (if applicable): the contracting authority will hold meetings with bidders, often to encourage better/more tailored bids at submission stage. Depending on the procedure used, dialogue/negotiation may also take place later on in the process.
- (f) **Submission of tenders**: bidders submit their bids.
- (g) **Evaluation of bids**: the contracting authority will evaluate the bids received. Evaluation should be on the basis of pre-disclosed objective award criteria that must be linked to the subject matter of the contract, so as to determine the most economically advantageous tender. The most economically advantageous tender can be determined on the basis of price or cost (using a cost-effectiveness method) alone and/or on the basis of the best price-quality ratio, depending on the type of procedure used.
- (h) **Award Decision**: all bidders must be notified of the outcome of the tender.
- (i) **Standstill**: a period of time must be observed before a contract is formally awarded so as to give time for legal challenge of the decision.
- (j) **Completion of contract**: the local authority must advertise the contract award.

Lots

7. The contracting authority may decide to split contracts into separate 'lots'.⁹ If the contracting authority does not choose to subdivide a contract into lots, it must provide an indication of the main reasons for its decision. Multiple lots may be awarded to the same tenderer (provided that any maximum that has been set in advance is not exceeded).

⁸ UK Government website: [Competitive dialogue and competitive procedure with negotiation guidance note may 2021](#), accessed by the CMA on 10 May 2022

⁹ S46 of the Regulations.

Future of the procurement regime

8. The procurement regime described above is likely to be subject to reform in the foreseeable future. The Government has recently consulted on plans to simplify procurement procedures which would result in significant changes to the UK's procurement regime. The Procurement Green Paper, published in December 2020, sets out the Government's ambition that bidding for public sector contracts will become simpler, quicker and cheaper.¹⁰
9. The Government has stated that new legislation introducing a reformed public procurement regime will come into effect in 2023.¹¹

Environment Act

10. The Environment Act 2021 (the **Environment Act**), which came into force in November 2021, sets out a legal framework for environmental governance in the UK and allows for measures for improvement of the environment in relation to waste, resource efficiency, air quality, water, nature and biodiversity, and conservation.
11. The main objectives of the Environment Act and the RWS as they relate to waste are to minimise waste and promote recycling, particularly in relation to food-grade plastic, PPE and PE plastics.
12. Although the Environment Act came into force in 2021, the majority of it does not set out any immediate changes for organisations other than regulators. Changes to duties for businesses and other organisations are expected in subsequent secondary legislation made under the Environment Act.
13. Measures under the Environment Act include¹²:
 - (a) **Consistency of collection methodology** (section 57): Sets out requirements for the separate collection of recyclable waste in England. Under these requirements, recyclable household waste (whether from households or relevant non-domestic properties) must be collected (i) separately from other household waste, (ii) for recycling and composting, (iii) separately for each recyclable waste stream¹³ (except where it is not technically or environmentally practicable, or has no environmental

¹⁰ UK Government (Cabinet Office) website, [Green Paper: Transforming public procurement](#), December 2020, page 11, accessed by the CMA on 10 May 2022

¹¹ UK Government (Cabinet Office) website, [Transforming Public Procurement](#), December 2021, accessed by the CMA on 12 May 2022

¹² Veolia's response [38] and Suez' response [38].

¹³ The recyclable waste streams are: glass, metal, plastic, paper and card, food waste and garden waste. Food waste and garden waste may be collected together, but not with any of the other recyclable waste streams.

benefit), (iv) at least once a week if it is food waste. These conditions also apply to C&I waste, with the exception of garden waste requirements. While this measure applies to waste collection authorities in England specifically, other nations may take a similar approach. For example, Wales' Blueprint for Collections proposes separate weekly collections for food waste.

