

Anticipated acquisition by Sika AG of MBCC Group

Decision on relevant merger situation and substantial lessening of competition

ME/6984/22

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

The Parties and the Merger

1. Sika AG (**Sika**) has agreed to acquire the whole of the issued share capital of the ultimate parent company of the MBCC Group (**MBCC**) (the **Merger**). Sika and MBCC are together referred to as the **Parties** (each individually, as a **Party**) 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 Sika and MBCC is an enterprise; that these enterprises will cease to be distinct as a result of the Merger; and that the share of supply test is met. Accordingly, arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
3. Both Parties supply products used in the construction industry, including chemical-based admixtures, waterproofing products, and grouts – among many others. The CMA focussed its investigation on the areas of overlap that it considered could give rise to plausible competition concerns based, in particular, on the evidence that the CMA received from the Parties and third parties during the course of its investigation.

Horizontal unilateral effects in the supply of chemical admixtures

4. Chemical admixtures are specially formulated chemicals added to cementitious products (concrete, cement, and mortar) to modify their properties, for example to slow their setting rate so they can be transported over longer distances. Chemical admixtures also enable concrete producers to reduce the amount of cement required to produce concrete, which not only cuts the overall cost of concrete production, but also reduces its environmental impact. Modern construction methods rely on admixtures, which are therefore considered an essential input in the production of cementitious products.

Competitive dynamics

5. Customers consider a wide range of factors when choosing a chemical admixtures supplier. The most important factors are product performance and quality, security of supply, and price. Other important factors include technical expertise, reputation, capacity, product development and innovation, including developing sustainable solutions.
6. Large customers have additional requirements to other customers. In particular, their volume and logistics requirements and the need to have access to the latest admixture developments to maintain a competitive product offering means that their choice of potential suppliers is more limited.
7. The CMA found that there is significant differentiation between suppliers and their ability to meet customers' requirements.

Competitive assessment

8. The CMA found that the Parties are the two largest suppliers of admixtures in the UK with a combined share of supply of over 50%. Post-Merger the market would be highly concentrated, with the Merged Entity and its three largest rivals representing around 80% of supply.
9. Other evidence received by the CMA also demonstrated that the Parties are close competitors across the broad range of parameters considered important by customers. The large majority of third parties viewed Sika and MBCC as the strongest suppliers active in the UK. Customers identified the Parties' range of products, their size and scale, and their ability to support product development and innovation as important competitive strengths of both Parties. Large customers also identified the Parties as two of a small number of suppliers that have the capacity and capabilities to meet their requirements. Sika's internal documents also suggest that the Parties compete closely.

10. The CMA considered the current competitive constraint exerted by other suppliers and how that might change. The CMA found that GCP and Saint Gobain (Chryso) would exert a moderate constraint on the Merged Entity and that other suppliers, such as Oscrete and Mapei, would exert a more limited constraint. The CMA found that the constraint from Mapei would likely grow over time, although the pace of its expansion is ultimately likely to be limited. In the round, the CMA considered that these alternatives would not (either individually or collectively) exert sufficient competitive constraint to prevent the Merger giving rise to a substantial lessening of competition (**SLC**).
11. Third parties explained that it was difficult for suppliers to enter or expand in the UK because reputation and relationships are important – with customers expecting their suppliers to have a deep knowledge of their business. Other important barriers to entry and expansion identified by third parties include access to raw materials (polymers), local production facilities, and the need to possess sufficient technical expertise and R&D capabilities.
12. Customers cannot switch suppliers easily or quickly as extensive testing is required to ensure that any new products are suitable for their particular aggregates and requirements, with this process becoming more difficult the larger and more complex a customer's operations are. The process of switching supplier, in addition to the time taken for smaller suppliers to build their scale and capacity, means that entry or expansion takes time. The CMA therefore does not consider that the threat of entry or expansion is sufficient to prevent an SLC from arising or mitigate its effect.

Conclusion on the supply of chemical admixtures

13. The CMA therefore believes that the Merger gives rise to a realistic prospect of a SLC as a result of horizontal unilateral effects in relation to the supply of chemical admixtures in the UK.

Other overlaps investigated

14. The CMA also gave detailed consideration to two other areas in which the Parties' activities overlap:
 - (a) products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK; and

- (b) structural cementitious grouts that are certified for use in offshore wind turbine installation.

The supply of waterproofing moving joints and cracks in drinking water infrastructure

- 15. The Parties are the only two suppliers of waterproofing jointing bandages that have been tested by the Drinking Water Inspectorate (**DWI**) and are approved for use in drinking water infrastructure in the UK. However, the CMA found that the Merger has prompted numerous suppliers to contemplate entering the market (in light of concerns raised by customers about the impact of the Merger).
- 16. The CMA found that one supplier has already taken the commercial decision to enter the market and is already taking steps towards obtaining the required regulatory approvals. While there is some uncertainty inherent in the regulatory process, the supplier possesses generally strong capabilities that make it well-placed to enter this market and holds a high degree of confidence in its ability to obtain the required approvals (while exhibiting a good understanding of what that process entails). On this basis, the CMA believes (taking into account the cautious approach on entry and expansion that is appropriate within a Phase 1 investigation) that the entry of this supplier can be considered both timely and likely.
- 17. The CMA also considers that entry by the new supplier will be sufficient to prevent an SLC. The new supplier has the capabilities to effectively replicate the supply position of either of the Parties and is considered as a credible alternative by customers.

The supply of structural cementitious grouts that have been certified for use in the installation of offshore windfarms

- 18. Both Parties supply structural cementitious grouts that have been certified for use in the installation of offshore windfarms. While MBCC is a large and established supplier of these grouts, Sika currently has a single approved product and a negligible track record. The CMA considered whether Sika would be likely to compete more closely with MBCC in the future.
- 19. The CMA considered the competitive constraint exerted by other suppliers, including those that are currently in the process of entering or expanding. The CMA found that ITW, the other incumbent, is the strongest constraint on MBCC. The CMA also found that while entry or expansion is difficult for suppliers, including Sika, a range of other emerging suppliers are at least as well placed as

Sika to compete with MBCC in the future. Given the extent of competitive constraint currently imposed on MBCC by ITW and the position of other new or growing suppliers, the CMA found that the loss of future competition from Sika would not be material.

20. The CMA therefore concluded that there is no realistic prospect of an SLC arising in relation to these other areas of overlap.

Conclusion

21. The CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (the **Act**). The Parties have until 3 August 2022 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

22. Sika is the Swiss-based parent-company of a global group that manufactures and supplies a broad range of products under the Sika brand and other group brands. Sika's group turnover in 2021 was approximately CHF 9.2 billion worldwide and approximately CHF [X] in the UK.
23. MBCC is currently owned by LSF11 Skyscraper Midco 2 S.à.r.l., a company based in Luxembourg and an indirect subsidiary of Lone Star Fund XI, L.P., an exempted limited partnership organised under the laws of Bermuda. MBCC is a Germany-based company that manufactures and supplies products under brands including Master Builders Solutions. MBCC's group turnover in 2021 was approximately €2.7 billion worldwide and approximately €[X] in the UK.
24. Both Parties manufacture and supply products used in the construction industry, including chemical-based admixtures, waterproofing products, premix mortars, industrial flooring, sealants, adhesives, fibres and grouts.

TRANSACTION

25. Sika, indirectly via its wholly-owned subsidiary Sika International AG, has agreed to acquire 100% of the shares in MBCC pursuant to a sale and purchase agreement (the **SPA**) entered into between Sika International AG and LSF11 Skyscraper Midco 2 S.à.r.l. on 10 November 2021 (the **Merger**). The Merger was publicly announced on 11 November 2021.
26. The Parties informed the CMA that the Merger is also the subject of review by the European Commission¹ and the competition authorities in Australia, Brazil, Canada, Chile, China, Colombia, Egypt, Indonesia, Japan, Mexico, Morocco, New Zealand, Russia, Serbia, South Africa, Saudi Arabia, Thailand, Turkey, Ukraine and the United States of America.

¹ The Parties filed a notification with the European Commission on 7 June 2022 which was then withdrawn on 4 July 2022.

PROCEDURE

27. The CMA's mergers intelligence function identified this transaction as warranting an investigation.²
28. The Merger was considered at a Case Review Meeting.³

JURISDICTION

29. The CMA believes that the Merger (as described in paragraph 25) is sufficient to constitute arrangements in progress or contemplation for the purposes of the Act.⁴
30. Each of Sika and MBCC is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.
31. The Parties overlap in the supply of a number of products used in the construction industry, including chemical admixtures. In 2021, the Parties had a combined share of supply of [50-60]% (by revenue) in the supply of chemical admixtures in the UK, and the Merger would result in an increment of [20-30]% (as set out in paragraph 75 and Table 1). The CMA therefore believes that the share of supply test in section 23 of the Act is met.
32. 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.
33. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 31 May 2022 and the statutory 40 working day deadline for a decision is therefore 27 July 2022.

COUNTERFACTUAL

34. The CMA has assessed the Merger against the prevailing conditions of competition.
35. The CMA notes that Compagnie de Saint-Gobain S.A. (**Saint-Gobain**) has announced its intention to acquire GCP Applied Technologies Inc. (**GCP**). As set out in the CMA's guidance, significant changes affecting competition from third parties

² See [Mergers: Guidance on the CMA's jurisdiction and procedure \(CMA2revised\)](#), paragraphs 6.4-6.6.

³ See [Mergers: Guidance on the CMA's jurisdiction and procedure \(CMA2revised\)](#), from page 46.

⁴ Section 33(1)(a) of the Act.

which would occur with or without the merger (and therefore form a part of the counterfactual) are unlikely to be assessed in any depth as part of the CMA's counterfactual assessment.⁵ On this basis, the CMA did not consider it necessary to undertake a detailed assessment of this acquisition as part of its assessment of the counterfactual. The CMA has, where appropriate in its competitive assessment, taken into account any significant changes affecting competition that would arise if Saint-Gobain and GCP were to merge, as well as considering competitive conditions in which those two businesses operate under independent ownership.

36. The CMA also considered whether the counterfactual should include the expansion of Sika's grouts offering for offshore wind turbine installation. The CMA has assessed the likelihood and impact of such expansion in the competitive assessment.⁶

COMPETITIVE EFFECTS OF THE MERGER

37. The CMA focussed its assessment of the Merger on three theories of harm, which are discussed in turn below:

- (a) horizontal unilateral effects in the supply of chemical admixtures in the UK;
- (b) horizontal unilateral effects in the supply of products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK; and
- (c) loss of future competition in the supply of structural cementitious grouts in Europe (including the UK).

38. The Parties both offer a wide range of products used in construction, many of which overlap to some extent. The CMA focussed its investigation on the theories of harm that could give rise to plausible competition concerns based on the evidence it received from the Parties and third parties during the course of its investigation.

Horizontal unilateral effects in the supply of chemical admixtures

39. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade non-price aspects of its competitive offering (such as

⁵ [Merger Assessment Guidelines \(CMA129\)](#), paragraphs 3.9 and 3.10.

⁶ [Merger Assessment Guidelines \(CMA129\)](#), paragraphs 3.17 and 3.19.

quality, range, service, and innovation) on its own and without needing to coordinate with its rivals.⁷ Horizontal unilateral effects are more likely when the market is concentrated, the merging parties are close competitors and there are material barriers to entry and expansion.

40. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects in the supply of chemical admixtures, the CMA considered (and discusses in turn below) the following factors:
- (a) the nature of competition in chemical admixtures;
 - (b) frame of reference;
 - (c) shares of supply;
 - (d) closeness of competition between the Parties;
 - (e) competitive constraints from alternative suppliers; and
 - (f) countervailing constraints.

Nature of competition in chemical admixtures

Background on chemical admixtures

41. Chemical admixtures are specially formulated chemicals added in small quantities to alter the properties of cementitious products (cement, concrete and mortar).⁸ There is a broad range of chemical admixtures that modify the properties of cementitious products in different ways, for example by reducing the volume of water used in the production of concrete, thereby improving its strength, or slowing the setting rate of wet concrete or mortar, meaning these can be transported over longer distances and held on-site for longer periods. Chemical admixtures are typically supplied in ready-to-use liquid form and added to cementitious products at a plant or construction site.⁹
42. Chemical admixtures are manufactured by blending polymers and other chemicals together.¹⁰ The CMA found that some larger chemical admixture suppliers have their own polymer production facilities, while other suppliers purchase polymers from

⁷ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.1.

⁸ Final Merger Notice (**FMN**), paragraph 147.

⁹ FMN, paragraphs 131.

¹⁰ FMN, paragraph 171, footnote 107.

large chemical companies. Market participants told the CMA that there is a global shortage of the raw materials needed to produce chemical admixtures.¹¹

43. Customers told the CMA that chemical admixtures are an essential input in the production of cementitious products.¹² This is because construction methods have become increasingly complex and rely on the use of chemical admixtures.¹³ Chemical admixtures can also help to reduce the environmental impact of cementitious products, particularly concrete, that have traditionally been carbon intensive and can also reduce the overall cost of concrete production (by reducing the amount of cement required to produce concrete).¹⁴

Customers of chemical admixtures

44. Customers of chemical admixtures include major construction companies working on national infrastructure projects (eg HS2), large concrete producers that operate plants across the UK, as well as other local, typically independent, concrete producers.¹⁵
45. The majority of chemical admixtures sold in the UK are purchased by a small number of producers of ready-mix concrete, with a smaller proportion of customers using chemical admixtures in the production of cement, pre-cast concrete and in the construction of tunnels.¹⁶
46. Customers told the CMA that a broad range of factors determine their choice of chemical admixture supplier.¹⁷ All respondents to the CMA's customer questionnaire indicated that the performance and quality of the chemical admixtures, security of supply and price were important or very important factors when choosing a supplier. Other factors considered to be important or very important by the majority of respondents include technical expertise, reputation, capacity and available volumes,

¹¹ FMN, paragraph 116; note of a call with a Third Party [§<]; note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹² Note of a call with a Third Party [§<]; note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹³ For example, admixtures have enabled the development of construction methods that require concrete pumping, underwater concreting and shotcreting. Note of a call with a Third Party [§<]; note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹⁴ Note of a call with a Third Party [§<]; note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹⁵ FMN, paragraph 335.

¹⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [§<].

¹⁷ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [§<].

product development and innovation, timely delivery, the range of admixtures offered, and sustainable solutions.

47. In addition, feedback from larger customers of chemical admixtures suggests that they have additional requirements to other customers, which limits the number of suppliers they can source chemical admixtures from.¹⁸ For example, many large customers said that their volume requirements, and the need for the chemical admixtures to be delivered across their network of production sites, means that only some suppliers have sufficient scale and the operational network to meet their needs.¹⁹ The CMA also found that larger customers need access to a broad range of chemical admixtures.²⁰ Some suppliers of chemical admixtures focus on certain types of customer and therefore only manufacture a narrow range of chemical admixtures limiting the choice of supplier for larger customers.
48. Customers told the CMA that, while they may have their own in-house technical support, it is essential that their chemical admixture supplier(s) have advanced innovation and product development capabilities to ensure that they have access to the latest products (which may even be customised to specific projects) and can maintain their competitive edge.²¹ Third parties said that innovation aimed at improving the sustainability of concrete, including through product development and innovation in chemical admixtures, is of increasing importance in the UK and in the industry more generally.²²

Sourcing models and switching supplier

49. Chemical admixture customers typically source the majority of their chemical admixture requirements from one supplier, with smaller volumes sourced from suppliers with a particular high-performing product or as a result of a customer specifying a particular product in their project specification. The CMA understands that most large customers source chemical admixtures using national supply

¹⁸ The CMA refers to large customers as those that indicated they made purchases of chemical admixtures for cement and concrete of more than £2.5 million in the UK in 2021 in response to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

¹⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<].

²¹ Note of a call with a Third Party [3<]; note of a call with a Third Party [3<]; Third Party response [3<] to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²² Note of a call with a Third Party [3<]; note of a call with a Third Party [3<]; note of a call with a Third Party [3<], note of a call with a Third Party [3<]; note of a call with a Third Party [3<].

agreements to cover all their production locations in the UK,²³ although some award supply contracts on a regional basis or by type of chemical admixture.²⁴

50. The large majority of respondents to the CMA's customer questionnaire did not consider that they could easily switch between chemical admixtures produced by different suppliers.²⁵ The large majority of customers considered testing the new chemical admixtures, ensuring consistency of end product across locations and training technicians and other employees to use the new admixtures to be important or very important factors when deciding whether to switch supplier.²⁶ Customers told the CMA that switching supplier is a long and costly process, as this requires working with a new supplier to test (and in some cases develop) the right product to use with their cement and aggregates in addition to training sales and technical teams on the new products.²⁷ Consequently, large customers typically switch suppliers slowly by giving new suppliers a small share of their demand before increasing their volumes once they have demonstrated that they meet customers' requirements and can scale up their production.²⁸
51. Switching admixture suppliers when supplying large construction and infrastructure projects was seen as difficult by a number of large customers, with one customer indicating that such switching would be 'extremely difficult'.²⁹ These customers told the CMA that, as each input is tested in combination with the others being used in the project, any change in their mix design would typically require approval before they could use a new supplier and switch to a new product.

Frame of reference

52. 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

²³ FMN, paragraph 204; note of a call with a Third Party [3<]; note of a call with a Third Party [3<].

²⁴ Third Party responses (for example, [3<] and [3<]) to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²⁷ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

²⁸ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<].

²⁹ Note of call with Third Party [3<]; note of call with Third Party [3<].

some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.³⁰

Product scope

53. The Parties submitted that the relevant product market includes chemical admixtures for concrete, cement and certain types of mortar (see paragraphs 60 to 61), without further segmentation.³¹ The Parties stated that while they are not all demand-side substitutes, there is a high degree of supply-side substitutability between the three types of chemical admixtures.
54. Identifying the product frame of reference starts with the overlapping activities of the merger firms.³² In this case, the Parties overlap in the supply of chemical admixtures for concrete only.
55. The CMA considered whether it would be appropriate to widen the product frame of reference beyond the Parties' overlapping activities to include the supply of chemical admixtures for cement and chemical admixtures for mortar. These are discussed in turn below.
 - *Chemical admixtures for cement*
56. On the demand-side, third party views were consistent with the Parties' submissions that cement admixtures are not alternatives to concrete admixtures (and *vice versa*).³³ The CMA understands that this is because cement admixtures use different proportions of the raw materials needed to produce concrete admixtures.
57. On the supply-side, the CMA understands that all suppliers of cement admixtures active in the UK also supply concrete admixtures. However, only some suppliers of concrete admixtures active in the UK also supply cement admixtures.³⁴ The CMA estimates that total demand for cement admixtures in the UK was less than 10% of total demand for concrete admixtures in 2021.³⁵ This may mean that there is less

³⁰ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.4.

³¹ FMN, paragraph 182.

³² [Merger Assessment Guidelines \(CMA129\)](#), paragraph 9.6.

³³ Note of a call with a Third Party [3<]; note of a call with a Third Party [3<]; note of a call with a Third Party [3<].

³⁴ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<]; Third Party responses to the CMA's revenues questionnaire.

³⁵ CMA analysis of Annex 510 to the FMN, 'Annex 510 Re-stated EBA market shares.xlsx'; Third Party responses to the CMA's revenues questionnaire.

incentive for suppliers to supply cement admixtures than to supply concrete admixtures.