- (b) **Extended producer responsibility** (sections 50 –51): Gives the relevant national authorities for England, Wales, Scotland and Northern Ireland power to make regulations (i) introducing waste producer responsibility obligations and providing for their enforcement, and (ii) requiring payments for the costs of disposing of products and materials.
- (c) **Deposit schemes** (section 54): Gives the relevant national authorities (for England, Wales and Northern Ireland) powers to make regulations establishing deposit schemes. Under the RWS, DEFRA is consulting on introducing a deposit return scheme for drinks cans and bottles in England, Wales and Northern Ireland. Further, a deposit return scheme for single-use drinks cans and bottles is due to come into force in Scotland in 2023.
- (d) **Electronic waste tracking** (section 58): Allows for requirements to be imposed on waste controllers to securely track the waste that passes through their systems. The purpose of this is to reduce waste crime and low environmental performance by waste controllers.
- (e) **Drainage and sewage management plans** (section 79): Places sewerage undertakers under an obligation to prepare, publish and maintain a drainage and sewerage management plan, which must meet criteria under section 79 of the Environment Act. It also provides that the sewerage undertaker must prepare and publish a revised plan in certain circumstances.

Appendix C: Remedies

Scope of the Proposed Suez UK Waste Business

1. This Appendix details the scope of the divestiture package proposed by Veolia under Veolia's Waste Remedy Proposal.

Contracts

2. Veolia told us that the Proposed Suez UK Waste Business would comprise:¹
 - (a) all PPP/PFI contracts, including all waste management infrastructure operated under these contracts;
 - (b) all municipal collection contracts;
 - (c) all treatment/disposal contracts; and
 - (d) all C&I contracts.

Waste management infrastructure

3. Veolia told us that the Proposed Suez UK Waste Business would comprise:²
 - (a) all municipal waste transfer stations;
 - (b) all local authority-owned ERFs;
 - (c) all fuel supply agreements (**FSAs**) at third-party ERFs;
 - (d) All local authority-owned MRFs;
 - (e) all merchant MRFs;
 - (f) all composting facilities;
 - (g) all HWRCs;
 - (h) all landfill sites;
 - (i) all anaerobic digestion plants;
 - (j) all mechanical biological treatment plants;

¹ [Veolia's response to notice of possible remedies](#), paragraph 30.

² [Veolia's response to notice of possible remedies](#)), paragraph 31.

- (k) all C&I sites and assets;
- (l) all other waste management activities carried out by Suez's UK business, including at wood processing plants, SRF and street sweeping sites.

Waste infrastructure development projects

- 4. Veolia told us that the Proposed Suez UK Waste Business would comprise all current waste infrastructure development projects, including the current bid for the [REDACTED] and the [REDACTED] development site with planning permission in [REDACTED].³

R&D

- 5. Veolia told us that the Proposed Suez UK Waste Business would comprise the 'Suez UK Innovation Hub process', which led local projects directly linked to the UK waste business.⁴

IPR

- 6. Veolia told us that the Proposed Suez UK Waste Business would comprise the [REDACTED] Suez [REDACTED] related to the UK non-hazardous waste business and, at the option of the purchaser, the Veolia 'Onyx' brand in the UK, which was the principal brand used for Veolia's waste management activities between 1989 and 2005.⁵

Licences, permits and authorisations

- 7. Veolia told us that the Proposed Suez UK Waste Business would comprise all licences, permits and authorisations issued by public bodies in relation to the Suez UK waste business, to the extent permissible under the applicable law. Given the proposed share sale structure, these would pass to the purchaser automatically with the relevant legal entities.⁶

Management, staff, support functions and head office

- 8. Veolia told us that the Proposed Suez UK Waste Business would comprise:⁷
 - (a) the UK management team;

³ [Veolia's response to notice of possible remedies](#), paragraph 32.

⁴ [Veolia's response to notice of possible remedies](#), paragraph 33.

⁵ [Veolia's response to notice of possible remedies](#), paragraph 34. See also email from Veolia's legal counsel to CMA, dated 14 July 2022.

⁶ [Veolia's response to notice of possible remedies](#), paragraph 35.

⁷ [Veolia's response to notice of possible remedies](#), paragraph 36.

- (b) all operational staff that currently service its contracts, projects and facilities;
 - (c) the municipal and C&I bid teams;
 - (d) all back-office functions;
 - (e) all IT systems and databases;
 - (f) the head office at Maidenhead; and
 - (g) any other land interests associated with Suez's UK waste business.
9. Veolia told us that if the CMA did find that branding was an important element of any waste remedy, then this could be addressed in two main ways, by:⁸
- (a) divesting the Proposed Suez UK Waste Business to an existing operator (in the UK or elsewhere) with an established brand in waste management, [REDACTED]; and/or
 - (b) Veolia offering the purchaser of the Proposed Suez UK Waste Business, the option to acquire a legacy Veolia UK brand, eg Veolia's 'Onyx' brand in the UK, which was Veolia's principal brand used by Veolia's waste management activities between 1989 and 2005.

Legal structure

10. Figure 1 sets out Suez's UK waste business's legal structure.

Figure 1: [REDACTED]

⁸ [Veolia's response to notice of possible remedies](#), paragraph 38.

Scope of the Proposed Veolia UK O&M Business

1. This Appendix details the scope of the divestiture package of the Proposed Veolia UK O&M Business proposed by Veolia under Veolia's Water O&M Remedy Proposal.

Contracts

2. Veolia told us that the Proposed Veolia UK O&M Business would include all of Veolia's UK industrial water O&M services contracts, which represent all of Veolia's contracts in the area of overlap with Suez in the UK (ie water O&M services for industrial customers).⁹ These contracts are set out in Table 1 below.

Table 1: Veolia UK industrial water O&M contracts (current)

<i>Customer</i>	<i>Industry</i>	<i>Location of Facility</i>	<i>Associated Activity</i>	<i>FY21 Revenue (£m)</i>	<i>Contract End Date</i>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: [Veolia's response to notice of possible remedies](#), paragraph 57, Table 1.

* O&M services to [REDACTED] are provided under two separate contracts.

Staff

3. Veolia told us that the Proposed Veolia UK O&M Business would include [REDACTED].¹⁰
4. Veolia told us that [REDACTED] would transfer to the purchaser, including:¹¹
 - (a) [REDACTED];
 - (b) [REDACTED];

⁹ [Veolia's response to notice of possible remedies](#), paragraphs 57 and 59.

¹⁰ [Veolia's response to notice of possible remedies](#), paragraphs 57 and 59.

¹¹ [Veolia's response to notice of possible remedies](#), paragraphs 57 and 59.

(c) [REDACTED]. Veolia told us that [REDACTED]

(d) [REDACTED].

Current bids and development opportunities

5. Veolia told us that the Proposed Veolia UK O&M Business would include all current development opportunities, including all of Veolia's current bids, ongoing proposals for renewals and new contracts for industrial water O&M services in the UK.¹²

Tangible assets

6. Veolia told us that the Proposed Veolia UK O&M Business would include the small number of tangible (operational) assets owned by Veolia that currently serviced its UK industrial water O&M contracts, namely:¹³
- (a) one cabin at the [REDACTED] customer site;
 - (b) one van at the [REDACTED] customer site;
 - (c) membranes at the [REDACTED] customer site;
 - (d) the IT equipment (namely, laptops and desktops), stocks of critical spares and chemicals held at the Proposed Veolia UK O&M Business customer sites; and
 - (e) a number of leased vans located at the customer sites that could quickly and easily be novated to the separate Proposed Veolia UK O&M Business legal entity, and subsequently transferred automatically to the purchaser under the share sale.

Site monitoring systems

7. Veolia told us that each of the Proposed Veolia UK O&M Business customer sites used a different system to monitor for equipment and telemetry alarms, and that these were independent systems provided either by a third party or the client themselves. Veolia told us that none of the sites used Veolia's Site Monitoring Centre to monitor for equipment and telemetry alarms.¹⁴

¹² [Veolia's response to notice of possible remedies](#), paragraphs 57 and 59.

¹³ [Veolia's response to notice of possible remedies](#), paragraphs 57 and 59.

¹⁴ [Veolia's response to notice of possible remedies](#), paragraph 57.

Permits and consents

8. Veolia told us that the owner of a water or wastewater facility typically held the permits or consents necessary for operation of the facility, not the supplier of industrial water O&M services. It told us that this was the case for all contracts in the Proposed Veolia UK O&M Business, except the [REDACTED], where Veolia held the permit. Veolia told us that it would transfer the permit relating to [REDACTED].¹⁵
9. Veolia told us that the application for transferring a permit could be submitted before the business was divested and the permit would then move automatically with the divestment business without the need for a further transfer.¹⁶
10. Veolia told us that to transfer the permit to a different Veolia legal entity involved applying to the Environment Agency, who would need to determine whether that entity was competent to hold the permit. It told us that the Environment Agency would consider whether that entity had the required technical competence, environmental record and finances to carry out the operations and meet its permit conditions. It added that since this transfer would be an administrative matter only, [REDACTED] the same industrial water O&M business would be performing the activities, with the same competent and experienced employees.¹⁷

TSAs from Veolia

11. Veolia told us that there would be TSAs from Veolia to the purchaser for back office support functions (eg IT, finance, HR, supply chain and health and safety support).¹⁸

¹⁵ [Veolia's response to notice of possible remedies](#)), paragraph 57.