58. Responses to the CMA's competitor questionnaire indicated that suppliers could shift their existing production between concrete admixtures and cement admixtures in response to changes in demand. In particular, the majority of suppliers of concrete admixtures that do not currently produce cement admixtures consider that they can use the same production equipment and inputs to produce both types of admixtures.³⁶ Around half of these suppliers also considered that there are no or very low additional costs when switching production from one type of admixture to the other.³⁷ This is consistent with evidence from suppliers that currently produce both types of admixtures.³⁸
59. The CMA therefore considers the frame of reference should be widened to include chemical admixtures for cement given that there appears to be some degree of supply-side substitutability between both types of admixtures. In any event, the CMA does not consider that its competitive assessment would differ in this case if these admixtures were not included in its frame of reference given that, as set out above, the total demand for cement admixtures was less than 10% of total demand for concrete admixtures in 2021.
 - *Chemical admixtures for mortar*
60. The Parties submitted that certain concrete admixtures are identical to those used in the production of wet mortars and have similar purposes, for example to reduce the water content in wet mortars.³⁹ The Parties submitted that there is both demand-side and supply-side substitutability between these types of chemical admixtures, as evidenced by the common customer base and competitor set for both types of admixtures.
61. However, the Parties submitted that other types of chemical admixtures used in the production of mortars (eg dry mortars) do not have the same characteristics as concrete admixtures.⁴⁰ As the customers and competitors are not the same, the

³⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [36].

³⁷ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [37] and [38].

³⁸ Note of a call with a Third Party [38]; Third Party responses [38], [38] to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [38].

³⁹ FMN, paragraph 186.

⁴⁰ FMN, paragraphs 187-188.

Parties submitted that these admixtures are not demand-side or supply-side substitutes and should not be included in the relevant product market.

62. The information received from third parties is consistent with the Parties' submissions.⁴¹
63. The CMA therefore considers the frame of reference should not be widened to include chemical admixtures for mortar, other than those admixtures that are identical to those used in the production of concrete. In any event, the CMA does not consider that its competitive assessment would differ in this case if these admixtures were included in its frame of reference as it understands that total demand for mortar admixtures was less than 10% of total demand for cement and concrete admixtures in 2021.⁴²

- *Conclusion on product scope*

64. Based on the evidence above, the CMA believes that the appropriate product scope is chemical admixtures for cement and concrete (including certain mortar admixtures which are identical to concrete admixtures).

Geographic scope

65. The Parties submitted that, in line with the European Commission's decision in *Lone Star / BASF Construction Chemicals (EB) Business*, the relevant geographic market is the UK.⁴³
66. The evidence gathered by the CMA is consistent with the Parties' submissions.
67. A number of customers told the CMA that they would not rely on imports for a significant proportion of their supply needs because of concerns about security of supply.⁴⁴ One customer said that it had dismissed several chemical admixture suppliers during its most recent tender process because they did not have UK production facilities for this reason.⁴⁵ Another noted that any delay caused by difficulties importing would be an 'expensive problem' as frequent deliveries are

⁴¹ Note of a call with a Third Party [redacted]; [redacted] and [redacted] response to the CMA's request for information (RFI), dated [redacted].

⁴² FMN, Table 9 and Table 13.

⁴³ FMN, paragraphs 204-205.

⁴⁴ Note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted].

⁴⁵ Note of a call with a Third Party [redacted].

required to keep the large number of sites it has operating.⁴⁶ A number of customers noted that they only import speciality products and only in small quantities.⁴⁷

68. Data on trade flows obtained from the Parties is consistent with the appropriate frame of reference being no wider than national in scope. The latest available data from Eurostat shows that customers and suppliers largely rely on chemical admixtures produced inside of the UK to meet demand within the UK, with only around 20% of consumption in the UK being met by imports in 2019.⁴⁸ The CMA notes that this data is broadly in line with its share of supply estimates (as shown in Table 1 below) for suppliers that import chemical admixtures for sale to UK customers.⁴⁹
69. The large majority of respondents to the CMA's competitor questionnaire indicated that local production, sales and distribution are important barriers in supplying customers of chemical admixtures in the UK.⁵⁰ A number of suppliers told the CMA that the costs of transporting chemical admixtures makes it more difficult to rely on imports and be competitive on price.⁵¹ While a small number of suppliers told the CMA that they rely on imports of chemical admixtures to supply their customers in the UK, these suppliers only import small volumes of specialist products from production facilities outside the UK or are looking to start producing chemical admixtures in the UK in the next two years.⁵² The importance of proximity to customers was recognised in an internal document prepared for BASF's sale of MBCC in 2018, which noted that '[redacted]'.⁵³
70. The CMA therefore considers that the appropriate geographic scope is the UK. The CMA has nevertheless taken into account evidence on geographic aspects of competition, particularly constraints from imports into the UK, in its competitive assessment.

⁴⁶ Note of a call with a Third Party [redacted].

⁴⁷ Note of a call with a Third Party [redacted]; and note of a call with a Third Party [redacted].

⁴⁸ Parties' response to the CMA's RFI 1, Table 10.

⁴⁹ Parties' response to the CMA's RFI 1, Table 11.

⁵⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [redacted].

⁵¹ Note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted]; and note of a call with a Third Party [redacted]; [redacted] response to Chemical admixtures: Competitor questionnaire, [redacted].

⁵² Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [redacted] and [redacted].

⁵³ MBCC Internal Document, Annex 44 to the FMN, 'Confidential Information Memorandum - BASF Construction Chemicals', of November 2018.

Conclusion on frame of reference

71. For the reasons discussed above, the CMA believes that the appropriate frame of reference is the supply of chemical admixtures for cement and concrete (including certain mortar admixtures which are identical to concrete admixtures) in the UK.

Shares of supply

72. The Parties estimated Sika and MBCC's shares of supply in chemical admixtures in the UK to have been [10-20]% and [20-30]%, respectively, in 2021.⁵⁴ The Parties submitted that the Merged Entity's combined share of [30-40]% is below the level at which significant competition concerns can arise in a fragmented industry such as chemical admixtures.⁵⁵
73. The CMA was unable to verify the Parties' share of supply estimates, as their methodology relied at least partly on factors that could not be objectively verified (such as input from the Parties' business experts).⁵⁶ The CMA therefore did not rely on the Parties' share of supply estimates in its competitive assessment and produced its own by obtaining sales revenue data directly from the Parties and other suppliers of chemical admixtures active in the UK.⁵⁷
74. The CMA received revenue data from all but three small suppliers identified by the Parties and third parties as active in the supply of admixtures in the UK. According to the Parties' own estimates, these suppliers made combined sales of chemical admixtures for cement and concrete of £1.6 million in 2021.⁵⁸ On a conservative basis, the CMA adopted the Parties' revenue estimates for all 'other' suppliers

⁵⁴ FMN, paragraph 260. The Parties estimated the size of the chemical admixtures market to have been £[§<] in 2021 when including chemical admixtures for cement and concrete and excluding self-supply by admixture customers (FMN, Table 7).

⁵⁵ FMN, paragraph 261; Parties' response to the Issues Letter – Chemical admixtures, paragraphs 2.1-2.13.

⁵⁶ Annex 53 to the FMN, 'Annex 053 - Market Share Methodology (incl. re-stated EBA shares)'.

⁵⁷ The CMA used the following definitions when obtaining revenue data from chemical admixture suppliers: **Chemical admixtures for cement** are added to cement in order to reduce the amount of energy required to grind the cement (ie grinding aids) as well as to improve the performance of the cement (ie performance enhancers or quality improvers); **Chemical admixtures for concrete** are added to improve the properties of concrete or wet mortar, including super-plasticizers, plasticizers, air entrainers, retarders and accelerators; and **Other chemical admixtures** include admixtures for dry mortar and certain admixtures for wet mortar that are not also used for concrete, for example as they increase the adhesion properties of mortar but do not reduce the amount of water required. In line with the frame of reference, the CMA has included sales revenue data from the Parties and other suppliers of chemical admixtures for chemical admixtures for cement and concrete (including certain mortar admixtures which are identical to concrete admixtures).

⁵⁸ FMN, Table 7.

(which included these three suppliers as well as a number of others) when calculating share of supply estimates.⁵⁹

75. The CMA estimates that Sika and MBCC's shares of supply were [20-30]% and [20-30]%, respectively, in 2021 (as shown in Table 1 below).⁶⁰ The CMA's share of supply estimates for the Parties are broadly consistent with those included in a number of Sika's internal documents produced in the normal course of business.⁶¹ Although the CMA recognises that these shares have not been calculated on exactly the same basis,⁶² they nevertheless show that in the ordinary course of business Sika considers the Parties to have a market position that is broadly consistent with that based on the CMA's estimates.

⁵⁹ The Parties included [redacted], [redacted], [redacted], [redacted] and [redacted] in their share of supply estimates for 'other' suppliers (FMN, Table 7).

⁶⁰ The CMA's estimates for Sika and MBCC's shares of supply in 2021 is based on the Parties' revenue from the sale of chemical admixtures for cement and concrete, as set out in FMN, Table 7, and the size of the chemical admixtures market being £[redacted]m when excluding self-supply by admixture customers in the UK. The CMA estimated the size of the chemical admixtures market by summing the sales revenue data obtained directly from the Parties and other suppliers of chemical admixtures active in the UK for chemical admixtures for cement and concrete (including certain mortar admixtures which are identical to concrete admixtures).

⁶¹ For example: Annexes to FMN, 'Annex 007 [redacted]', 'Annex 077 [redacted]', 'Annex 095 [redacted]', 'Annex 301 [redacted]'. The CMA has attached more weight to these documents than to documents that were prepared in contemplation of the Merger, which the Parties noted included lower share of supply estimates for the Parties. For example: Annexes to FMN, 'Annex 033 [redacted]'; 'Annex 200 [redacted]'.

⁶² For example, some share of supply estimates may include products outside the CMA's frame of reference and may not capture all competitors. See Parties' response to the Issues Letter – Chemical admixtures, paragraphs 2.4-2.12.