¹⁶ Veolia's response to CMA phase 2 s.109 notice, 14 June 2022, q.165.

¹⁷ Veolia's response to CMA phase 2 s.109 notice, 14 June 2022, q.165.

¹⁸ [Veolia's response to notice of possible remedies](#), paragraph 57.

Scope of the Proposed Suez UK O&M Business

1. This Appendix details the scope of the divestiture package of the Proposed Suez UK O&M Business proposed by Veolia under Veolia's Water O&M Remedy Proposal.¹⁹

Contracts

2. Veolia told us that the Proposed Suez UK O&M Business would comprise all of the Suez WTS business's UK industrial water O&M current operating contracts.²⁰ These contracts are set out in Table 2 below.

Table 2: Suez UK industrial water O&M contracts (current)

<i>Customer</i>	<i>Water Type</i>	<i>Contract Start Date</i>	<i>Contract End Date</i>	<i>Term (years)</i>	<i>Annual Contract Value of O&M (£)</i>
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: [Veolia's response to notice of possible remedies](#), paragraph 94, Table 2.

* [REDACTED]

** [REDACTED]

*** [REDACTED]

**** [REDACTED]

¹⁹ Our conclusions on the appropriate scope of the divestiture package are set out in Chapter 15 from paragraph 15.330.

²⁰ [Veolia's response to notice of possible remedies](#), paragraph 94.

Staff

3. [REDACTED]:²¹
 - (a) [REDACTED];
 - (b) [REDACTED];
 - (c) [REDACTED];
 - (d) [REDACTED];
 - (e) [REDACTED];
 - (f) [REDACTED];
 - (g) [REDACTED]
 - (h) [REDACTED] development [REDACTED].
4. Veolia told us that [REDACTED].²²

Current bids and development opportunities

5. Veolia told us that the Proposed Suez UK O&M Business would comprise all ongoing and future bids for UK industrial water O&M contracts.²³

Asset Care business

6. Veolia told us that the [REDACTED] entity included WTS's Asset Care business, consisting of small projects for its industrial water O&M customers, focused on maintenance works. Veolia told us that of the Proposed Suez UK O&M Business's revenues of around £[REDACTED] in 2021, around £[REDACTED] of this was derived from this Asset Care business.²⁴

Tangible assets

7. Veolia told us that the assets required to operate the Proposed Suez UK O&M Business were those located at the customer site, which were typically owned by the customer. Veolia told us that the only assets owned by the Suez WTS business were those used at the [REDACTED] and [REDACTED] customer sites, and that the

²¹ [Veolia's response to notice of possible remedies](#), paragraph 94.

²² [Veolia's response to notice of possible remedies](#), paragraph 94.

²³ [Veolia's response to notice of possible remedies](#), paragraph 94.

²⁴ [Veolia's response to notice of possible remedies](#), paragraph 94.

assets at both sites were owned by [X], the legal entity that would be divested.²⁵

8. Veolia told us that:²⁶

- (a) at [X] customer site, the assets consisted of equipment installed by, and owned by, the Proposed Suez UK O&M Business; and
- (b) at the [X] site, the assets were standard mobile units that were owned by the Proposed Suez UK O&M Business, leased by [X] and installed on a semi-permanent basis (for 10 years) at the [X] site.

Premises

9. Veolia told us that the Proposed Suez UK O&M Business would comprise the Suez WTS business's office in Grangemouth, which included a testing laboratory and various back office support functions. Veolia told us that this office could readily function as a head office for the Proposed Suez UK O&M Business if required.²⁷

Support functions

10. Veolia told us that the Proposed Suez UK O&M Business would comprise back office functions, including finance, human resources and QHSEs.²⁸

Site monitoring capability

11. Veolia told us that the Suez WTS business used an internet-based platform to monitor equipment at customers' sites, and to the extent required, the Proposed Suez UK O&M Business would be sold with a licence to continue using this platform.²⁹

IT systems

12. Veolia told us that Suez transferred the Proposed Suez UK O&M Business to a wider 'WTS system' only in recent months, but prior to that, the Proposed Suez UK O&M Business had used its own stand-alone IT system, which was

²⁵ [Veolia's response to notice of possible remedies](#), paragraph 94.

²⁶ [Veolia's response to notice of possible remedies](#), paragraph 94.

²⁷ [Veolia's response to notice of possible remedies](#), paragraph 94.

²⁸ [Veolia's response to notice of possible remedies](#), paragraph 94.

²⁹ [Veolia's response to notice of possible remedies](#), paragraph 94.

a legacy of the fact that the business was not part of the GE Water business that was acquired by Suez and made up most of the Suez WTS business.³⁰

13. Veolia told us that that IT system still existed and therefore could readily be reinstated before divestment, if necessary. Alternatively, Veolia told us that it would be straight-forward for any purchaser to transfer the Proposed Suez UK O&M Business onto its own IT systems.³¹

Permits and consents

14. Veolia told us that the owner of a water or wastewater facility typically held the permits or consents necessary for operation of the facility, not the supplier of O&M services. Veolia told us that this was the case in all but [X] of the Proposed Suez UK O&M Business's contracts, and that for each of these permits, there was a named individual within WTS responsible for compliance.³²
15. Veolia told us that the Suez WTS business would transfer these permits to the manager of the Proposed Suez UK O&M Business.³³

TSAs

16. Veolia told us that the potential scope for TSAs with the purchaser of the Proposed Suez UK O&M Business would be limited to the following:³⁴
 - (a) *Support functions*: Veolia told us that as the Proposed Suez UK O&M Business already existed as a stand-alone business, there were only a small number of shared back office functions with Suez and/or the Suez WTS business. Veolia told us that Suez and the Suez WTS business would be willing to enter into TSAs for these few functions, until such time that the purchaser had equivalent support in place.³⁵
 - (b) *IT systems*: Veolia told us that Suez was willing to put in place TSAs for any other IT systems or applications that the Proposed Suez UK O&M Business currently had access to.

³⁰ [Veolia's response to notice of possible remedies](#), paragraph 94.

³¹ [Veolia's response to notice of possible remedies](#), paragraph 94.

³² [Veolia's response to notice of possible remedies](#), paragraph 94.

³³ [Veolia's response to notice of possible remedies](#), paragraph 94.

³⁴ [Veolia's response to notice of possible remedies](#), paragraph 94.

³⁵ [Veolia's response to notice of possible remedies](#), paragraph 94.

Brand

17. Veolia told us that if the CMA considered that branding was an important element of the Proposed Suez UK O&M Business, Veolia could address this in two ways:³⁶
- (a) the Proposed Suez UK O&M Business could be sold to an existing operator with an established brand in industrial water O&M services, and that there were many who would be interested in acquiring the business; and/or
 - (b) the Suez WTS business could provide a transitional brand licensing agreement for the 'WTS' brand, which could aid the purchaser in establishing its UK industrial water O&M presence, before switching to its own brand.

Legal structure

18. Figure 2 sets out a simplified legal structure of Suez's WTS business.

Figure 2: [X]

³⁶ [Veolia's response to notice of possible remedies](#), paragraph 99.

Scope of the Proposed Veolia EEA MWS Business

1. This Appendix details the scope of the divestiture package of the Proposed Veolia EEA MWS Business proposed by Veolia under Veolia's MWS Remedy Proposal, and as agreed with the EC [REDACTED].³⁷

Fleet

2. Veolia told us that the Proposed Veolia EEA MWS Business would comprise VWT's entire fleet of [REDACTED] mobile units (at a minimum) stationed in the UK and EEA, together with the corresponding technology solutions.^{38,39}