Table 1: Shares of supply in chemical admixtures in the UK (2021)

Supplier	Share of supply
Sika	[20-30%]
MBCC	[20-30%]
Merged Entity	[50-60%]
Saint-Gobain (Chryso)	[10-20%]
GCP	[5-10%]
Oscrete	[5-10%]
Cementaid	[0-5%]
Cemex	[0-5%]
David Ball Group	[0-5%]
Foscroc	[0-5%]
Larsen	[0-5%]
Mapei	[0-5%]
MC-Construction Chemicals	[0-5%]
Normet	[0-5%]
ProcterJohnson	[0-5%]
Schomburg	[0-5%]
Other*	[0-5%]
Total	100%

Source: CMA analysis of Annex 510 to the FMN, 'Annex 510 Re-stated EBA market shares.xlsx' and third party responses to the CMA's revenues questionnaire.

* The CMA was unable to obtain sales revenue data from three suppliers identified by the Parties ([><]) and others told the CMA that they do not supply UK customers ([><]).

76. Table 1 shows the Merged Entity will have a combined share of [50-60]% and will be more than four times larger than the next largest supplier of chemical admixtures in the UK, Saint-Gobain (Chryso) (or more than twice the size of a merged Saint-Gobain (Chryso)/GCP). The market post-Merger will be highly concentrated, with the Merged Entity and its three largest rivals (or two largest rivals in the event of a merged Saint-Gobain (Chryso)/GCP) representing around 80% of supply in the UK and a tail of remaining suppliers each having a share of supply of less than 5%.
77. The CMA considers that, while measures of concentration are only one piece of evidence to be assessed within its competitive assessment, the Parties' combined shares of supply are high enough to raise *prima facie* competition concerns.

Closeness of competition between the Parties

The Parties' submissions

78. The Parties submitted that there is no closeness of competition concern in this case because there is no differentiation in the supply of chemical admixtures for cement and concrete.⁶³ In particular:

⁶³ FMN, paragraph 291; Parties' response to the Issues Letter – Chemical admixtures, paragraphs 4-5.

- (a) Chemical admixtures are commodities and homogenous products, not differentiated products. Any differentiation between suppliers is based on various add-on services and is marginal at best as these services are easily replicated by competitors and generally all suppliers offer such services.⁶⁴ Competition between suppliers is largely based on price.⁶⁵
- (b) The Parties do not exercise an important competitive constraint on one another due to the homogenised and undifferentiated nature of the products, with neither Party being a 'maverick' player.⁶⁶
- (c) There is no innovation concern in this case. 'True' innovation and R&D in the supply of chemical admixtures is extremely limited, and the Parties' investments in innovation are not comparable to dynamic competition between them, as they are aimed at improving their respective range of products, for example to reduce water usage and to create more sustainable products, rather than developing wholly new technologies or products.⁶⁷

The CMA's assessment

- 79. The CMA found that the Parties are close competitors in the supply of chemical admixtures for cement and concrete and are important competitive forces in the UK.
- 80. First, the CMA estimates that the Parties are the two largest chemical admixtures suppliers active in the UK. While measures of concentration are only one piece of evidence taken into account in the CMA's competitive assessment, firms with higher shares of supply are more likely to be closer competitors to their rivals (with mergers that remove such constraints therefore being more likely to raise competition concerns).⁶⁸ As set out in Table 1, the CMA estimates that the Parties are the two largest suppliers active in the market by some distance, with a significant difference between the size of each of the Parties and their closest rivals.
- 81. Second, consistent with the Parties' shares of supply, respondents to the CMA's competitor questionnaire indicated that the Parties are the strongest suppliers in the UK. All competitors considered Sika to be the strongest chemical admixture supplier in the UK.⁶⁹ All competitors told the CMA that Sika is a very strong supplier and the

⁶⁴ FMN, paragraph 291(a).

⁶⁵ FMN, paragraph 291(b).

⁶⁶ FMN, paragraph 291(b).

⁶⁷ FMN, paragraph 26.

⁶⁸ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.14.

⁶⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<].

vast majority said that MBCC is also a very strong supplier (ahead of GCP in third place). These competitors said that Sika is the largest supplier in the UK with the broadest range of admixtures and is driving innovation in the supply of chemical admixtures, with MBCC also considered to have a similarly broad range of admixtures.⁷⁰ A competitor told the CMA that Sika and MBCC are the key suppliers in the UK with the largest market share.⁷¹

82. Third, as explained above, customers told the CMA that a broad range of factors determine their choice of chemical admixture supplier. Customers consider suppliers of chemical admixtures to be differentiated in relation to a number of parameters of competition other than price, in particular the performance and quality of the chemical admixtures, security of supply and, for larger customers, capacity and volumes, the range of admixtures offered, and scale to deliver admixtures across their network of production sites. In contrast to the Parties' submissions, the CMA therefore considers that there is differentiation in the supply of chemical admixtures and that suppliers are differentiated in the UK.
83. Based on the broad range of factors set out above, the Parties are viewed as the strongest chemical admixture suppliers by customers. In relation to Sika, the vast majority of respondents to the CMA's customer questionnaire indicated that Sika is a strong or very strong supplier and a large majority said that Sika is the strongest chemical admixture supplier currently active in the UK.⁷² These customers told the CMA that Sika's strength comes from its size and scale, wide range of products, ability to support customers with technical expertise, and investment in innovation and R&D.⁷³ One customer told the CMA that Sika is strong because it has the capacity to supply all of its locations in Great Britain.⁷⁴
84. In relation to MBCC, a large majority of customers told the CMA that MBCC is a strong or very strong supplier (only Sika was rated as strong or very strong by more customers).⁷⁵ These customers said that MBCC's strengths are its broad range of products, strong supply chain (including access to raw materials, such as polymers), and ability to supply large ready-mix customers.⁷⁶ In addition, one customer

⁷⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<].

⁷¹ Note of a call with a Third Party [3<].

⁷² Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

⁷³ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

⁷⁴ Third Party response [3<] to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

⁷⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<]; [3<].

⁷⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

considered MBCC to be the strongest supplier in the UK because of its local presence and technical support for its own range of concrete products.⁷⁷

85. The CMA considers that the views of customers set out above are consistent with the Parties representing significant competitive forces in the market and exerting a strong constraint on other firms, including each other.⁷⁸
86. Fourth, customers told the CMA that only a small number of suppliers (including the Parties) are able to successfully meet their needs for chemical admixtures in the UK. Many respondents to the CMA's customer questionnaire said that Sika is one of the suppliers that are able to effectively meet their requirements in the UK, with fewer saying that Saint-Gobain (Chryso), GCP and MBCC could supply their needs.⁷⁹ These views are consistent with other evidence obtained from larger customers, who said that the Parties are among a small group of suppliers that have the capacity and capability to meet their needs.⁸⁰ The CMA notes, in this regard, that its guidance sets out that there is a *prima facie* expectation that any two firms among a small number of suppliers are close competitors.⁸¹
87. Fifth, third parties told the CMA that the Parties are able to support customers with advanced innovation and product development capabilities. As explained above, large customers told the CMA that it is essential that their chemical admixture supplier(s) have advanced innovation and product development capabilities to ensure that they have access to the latest products (which may be customised to specific projects) and can maintain their competitive edge. Some large customers emphasised the importance of maintaining competitive tension between suppliers to drive innovation and expressed concerns about the impact of the Merger on reducing the impetus to continue innovating for the benefit of customers.⁸²
88. Some suppliers suggested that the Parties are better equipped to address this innovation aspect of competition than others currently active in the UK.⁸³ One large

⁷⁷ Third Party response [redacted] to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), Q19.

⁷⁸ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.09.

⁷⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [redacted]. Fosroc and Mapei were mentioned by one customer and Ocrete was mentioned by another customer. No others were mentioned.

⁸⁰ Note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted].

⁸¹ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.10.

⁸² Third Party responses ([redacted] and [redacted]) response to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [redacted]; note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted].

⁸³ Note of a call with a Third Party [redacted], note of a call with a Third Party [redacted].

customer noted that the Parties are the only suppliers that are capable of the levels of innovation required for it to meet its own sustainability targets.⁸⁴ Another customer said the leading position of the Parties was to a significant extent due to their ‘strong R&D capabilities, advanced technical and customer-relation services’.⁸⁵

89. Finally, the third-party evidence set out above is consistent with the Parties’ internal documents, which indicate that they are strong suppliers of chemical admixtures, compete closely, both in the UK and more generally, and that innovation is an important aspect of the competitive dynamic between the Parties.⁸⁶ For example, the competitive interaction between the Parties in relation to their product ranges is [X].⁸⁷ [X].⁸⁸ The internal documents of both Parties also show a regular interest in targeting the same large customers, including [X].⁸⁹

Conclusion on closeness of competition between the Parties

90. Based on this evidence, the CMA believes that the Parties are close competitors in the supply of chemical admixtures for cement and concrete and are important competitive forces in the UK, contrary to the Parties’ submissions.

Competitive constraints from alternative suppliers of chemical admixtures

The Parties’ submissions

91. The Parties submitted that there are numerous strong suppliers of chemical admixtures that currently compete with the Parties and will continue to do so post-Merger.⁹⁰ In particular:
- (a) As chemical admixtures are commodities and homogenous products, the market will remain fully competitive post-Merger as the Parties are just two of a number of suppliers that are able to impose competitive pressure on each other.⁹¹

⁸⁴ Note of a call with a Third Party [X].

⁸⁵ Third Party [X] submission of 23 June 2022.

⁸⁶ Annexes to the FMN: Annex 044; Annex 077; Annex 052; Annex 095; Annex 123; Annex 165; Annex 171; Annex 228; Annex 410; Annex 427; and Annex 492. The internal documents submitted by MBCC to the CMA did not contain any analysis of competitors for chemical admixtures.

⁸⁷ Annex 492 to the FMN.

⁸⁸ Annex 410 to the FMN.