Infrastructure

3. Veolia told us that the Proposed Veolia EEA MWS Business would comprise the following facilities:⁴⁰
 - (a) VWT's site at Stoke-on-Trent, including a regeneration facility for mobile water units, offices and a car park for the mobile water units. Veolia told us that all premises at the Stoke-on-Trent site were in the scope of the Proposed Veolia EEA MWS Business, including those currently occupied by business units that were not involved in the supply of MWS. Veolia told us that these unrelated activities would be relocated as part of the divestment process (subject to reverse TSAs for a limited transition period).⁴¹
 - (b) VWT's premises and facilities dedicated to its MWS business located on its Wissous site in France. At Wissous, Veolia told us that the facilities used by VWT and the purchaser would be separate, and that the offices used by the purchaser's staff would be located in a separate building. Veolia told us that it would only benefit from an easement over the purchaser's car park, in order to access its logistics platform and the regeneration station dedicated to its non-mobile water services technological solutions.⁴²

³⁷ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

³⁸ Veolia told us that VWT's [REDACTED] mobile water fleet used a range of technologies, [REDACTED]. Source: [Veolia's response to notice of possible remedies](#), paragraph 139.

³⁹ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁴⁰ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁴¹ [Veolia's response to notice of possible remedies](#), paragraph 128.

⁴² [Veolia's response to notice of possible remedies](#), paragraph 128.

- (c) VWT's regeneration centre in [REDACTED], and its personnel. VWT is [REDACTED]. Veolia told us that VWT's planned regeneration facility in [REDACTED].⁴³

Intangible assets

4. Veolia told us that the Proposed Veolia EEA MWS Business would comprise the databases and other intangible elements held by the Proposed Veolia EEA MWS Business, namely the list of the Proposed Veolia EEA MWS Business's customers (relating to former, current or identified potential clients or opportunities), and the list of ongoing and completed contracts.⁴⁴

Licences, permits and authorisations

5. Veolia told us that the Proposed Veolia EEA MWS Business would comprise all licences, permits and authorisations issued by public bodies used in the conduct or for the benefit of the Proposed Veolia EEA MWS Business, to the extent permissible under the applicable law.⁴⁵
6. Veolia told us that [REDACTED] permits relating to discharges from the regeneration facilities might be transferred to the purchaser:⁴⁶
- (a) [REDACTED]
- (b) [REDACTED]

Customer contracts

7. Veolia told us that the Proposed Veolia EEA MWS Business would comprise all client contracts, commitments and customer orders for the benefit of the Proposed Veolia EEA MWS Business.⁴⁷

Records

8. Veolia told us that the Proposed Veolia EEA MWS Business would comprise all customer data (including past, present and future identified customer opportunities), credit, machinery and equipment maintenance files, research and development records and other files of the Proposed Veolia EEA MWS Business.⁴⁸

⁴³ [Veolia's response to notice of possible remedies](#), paragraph 14.

⁴⁴ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁴⁵ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁴⁶ [Veolia's response to notice of possible remedies](#), paragraph 169.

⁴⁷ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁴⁸ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

Staff

9. Veolia told us that the Proposed Veolia EEA MWS Business would comprise all employees dedicated to Veolia's MWS business in the UK and EEA, [REDACTED].⁴⁹
10. Veolia told us that [REDACTED].⁵⁰
11. Veolia told us that [REDACTED].⁵¹
12. Veolia also told us that in terms of personnel, the purchaser would have access to [REDACTED]. Veolia told us that through the transfer of all qualified personnel necessary for the [REDACTED] divested business, the purchaser would obtain a comprehensive skills base.⁵²
13. Veolia told us that the following staff were not part of the Proposed Veolia EEA MWS Business and provided the reasons for excluding them from the divestiture package:⁵³
 - (a) [REDACTED] VWT UK employees who were not involved in the MWS business, and [REDACTED] Solys employees who were responsible for logistics, and were not involved in the manufacture of mobile units or technological solutions. Veolia told us that it was not necessary to include these employees in the divestiture package given that they were not involved in VWT's activities in the supply of MWS in the EEA or UK; and
 - (b) drivers of mobile units were not included in the scope of the divestiture package given that Veolia used external service providers for drivers of its mobile units, like all of its competitors. Veolia told us that no special skills were required for drivers of mobile units, beyond those required for basic road transport activities.

Documents

14. Veolia told us that the Proposed Veolia EEA MWS Business would include all internal documents and training needed for the manufacture of mobile water units.⁵⁴

⁴⁹ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁵⁰ [Veolia's response to notice of possible remedies](#), paragraph 148.