⁸⁹ Annex 171 to the FMN, slides 13-14; Annex 77 to the FMN, slide 24.

⁹⁰ FMN, paragraph 291(c); Parties’ response to the Issues Letter – Chemical admixtures, paragraph 3.

⁹¹ FMN, paragraphs 294 and 298.

- (b) The Merged Entity will face a range of competitors, with some (for example, Mapei and Oscrete) looking to expand to take advantage of consolidation in the market,⁹² as demonstrated by Mapei pitching to large customers of the Parties and targeting the Parties' talent.⁹³
- (c) The Parties compete on an equal basis with the larger 'full-spectrum' suppliers, who supply a complete range of products (for example, GCP, Mapei and Saint Gobain (Chryso)), as well as those suppliers with more limited portfolios, as customers do not require a full range of admixtures.⁹⁴

The CMA's assessment

- 92. The CMA has assessed the competitive constraints from alternative suppliers of chemical admixtures on the Merged Entity, including each of Saint-Gobain (Chryso), GCP, Oscrete, Mapei and other suppliers currently active in the UK.
 - *Saint-Gobain (Chryso)*
- 93. The CMA estimates that Saint-Gobain (Chryso) had a share of supply in chemical admixtures in the UK of [10-20]% in 2021.
- 94. The large majority of respondents to the CMA's competitor questionnaire indicated that Saint-Gobain (Chryso) is a strong or very strong supplier in the UK, with a small number stating that Saint-Gobain (Chryso) is a weak supplier of chemical admixtures.⁹⁵
- 95. Around half of respondents to the CMA's customer questionnaire indicated that Saint-Gobain (Chryso) is a strong or very strong supplier in the UK, with a small number stating Saint-Gobain (Chryso) is a weak supplier of chemical admixtures.⁹⁶ As set out above, some customers told the CMA that Saint-Gobain (Chryso) is one of a few suppliers that are able to effectively meet their requirements in the UK.⁹⁷
- 96. Similarly, Sika's internal documents assess Saint-Gobain (Chryso) as [3<].⁹⁸

⁹² FMN, paragraph 291(c).

⁹³ Parties' response to the Issues Letter – Chemical admixtures, paragraph 3.5.

⁹⁴ FMN, paragraphs 324 and 327.

⁹⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [3<].

⁹⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

⁹⁷ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

⁹⁸ Annexes to the FMN: Annex 095; Annex 198; Annex 199, Annex 218; Annex 228 (replicated at Annex 303).

97. Taking this evidence in the round, the CMA considers that Saint-Gobain (Chryso) would be a moderate constraint on the Merged Entity.
- *GCP*
98. The CMA estimates that GCP had a share of supply in chemical admixtures in the UK of [5-10]% in 2021.
99. The large majority of respondents to the CMA's competitor questionnaire indicated that GCP is a strong or very strong supplier in the UK, with some competitors stating GCP is a weak supplier of chemical admixtures.⁹⁹
100. The large majority of respondents to the CMA's customer questionnaire also indicated that GCP is a strong or very strong supplier in the UK, with some customers stating GCP is a weak supplier of chemical admixtures.¹⁰⁰ As set out above, some customers told the CMA that GCP is one of a few suppliers that are able to effectively meet their requirements in the UK.¹⁰¹
101. Similarly, Sika's internal documents assess GCP as [redacted].¹⁰²
102. Taking this evidence in the round, the CMA considers that GCP would be a moderate constraint on the Merged Entity.
- *Oscrete*
103. The CMA estimates that Oscrete had a share of supply in chemical admixtures in the UK of [5-10]% in 2021.
104. Some respondents to the CMA's competitor questionnaire indicated that Oscrete is a strong supplier in the UK, with the same number stating Oscrete is a weak or very weak supplier of chemical admixtures.¹⁰³
105. Some respondents to the CMA's customer questionnaire indicated that Oscrete is a strong or very strong supplier in the UK, but more indicated that Oscrete is a weak or very weak supplier of chemical admixtures.¹⁰⁴ Oscrete was only mentioned by

⁹⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [redacted].

¹⁰⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [redacted].

¹⁰¹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [redacted].

¹⁰² Annexes to the FMN: Annex 095; Annex 198, Annex 199; Annex 265.

¹⁰³ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [redacted].

¹⁰⁴ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [redacted].

one large customer that was asked which admixture suppliers are able to successfully meet its requirements in the UK.¹⁰⁵

106. Sika's internal documents [§].¹⁰⁶ [§], Oscanite told the CMA that it cannot supply large customers who award national contracts but is capable of serving regional contracts.¹⁰⁷
107. Moreover, unlike other larger suppliers including the Parties that target ready-mix concrete producers, Oscanite focuses on the sale of admixtures to precast concrete producers, which accounted for [60-80%] of Oscanite's chemical admixture sales in 2021.¹⁰⁸ Oscanite told the CMA that it wants to grow its business by supplying more admixtures to both ready-mix and pre-cast concrete producers but is currently facing significant challenges with scalability.¹⁰⁹ Although it has received interest from a larger customer, Oscanite said it does not have the capacity to serve that customer. [§]. The evidence from Oscanite is consistent with the CMA's view, as set out below, that there are material barriers to entry and expansion.
108. Taking this evidence in the round, the CMA considers that Oscanite would be a limited constraint on the Merged Entity, in particular because it is not an effective alternative to the Merged Entity for the large customers of chemical admixtures in the UK which produce ready-mix concrete.
 - *Mapei*
109. The CMA estimates that Mapei had a share of supply in chemical admixtures in the UK of [0-5]% in 2021.
110. Around half of respondents to the CMA's competitor questionnaire indicated that Mapei is a strong or very strong supplier in the UK, with the other half stating that Mapei is a weak or very weak supplier of chemical admixtures.¹¹⁰
111. Some respondents to the CMA's customer questionnaire indicated that Mapei is a strong supplier in the UK, with a small number stating that Mapei is a weak or very weak supplier of chemical admixtures.¹¹¹ Mapei was not mentioned by any large customer that was asked which admixture suppliers are able to successfully meet its

¹⁰⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [§].

¹⁰⁶ Annex 095 to the FMN.

¹⁰⁷ Note of a call with a Third Party [§].

¹⁰⁸ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [§].

¹⁰⁹ Note of a call with a Third Party [§].

¹¹⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [§].

¹¹¹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [§].

requirements in the UK.¹¹² One large customer told the CMA that Mapei does not currently have the ability to meet its requirements at the volumes needed.¹¹³ Another large customer said that Mapei is a smaller, local supplier of chemical admixtures that has only just entered the UK and has a limited footprint.¹¹⁴ Another large customer said it would consider working with Mapei once it has settled and matured within the UK but that it could take two to three years for Mapei to go through its development process and establish it can supply its requirements.¹¹⁵

112. Sika's internal documents show [REDACTED].¹¹⁶ [REDACTED].¹¹⁷

113. Mapei told the CMA that it is planning to expand in the UK and is currently in the process of setting up a local production facility.¹¹⁸ Mapei currently imports finished chemical admixture products from Italy, which is one of the reasons why it considers that it needs to establish a manufacturing site in the UK to compete more effectively with other local suppliers. Mapei's expansion plan in the UK is to grow incrementally each year over a five-year period.

114. The CMA recognises that Mapei will become a stronger competitor to the Merged Entity once it establishes a local production facility to supply UK customers. However, the pace of its expansion will likely be limited. As set out above, large customers typically switch suppliers slowly by giving new suppliers a small share of their demand before increasing their volumes once they have demonstrated that they meet the customer's requirements and can scale up their production. Mapei is therefore only likely to be able to build its market position slowly starting from a very small base (the CMA estimates that its current share of supply is less than [0-5]%).

115. Taking this evidence in the round, the CMA considers that Mapei would currently exert only a limited constraint on the Merged Entity although this constraint is likely to strengthen over time as Mapei grows its position in the UK.

- *Other suppliers*

116. The CMA estimates that all other suppliers of chemical admixtures have a combined share of supply of less than 20% in 2021.

¹¹² Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹¹³ Note of a call with a Third Party [REDACTED] of 29 March 2021, paragraphs 27 and 29.

¹¹⁴ Note of a call with a Third Party [REDACTED] of 31 March 2022, paragraphs 13 and 14.

¹¹⁵ Note of a call with a Third Party [REDACTED] of 29 March 2022, paragraph 15.

¹¹⁶ Annex 095 to the FMN.

¹¹⁷ Annex 193 to the FMN.

¹¹⁸ Note of a call with a Third Party [REDACTED].

117. Other than the Parties and the suppliers discussed above, only Cemex was viewed as strong or very strong by more than one third of respondents to the CMA's competitor questionnaire.¹¹⁹ However, only two respondents to the CMA's customer questionnaire indicated that Cemex was strong in the UK.¹²⁰ The CMA understands that the views of the Parties' competitors and customers diverge on the competitive strength of Cemex as customers may not consider Cemex an effective alternative to independent chemical admixture suppliers given that they also compete against Cemex in the supply of cementitious products.
118. Other smaller suppliers not discussed above indicated that they manufacture a narrower range of chemical admixtures than the Parties and their largest rivals.¹²¹ One of these suppliers told the CMA that smaller suppliers cannot compete with bigger suppliers as they have economies of scale to keep prices low.¹²²
119. A large customer told the CMA that it did not invite other suppliers to participate in its most recent tender as they would not have sufficient scale to meet its requirements.¹²³ Another large customer said that other smaller suppliers can be important suppliers but of specialty admixtures that meet specific requirements.¹²⁴ This customer also observed that some smaller suppliers do not manufacture their own products and just re-supply or distribute products from larger suppliers.¹²⁵
120. Taking this evidence in the round, the CMA considers that other suppliers do not exert a material competitive constraint on the Merged Entity.