⁵¹ [Veolia's response to notice of possible remedies](#), paragraph 147 and footnote 34.

⁵² [Veolia's response to notice of possible remedies](#), paragraph 131.

⁵³ [Veolia's response to notice of possible remedies](#), paragraph 132.

⁵⁴ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

Other elements

15. [REDACTED].^{55,56}

- (a) *Solys workshop*: all activities of Solys' technology solutions manufacturing workshop at the Stoke-on-Trent site (mobile and non-mobile), and the accompanying employees ([REDACTED]), which was a workshop used for the design and manufacture of technology solutions used by the Proposed Veolia EEA MWS Business;⁵⁷
- (b) *MU Manufacturing Agreement*: a mobile units manufacturing agreement governing the rights and obligations of Veolia and the purchaser in the context of the ongoing manufacturing of several mobile water units, which will be entered into on arm's length terms and contain customary provisions for this type of agreement;
- (c) *MU Supply Agreement*: a mobile units supply agreement, whereby the purchaser may order up to [REDACTED] mobile water units of its choice, which will be entered into on arm's length terms and contain customary provisions for this type of agreement (including a no less favourable treatment clause and provisions relating to supply chain, logistic and capacity constraints);
- (d) *TS Supply Agreement*: contracts for the supply of technological solutions used in Veolia's current fleet of mobile units, [REDACTED], for use exclusively in the European MWS market, to the extent they could not be assembled at the Stoke-on-Trent site (namely [REDACTED]).⁵⁸ These supply contracts will cover the supply of spare parts for these technological solutions [REDACTED]. Veolia will not be bound by any obligation to supply for technological solutions for which it has ceased production; and
- (e) TSAs between Veolia and the purchaser as and when required and requested by the purchaser for the divestment. The TSAs would be concluded for a maximum duration of [REDACTED] years, which may be extended by a further [REDACTED] years where the purchaser demonstrates that this is required, under the supervision of a monitoring trustee, and would cover in particular: [REDACTED].

⁵⁵ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁵⁶ In its response to the RWP, Veolia told us that 'the Solys workshop is not required for a viable MWS divestment business'. and that under its commitments to the EC, the Solys workshop was an optional "add on" to the scope of the divestment that could be included at the request of the purchaser. Veolia told us that [REDACTED]. Veolia's response to RWP, paragraphs 38 and 40.

⁵⁷ [Veolia's response to notice of possible remedies](#), paragraphs 119 to 127.

⁵⁸ [Veolia's response to notice of possible remedies](#), paragraph 128.

Glossary of terms

Term	Definition	First use
The Act	The Enterprise Act 2002	Summary, paragraph 3
ACCC	The Australian Competition and Consumer Commission	Paragraph 2.27
CMA	Competition and Markets Authority	Summary, paragraph 1
the CMA's Phase 1 Decision	The CMA's Phase 1 decision on the relevant merger situation and substantial lessening of competition	Summary, paragraph 7
CMC	Controlled merchant capacity. Incineration capacity sold to third parties for disposal of waste	Summary, paragraph 54
CV	Calorific value (of waste)	Paragraph 5.10
C&I	Non-hazardous commercial and industrial	Summary, paragraph 1
D&C	Design and construction	Paragraph 9.77
EBIT	Earnings before interest and tax	Paragraph 2.7
EBITDA	Earnings before interest, tax, depreciation and amortisation	Paragraph 2.7
EC Remedies	Veolia's commitments to divest, accepted by the European Commission in clearing the merger in their jurisdiction.	Paragraph 15.19
EEA	European Economic Area	Paragraph 13.40
EfW	Energy from Waste	Paragraph 5.10
the Environment Act	The Environment Act 2021	Paragraph 5.20