Conclusion on competitive constraints from alternative suppliers of chemical admixtures

121. Based on the evidence set out above, the CMA considers that Saint-Gobain (Chryso) and GCP would exert moderate competitive constraints on the Merged Entity. The CMA considers that Oscrete is a weaker supplier than Saint-Gobain (Chryso) and GCP and poses a limited constraint on the Merged Entity. The CMA considers that Mapei would currently exert only a limited constraint on the Merged Entity although this constraint will strengthen over time as Mapei grows its position

¹¹⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [§<]. Suppliers indicated to be strong or very strong by more than one respondent are listed.

¹²⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [§<].

¹²¹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [§<].

¹²² Note of a call with a Third Party [§<].

¹²³ Note of a call with a Third Party [§<].

¹²⁴ Note of a call with a Third Party [§<].

¹²⁵ Note of a call with a Third Party [§<].

in the UK. The CMA does not consider there are any other suppliers that exert a material competitive constraint on the Merged Entity.

122. The CMA does not therefore believe that the Merged Entity would be sufficiently constrained by alternative suppliers, either individually or in aggregate, to prevent competition concerns from arising.
123. In a scenario where Saint-Gobain (Chryso)'s acquisition of GCP were to complete, the Merged Entity would still be more than twice the size of Saint-Gobain (Chryso)/GCP and admixture customers would have one fewer alternative to the Merged Entity in the UK (with the two most significant competitive constraints to the Merged Entity operating under common ownership). Consequently, even if the combined Saint-Gobain (Chryso)/GCP business would likely be a stronger supplier than either of those businesses are today, the CMA does not believe that Saint-Gobain (Chryso)'s acquisition of GCP makes a material difference to the outcome of the CMA's competitive assessment of the Merger.

Countervailing constraints

Barriers to entry and expansion

- ***The Parties' submissions***

124. The Parties submitted that, as there are no barriers to entry and expansion at the production level, the Merged Entity will be constrained by the ability of new suppliers to enter the UK and by existing suppliers expanding production volumes in response to changes in demand.¹²⁶ In particular:
- (a) There is a track record of successful entry and expansion in the UK by chemical admixture suppliers in recent years, including Oscrete and Mapei, that have each gained a material share of the market.¹²⁷
 - (b) While many of the Parties' competitors do have UK production plants, local production of admixtures is not essential and cross-border supply is both possible and common in the market.¹²⁸

¹²⁶ FMN, paragraph 291(e); Parties' response to the Issues Letter – Chemical admixtures, paragraph 5.

¹²⁷ FMN, paragraphs 291(e) and 521 – 523.

¹²⁸ FMN, paragraph 299(d).

- (c) Intellectual property is not a material barrier as the extent of innovation is limited and the raw materials required to produce chemical admixtures are readily available.¹²⁹
- (d) The low capacity utilisation rates at the Parties' UK production facilities are representative of the significant amount of spare capacity available to other suppliers currently active in the UK, meaning that competitors will be able to expand quickly and cheaply to respond to changes in demand.¹³⁰
- (e) The cost of setting up a production plant with the necessary equipment is low in Europe (including the UK) and the plant can be ready to supply customers within six months.¹³¹
- (f) Smaller suppliers in the UK can and do compete effectively with the Parties, suggesting that economies of scale are not important in production and that these suppliers can meet the demand of both large and small customers.¹³²
- (g) New suppliers do not need to offer a full range of chemical admixtures to be effective competitors in the UK, with the Parties competing on an equal basis with suppliers with a small number of products and those that offer customers the full range of chemical admixture products.¹³³

- *The CMA's assessment*

- 125. Entry or expansion of existing firms can mitigate the effect of an acquisition on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient. In terms of timeliness, the CMA's guidelines indicate that this is case specific but that the CMA will generally look for entry to occur within two years.¹³⁴
- 126. The CMA found that there will be a limited countervailing constraint on the Merged Entity from the ability of suppliers to enter and expand in the UK.
- 127. First, as set out above, Mapei and Oscrete currently have small market positions and the CMA believes that any expansion is unlikely to mitigate the loss of

¹²⁹ FMN, paragraph 299(c).

¹³⁰ FMN, paragraphs 291(e), 300 and 301.

¹³¹ FMN, paragraph 299(a).

¹³² FMN, paragraph 309.

¹³³ FMN, paragraphs 322-327.

¹³⁴ [Merger Assessment Guidelines \(CMA129\)](#), paragraphs 8.33.

competition between the Parties arising from the Merger. The CMA has not received any evidence of planned entry by any suppliers not currently active in the UK.

128. Second, third parties told the CMA that there are a number of barriers to entry and expansion in the supply of chemical admixtures in the UK and, consequently, many suppliers view the UK as a difficult market to enter successfully.¹³⁵ The barriers to entry and expansion viewed as most significant by third parties include:
- (a) Local production of chemical admixtures, which was considered to be important or very important by a large majority of respondents to the CMA's competitor questionnaire.¹³⁶ Suppliers that rely on imports to supply their UK customers told the CMA that they import small volumes of specialist products or are looking to start producing chemical admixtures within the UK in the next two years and consider this necessary to be competitive in the UK.¹³⁷
 - (b) Investment in product research and development was considered to be an important or very important barrier to entry and expansion by the vast majority of respondents to the CMA's competitor questionnaire.¹³⁸ Third parties said that technical capabilities need to be located in the UK as the materials that interact with chemical admixtures have different compositions in the UK and elsewhere in Europe.¹³⁹
 - (c) Access to raw materials was considered to be an important or very important barrier to entry and expansion by the large majority of respondents to the CMA's competitor questionnaire.¹⁴⁰ Some smaller suppliers said that access to raw materials is a competitive advantage for larger, global suppliers of

¹³⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹³⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹³⁷ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED]; note of a call with a Third Party [REDACTED]; Third Party response [REDACTED] to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹³⁸ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED]. This is consistent with the views of the vast majority of respondents to the CMA's customer questionnaire, who indicated that technical expertise, product development and innovation are important or very important factors in their choice of chemical admixtures supplier See: Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [REDACTED].

¹³⁹ Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED].

¹⁴⁰ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

chemical admixtures.¹⁴¹ This is consistent with Sika's internal documents, [REDACTED].¹⁴²

- (d) Existing relationships between suppliers and customers and the lack of track record or reputation for potential entrants were considered to be a barrier to entry and expansion by some respondents to the CMA's competitor questionnaire.¹⁴³ This is consistent with the vast majority of respondents to the CMA's customer questionnaire, who indicated that reputation is an important or very important factor in their choice of chemical admixtures supplier.¹⁴⁴

129. In addition, some suppliers currently active in the UK identified access to a sufficiently large production area or storage facilities as an additional barrier that would limit their ability to expand chemical admixture volumes. While the large majority of respondents to the CMA's competitor questionnaire indicated that they had plans to increase their production of chemical admixtures by utilising their spare capacity,¹⁴⁵ some of these suppliers said that this would require investing in expanding their facilities to hold the necessary additional raw materials to produce greater volumes and to store these finished products before they are distributed to customers.¹⁴⁶
130. Finally, the CMA considers small-scale entry or expansion would not, in any case, be comparable to the constraint eliminated by the Merger and is therefore unlikely to prevent an SLC.¹⁴⁷ As set out above, the Parties and their closest rivals offer a broad range of chemical admixture products and can use their technical expertise to adapt existing compositions to meet the needs of customers. Indeed, customers generally viewed suppliers with a smaller number of chemical admixture products as weak or very weak in the UK.¹⁴⁸ It therefore follows that a supplier which enters (or expands) with a more limited range of products is unlikely to compete strongly with

¹⁴¹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹⁴² For example: Annexes to the FMN, 'Annex 198 - CEO Day 2020 - TM Concrete.pdf'; 'Annex 199 - Construction Competitor Booklet - 2020.pdf'; 'Annex 218 - CEO Day 2021 - Target Markets (various).pdf'.

¹⁴³ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹⁴⁴ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [REDACTED].

¹⁴⁵ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED].

¹⁴⁶ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED]; Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED].

¹⁴⁷ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.39.

¹⁴⁸ Third Party responses to the CMA's questionnaire (Chemical admixtures: Competitor questionnaire), [REDACTED]; Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [REDACTED].

the larger incumbent suppliers in the market and would pose a weak competitive constraint on the Merged Entity.

131. The CMA therefore considers that entry or expansion will not be timely, likely or sufficient to mitigate any SLC arising from the Merger in the supply of chemical admixtures in the UK.

Countervailing buyer power

- *The Parties' submissions*

132. The Parties submitted that chemical admixture customers exert significant countervailing buyer power, determining the price and share of suppliers in high volume tenders, and can play off suppliers against one another based on parameters such as price and quality of services provided, due to the largely commoditised product.¹⁴⁹ In particular:

- (a) Countervailing buyer power is a significant factor given that more than [X]% of chemical admixtures sold in the UK by the Parties are to customers who are very large, well-resourced cement and concrete producers.¹⁵⁰
- (b) Self-supply is a viable and credible option for many customers of chemical admixtures, particularly larger customers where vertical integration can be an attractive long-term investment.¹⁵¹
- (c) Although sponsoring entry would be possible for customers, the Parties submit this would be unlikely to happen due to the strength of the many suppliers of chemical admixtures that customers are already able to choose from.¹⁵²

- *The CMA's assessment*

133. Where a customer has the ability and incentive to trigger new entry, it may be able to restore competitive conditions to the levels that would have prevailed absent the merger.¹⁵³ The two main ways customers may be able to trigger new entry – sponsored entry and self-supply – are assessed under the same framework that the

¹⁴⁹ FMN, paragraph 291(d) and Section 23; Parties' response to the Issues Letter – Chemical admixtures, paragraph 1.2.

¹⁵⁰ FMN, paragraph 328.

¹⁵¹ FMN, paragraph 525.

¹⁵² FMN, paragraph 526.

¹⁵³ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.19.

CMA applies to the countervailing constraints on the Merged Entity from the ability of suppliers to enter and expand.

134. The vast majority of respondents to the CMA's customer questionnaire said that they would not consider self-supplying chemical admixtures for cement and concrete in the UK.¹⁵⁴ One large customer said that it would not start self-supplying concrete admixtures in the UK even though it does so in other geographies.¹⁵⁵ This customer emphasised that a concrete producer might choose to self-supply if it had the required technical knowledge and capabilities in the UK to successfully produce concrete admixtures, but this would be a significant hurdle for its business as admixtures are not simple products and the technology involved is more sophisticated than it was in the past as sustainability is now a greater focus.
135. Of those that did consider self-supply to be an option, one large customer told the CMA that it has self-supplied the majority of its chemical admixture requirements in the UK for a number of years and sells only a small proportion of its production to other customers,¹⁵⁶ suggesting that another customer choosing to self-supply may not address the SLC and its adverse effects on other customers as significant additional volumes may not be made available to the rest of the market. Another large customer said that it is unlikely it would choose to self-supply chemical admixtures but cannot rule this out as an option given the ongoing consolidation in the market.¹⁵⁷
136. The CMA also considers that customers sponsoring the entry or expansion of suppliers is unlikely to prevent the Merged Entity from raising prices and/or worsening quality to these customers or others in the market in the next two years. While sponsoring the entry or expansion of chemical admixture suppliers was considered an option by a majority of respondents to the CMA's customer questionnaire, these respondents explained that this was a weaker alternative than switching to another established supplier.¹⁵⁸ This is because smaller suppliers would first need to meet their technical requirements and be ready to invest in scaling up their production volumes before giving them a larger share of their demand, a

¹⁵⁴ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3].

¹⁵⁵ Note of call with Third Party [3].

¹⁵⁶ Note of a call with a Third Party [3]; Third Party response [3] to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3].

¹⁵⁷ Third Party response [3] to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3].

¹⁵⁸ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3].

process which could take several years and would be riskier than sourcing products from established players.¹⁵⁹

137. In addition, as set out above, customers did not consider that they could easily switch between chemical admixtures produced by different suppliers. This is because it is a costly and long process to switch supplier, which requires working with a new supplier to test (and in some cases develop) the right product to use with their cement and aggregates in addition to training sales and technical teams on the new products. Customers sponsoring the entry or expansion of suppliers would therefore face significant costs when working with new suppliers, which is likely to limit the opportunities available to smaller suppliers looking for opportunities to expand in the UK by increasing the share of large customers' demand they supply.
138. Most other forms of buyer power that do not result in new entry – for example, buyer power based on a customer's size, sophistication, or ability to switch easily – are unlikely to prevent an SLC that would otherwise arise from the elimination of competition between the merger firms.¹⁶⁰ This is because a customer's buyer power depends on the availability of good alternatives they can switch to, which in the context of an SLC will have been reduced.
139. The CMA therefore considers that countervailing buyer power will be unlikely to mitigate any SLC arising from the Merger in the supply of chemical admixtures in the UK.

Conclusion on countervailing constraints

140. Based on this evidence, the CMA does not believe that countervailing constraints on the Merged Entity will be sufficient to prevent competition concerns from arising.

Conclusion on horizontal unilateral effects in the supply of chemical admixtures

141. For the above reasons, the CMA believes that it is or may be the case that the Merger may be expected to result in a substantial lessening of competition in the supply of chemical admixtures for cement and concrete in the UK. In particular:
- (a) The Merged Entity would be by far the largest supplier, with a share of supply of [50-60]%, in a highly concentrated market.

¹⁵⁹ Third Party responses to the CMA's questionnaire (Chemical admixtures: Customer questionnaire), [3<].

¹⁶⁰ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 4.20.

- (b) The Parties compete closely across a broad range of parameters that customers consider to be important or very important, such as security of supply, product range, technical assistance, innovation and R&D. The Parties are also two of only a handful of suppliers with the capacity and capability to compete for large customers.
- (c) The Merged Entity will face a moderate constraint from two other suppliers but all remaining competitors will be significantly smaller than the Merged Entity. There are significant barriers to entry and expansion and, although a number of suppliers have expansion plans, these will not have a significant enough effect on the structure of the market to prevent an SLC.

Horizontal unilateral effects in the supply of products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK

142. Both parties supply products that are used in the construction and maintenance of drinking water infrastructure in the UK. In particular, both Parties supply products known as waterproofing jointing bandages. These are used to waterproof joints and repair cracks (for example in water storage tanks), where a high degree of structural movement is expected.¹⁶¹

Nature of supply for products used in drinking water infrastructure in the UK

Drinking water regulations

143. In the UK, any substance or product that is used in drinking water infrastructure (such as reservoirs, tanks or pipes) must be tested by the Drinking Water Inspectorate (**DWI**) before being approved for use by the Secretary of State for England¹⁶² (a similar process applies in Wales, Scotland and Northern Ireland).¹⁶³ This is to ensure that any chemical or product that is in direct contact with the drinking water supply does not adversely affect water quality or cause a risk to the

¹⁶¹ Note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹⁶² Regulation 31(4) of the Water Supply (Water Quality) Regulations 2016 (**Regulation 31**). Regulation 31 covers all infrastructure from the water source, through the distribution network to the point of delivery to customers' premises.

¹⁶³ Products that have passed DWI testing will also be approved by the relevant bodies in Wales, Scotland and Northern Ireland: Regulation 33 of The Public Water Supplies (Scotland) Regulations 2020, and regulation 30 of The Water Supply (Water Quality) (Amendment) Regulations (Northern Ireland) 2009.

health of consumers.¹⁶⁴ The DWI maintains a published list of ‘Approved Products for Use in Public Water Supply in the UK’ (**Approved Product List**).¹⁶⁵

144. A water company that uses products that have not been tested by the DWI and approved for that purpose is guilty of an offence.¹⁶⁶

The Parties’ products used in drinking water infrastructure

145. Both Parties supply waterproofing jointing bandages made up of an epoxy-resin adhesive and a highly elastic membrane to waterproof joints or repair cracks.
146. MBCC supplies a waterproofing jointing bandage called MasterSeal 930/933, which is used almost exclusively in drinking water infrastructure.¹⁶⁷
147. Sika supplies a waterproofing jointing bandage called the Sikadur Combiflex SG jointing system. The system includes different epoxy adhesives depending on the intended application.¹⁶⁸ The adhesive component on the Approved Product List was specially formulated to meet the requirements for use in contact with drinking water.¹⁶⁹
148. The Parties are the only suppliers of waterproofing jointing bandages on the Approved Product List.

Frame of reference

Product scope

149. The Parties submitted that the appropriate frame of reference includes all waterproofing products regardless of the type of facility where they are used (ie including drinking water infrastructure and other structures such as swimming pools etc).¹⁷⁰ The Parties submitted that there are no products in the Parties’ portfolio (or those of their competitors) that are used exclusively in drinking water infrastructure.¹⁷¹ The Parties also submitted that there are other waterproofing

¹⁶⁴ [‘Overview of application process - Advice sheet 1 \(dwi.gov.uk\)’](#), last accessed on 29 June 2022.

¹⁶⁵ Available at [‘List of approved products June 2022 \(dwi.gov.uk\)’](#), last accessed on 29 June 2022.

¹⁶⁶ Regulation 33 of the Water Supply (Water Quality) Regulations 2016.

¹⁶⁷ Parties’ response to the CMA’s RFI 4, paragraph 3.

¹⁶⁸ [‘Sikadur®-31 DW’](#), last accessed 16 July 2022.

¹⁶⁹ [‘Sikadur®-31 DW’](#), last accessed 16 July 2022.

¹⁷⁰ Appendix 1 to the FMN, paragraph 44.

¹⁷¹ Appendix 1 to the FMN, paragraph 45.

products such as cementitious repair mortars that are on the Approved Product List that can be used for the same purposes as the Parties' products.¹⁷²

150. The CMA's starting position when identifying the relevant frame of reference is the overlapping activities of the merger firms. The Parties overlap in the supply of waterproofing jointing bandages used to waterproof joints and repair cracks in drinking water infrastructure. The CMA has considered whether the frame of reference should be widened based on the Parties' submissions.

- *Products used in settings other than drinking water infrastructure*

151. The CMA considers that for customers that require a product for use in drinking water infrastructure, there is no demand-side substitutability between products that can be used in drinking water infrastructure (ie that are on the Approved Product List) and those that cannot (because they are not). Using a product not on the Approved Product List would be an offence and liable to a fine.

- *Other products on the Approved Product List*

152. Third parties who use or sell the Parties' products, including repair contractors and distributors, confirmed that waterproofing jointing bandages are the only products on the Approved Product List that can be used on joints or cracks that need to withstand a high degree of movement, for example due to water pressure changes within drinking water infrastructure.¹⁷³ This was also confirmed by the DWI.¹⁷⁴

153. The Parties submitted that for non-moving joints and cracks, customers have a wider choice of products from the Approved Product List, including cementitious mortars.¹⁷⁵

154. However, third parties told the CMA that waterproofing jointing bandages are primarily used where flexibility is required.

155. Moreover, the DWI explained that many approved products have very specific uses, depending on the type of repair work being undertaken and the local water properties. For example, in hard-water areas cements can be used, whereas in soft-water areas either epoxy or polyurethane resins will be needed to prevent the water

¹⁷² Appendix 1 to the FMN, paragraphs 55 and 56.

¹⁷³ Note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

¹⁷⁴ Note of a call with a Third Party [DWI] of 27 May 2022.

¹⁷⁵ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraph 2.2.

from mineralising, making waterproofing jointing bandages more suitable.¹⁷⁶ On the other hand cementitious mortars and other products on the Approved Product List are better suited for the repair of non-linear cracks, where the Parties' products are not suitable as the tape must be applied in straight lines.