EPC	Engineering, Procurement and Construction	Paragraph 10.40
ERF	Energy recovery facility	Summary, paragraph 1
FM	Facilities Management	Summary, paragraph 78
FMN	Phase 1 Final Merger Notice	Paragraph 2.2
FSA	Fuel supply agreement	Paragraph 10.8
HWRC	Household waste recycling centres	Paragraph 5.2
IEO	Initial Enforcement Order	15.15
the Inquiry Group	The group of independent members appointed by the CMA to investigate and report on the Merger in accordance with section 36(1) of the Act	Summary, paragraph 9
IVC	In-vessel composting	Paragraph 5.6
IWE	Veolia's UK&I's Industrial Water & Energy business line	Paragraph 2.10
KPI	Key performance indicator	Paragraph 6.12
ktpa	kilo-tonnes per annum	Table 5.6
LATCos	Local Authority Trading Companies; entities which are wholly owned by a local authority or by a group of local authorities	Paragraph 8.93
Merchant ERF	An ERF which is privately owned (as opposed to reverting to local authority ownership)	Paragraph 10.3
Merged Entity	Veolia and Suez, for statements referring to the future	Summary, paragraph 44
the Merger	Veolia's acquisition of Suez	Summary, paragraph 2

MRC	Mini-recycling centre	Paragraph 6.29
MRF	Material recovery facility	Summary, paragraph 1
MWS	Mobile water service	Summary, paragraph 1
NAWDO	National Association of Waste Disposal Officers	Paragraph 7.25
New Suez Consortium	The consortium of investors which purchased the New Suez Divestment Business. The New Suez Consortium comprises Meridiam SAS, Global Infrastructure Partners LLC, Caisse des Dépôts et Consignations and its subsidiary CNP Assurances.	Paragraph 15.19
the New Suez Divestment Business	Under the EC Remedies, the divestiture of almost all of Suez's activities in the non-hazardous and regulated waste management markets and the municipal water market in France	Paragraph 15.19
OFT	Office of Fair Trading	Paragraph 8.29
OWC	Open-windrow composting	Summary, paragraph 7
O&M	Operation and maintenance	Summary, paragraph 1
Parties	Veolia and Suez	Summary, paragraph 2
PFI	Private Finance Initiative	Paragraph 5.100
Phase 1 Decision	The CMA's phase 1 decision, of 7 December 2021	Paragraph 3.4
The Plan	DEFRA's January 2021 'Waste Management Plan for England'	Paragraph 5.15

PPP	Public-Private Partnerships	Summary, paragraph 52
PRF	Plastic recovery facility	Paragraph 5.10
P&L	Profit and loss account	Paragraph 2.7
RCBs	Relevant customer benefits	Paragraph 15.12
RDF	Refuse Derived Fuel	Paragraph 5.2
the Regulations	the Public Contracts Regulations (2015)	Paragraph 5.38
Residual waste	Residual waste is the portion of non-hazardous, solid, combustible waste that is not recycled or composted	Summary, paragraph 22
R&I / R&D	Research, development and innovation	Paragraph 5.53
RWC	Regulated Water Company	Paragraph 13.136
SLC	Substantial lessening of competition	Summary, paragraph 1
Suez	Suez S.A.	Summary, paragraph 1
Teckal	A company that is wholly owned and controlled by a public body (eg a local authority) and does most of its work (more than 80%) for that body. A Teckal is exempted from Public Procurement rules if it does most of its work (at least 80%) for its public body owner	Paragraph 5.13
TUPE	Transfer of Undertakings (Protection of Employment) Regulations 2006	Paragraph 8.12
UAs	Unitary authorities	Paragraph 5.97
UK	United Kingdom	Summary, paragraph 1
Veolia	Veolia Environnement S.A	Summary, paragraph 1

Veolia EEA MWS Divestment Business	Under the EC Remedies, the divestiture of almost all of Veolia's activities in the mobile water services market in the European Economic Area	Paragraph 15.19
Veolia UK&I	Veolia UK and Ireland	Paragraph 2.7
VWT	Veolia Water Technologies	Paragraph 2.5
Waste disposal	Waste recovery and waste disposal services. Usually involves incineration, landfill or export	Summary, paragraph 3
Waste Management Supply Chain	All stages of the non-hazardous waste management supply chain, including collection, sorting, recycling and final disposal via landfill or incineration	Summary, paragraph 20
the Waste Regulations	The Waste (England and Wales) Regulations 2011	Paragraph 5.11
Waste transfer station	An intermediate location where waste is deposited, once collected, before being aggregated and taken (in a larger vehicle to the collection vehicle) to a sorting or disposal facility	Paragraph 5.10
WCAs	Waste collection authorities	Paragraph 5.97
WDAs	Waste Disposal Authorities	Paragraph 5.97