156. Even if waterproofing jointing bandages are sometimes used for joints and cracks where flexibility is not required, there may therefore be other constraints that dictate the choice of product. As a result, the CMA does not consider that these other products and waterproofing jointing bandages are substitutable to any material extent.
157. The CMA therefore considers that the appropriate frame of reference is products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK (ie waterproofing jointing bandages), without being widened to encompass other products on the Approved Product List.

Geographic scope

158. The CMA considers that the appropriate geographic frame of reference is the UK given that all products used in the UK for drinking water infrastructure require testing by the DWI.

Closeness of competition between the Parties

159. The Parties submitted that they are not close competitors in relation to their waterproofing offerings because Sika's focus is on supplying products used in below-ground construction such as underground car parks, while MBCC's focus is on the drinking water infrastructure industry and not on waterproofing in general.¹⁷⁷
160. The CMA notes that, irrespective of their broader commercial strategy in the waterproofing segment, the Parties are the only two suppliers of waterproofing jointing bandages on the Approved Product List and so, *prima facie*, compete closely.¹⁷⁸
161. The CMA therefore considers that the Parties compete closely to supply waterproofing jointing bandages.

¹⁷⁶ Note of a call with a Third Party [DWI] of 27 May 2022.

¹⁷⁷ Appendix 1 to the FMN, paragraph 13.

¹⁷⁸ Note of a call with a Third Party [DWI] of 27 May 2022. See '[List of approved products June 2022 \(dwi.gov.uk\)](#)', last accessed 30 June 2022.

Viability of price rises

162. The Parties submitted that Sika could not profitably raise the price of its waterproofing jointing bandages post-Merger.¹⁷⁹ This is because:
- (a) The large majority of Sika's waterproofing jointing bandages are used in non-drinking water settings;
 - (b) Sika could not selectively target price increases at drinking water customers because it sells to distributors and not directly to end-customers, and Sika does not track the end-customers of its distributors; and
 - (c) There are a large number of alternative suppliers of waterproofing jointing bandages for non-drinking water infrastructure. End users outside the drinking water industry (ie the large majority of Sika's customers) would respond to any price increase by the Merged Entity by switching to one of these alternative suppliers rendering a price increase unprofitable.
163. The CMA considers that the Merged Entity could selectively target price increases at drinking water customers. Sika has different versions of the adhesive component used in its waterproofing jointing bandages: one is on the Approved Product List (the **approved version**) and the other is not. The CMA therefore considers that the Merged Entity could price discriminate by increasing the price of the approved version but not the other. Sika already charges different prices for the two types of adhesive (including when sold to the same distributor). Although prices vary by customer, on average the approved version is more expensive.¹⁸⁰
164. The Parties submitted that Sika would not be able to increase the price of the approved version post-Merger because some customers use the approved version even in non-drinking water settings (for example, some applicators only stock the approved version to avoid using the wrong version on a particular job). However, the CMA considers that these customers could switch to Sika's non-approved version for non-drinking water settings in response to an increase in the price of the approved version. To the extent that they are not willing to do so, for example because they want to be able to use a single product regardless of application, they

¹⁷⁹ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraphs 4.1-4.6.

¹⁸⁰ The Parties submitted that the higher average price reflects the increased cost of raw materials and testing for the approved version. The CMA notes that, even if this is the case, the differences in price demonstrate that it is possible for Sika to charge different prices for the two products. Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraphs 3.8-3.10.

would be equally unlikely to switch to a rival supplier of water jointing bandages for non-drinking water applications.

165. The CMA also notes that the Merged Entity could raise the price of MBCC's waterproofing jointing bandage, which is used almost exclusively in drinking water infrastructure. Currently the price of MBCC's product is constrained only by Sika's competing product.

Countervailing constraints from entry and expansion

166. The CMA has considered whether there may be countervailing factors that prevent or mitigate an SLC from arising in the supply of products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK. This is, in particular, through entry and/or expansion by third parties in response to the Merger.¹⁸¹
167. Generally, the CMA considers that entry or expansion preventing an SLC from arising is rare.¹⁸² The CMA therefore requires robust evidence that entry will be timely, likely and sufficient to prevent an SLC from arising and is likely to place greater weight on detailed consideration of entry or expansion.¹⁸³

The Parties' submissions

168. The Parties submitted that the prospect of future entry is timely, likely and sufficient to prevent an SLC in the supply of waterproofing jointing bandages.¹⁸⁴
169. The Parties submitted that the timeliness of entry is ensured because customers have already started seeking alternative suppliers in advance of the Merger, with an alternative supplier now preparing to apply for DWI testing. The Parties submitted that it should not take more than 12 months for product approval, assuming a robust level of preparation and that pressure from customers is likely to speed up the approval process.¹⁸⁵
170. The Parties submitted that the likeliness of entry is also ensured because other suppliers will have the ability and incentive to enter the market in response to the Merger, especially with customer sponsorship. The Parties submitted that the

¹⁸¹ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.1.

¹⁸² [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.29.

¹⁸³ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.30.

¹⁸⁴ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraph 4.1.

¹⁸⁵ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraphs 4.2-4.4.

approval process is neither costly nor lengthy, and new entrants may have waterproofing jointing bandages approved in other jurisdictions and be able to leverage that experience to ensure their applications for approval are successful.¹⁸⁶

171. Finally, the Parties submitted that the sufficiency of entry is ensured since suppliers do not require a track record to effectively compete. Customers rely on DWI for assurance that the product is safe and works.¹⁸⁷

The CMA's assessment

172. The CMA received evidence from three suppliers of waterproofing jointing bandages that are currently contemplating entering the drinking water industry in the UK. Of these, two suppliers were either still developing a potential product or had not yet decided whether to enter. The CMA considers that there is insufficient evidence to show that entry by either of these two suppliers would be timely or likely.

173. However, one supplier of waterproofing jointing bandages is [redacted].¹⁸⁸ This supplier [redacted].¹⁸⁹

174. One customer confirmed that it has proactively encouraged the supplier to apply for approval to address concerns about the impact of the Merger.¹⁹⁰

175. The evidence available to the CMA provides no indication that this supplier would have been likely to enter the market absent the Merger. By contrast, this supplier told the CMA that [redacted].¹⁹¹

- *Timeliness*

176. The CMA's guidance notes that entry or expansion being effective within two years of an SLC arising would typically be considered by the CMA to be timely (although, depending on the nature of the market, the CMA may consider a period of time shorter or longer than this).¹⁹²

¹⁸⁶ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraphs 4.5-4.8.

¹⁸⁷ Parties' response to the Issues Letter – Waterproofing jointing bandages, paragraphs 4.9-4.10.

¹⁸⁸ Email from a Third Party [redacted]. This supplier noted that having prior experience of supplying an equivalent product for use in drinking water infrastructure in other jurisdictions does not provide it with an advantage for applying to the DWI. The supplier noted that often products will need to be reformulated before being used in a new location because of the different water properties. It was also noted that the DWI testing process is unique, with additional requirements compared with other jurisdictions: Note of a call with a Third Party [redacted].

¹⁸⁹ Note of a call with a Third Party [redacted].

¹⁹⁰ Note of a call with a Third Party [redacted].

¹⁹¹ Note of a call with a Third Party [redacted].

¹⁹² [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.33.

177. The DWI estimated that the approval process can take up to 12 months – particularly for ‘complex’ products like the Parties’ waterproofing jointing bandages – with some recent examples of applications taking longer due to a lack of capacity at the laboratory used for testing.¹⁹³
178. The supplier [X] and estimates that [X].
179. The CMA therefore considers that entry by the supplier would be timely.
- *Likelihood*
180. The CMA considers that the supplier has a strong ability and incentive to enter. The supplier has a range of capabilities that make it well-placed to enter (being a large and well-resourced player that is already active within the broader chemicals sector). The supplier is supported by a customer [X]. The supplier has already taken the commercial decision to enter and is already taking concrete steps towards entry [X].
181. Although there is an inherent uncertainty within the DWI testing process, and the CMA cannot prejudge the outcome of this process, [X].¹⁹⁴ The CMA notes, in this regard, that the supplier’s high degree of confidence in relation to obtaining DWI certification appears to be based on a good understanding of what the approvals process entails. The CMA also notes that the majority of products that are submitted to DWI for testing are ultimately approved.¹⁹⁵
182. The CMA therefore considers that entry is likely.
- *Sufficiency*
183. Entry and expansion should be of sufficient scope and effectiveness to prevent an SLC from arising as a result of the merger. Entry or expansion needs to be successful over a sustained period of time.¹⁹⁶
184. The CMA considers that once the supplier’s waterproofing jointing bandage will be an effective offering once approved.

¹⁹³ See also note of a call with a Third Party [X].

¹⁹⁴ Note of a call with a Third Party [X].

¹⁹⁵ Note of a call with a Third Party [DWI] on 29 May 2022.

¹⁹⁶ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 8.37.

185. In particular, [X].¹⁹⁷ The supplier also [X] and will already have the support of at least one customer. Customers will also be able to rely on DWI approval as confirmation that the product is safe to use in drinking water settings.
186. The CMA considers entry by this supplier is likely to replace the loss of competition between the Parties, in particular because the new supplier has the capabilities to effectively replicate the supply position of either of the Parties and is considered as a credible alternative by customers. Therefore, the CMA considers that entry by the supplier would be sufficient.

Conclusion on countervailing constraints from entry and expansion

187. The CMA considers [X] entry and expansion to be timely, likely and sufficient to prevent or mitigate an SLC from arising in the supply of supply of products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK.

Conclusion on horizontal unilateral effects in the supply of supply of products approved for waterproofing moving joints and cracks in drinking water infrastructure in the UK

188. For the above reasons the CMA considers that the entry and expansion of a supplier ([X]) will be timely, likely and sufficient to prevent or mitigate an SLC from arising.

Loss of future competition in the supply of structural cementitious grouts in offshore wind turbine installation in Europe (including the UK)

189. The CMA has considered whether there is a realistic prospect that the Merger may lead to a substantial lessening of competition by removing future competition in the supply of structural cementitious grouts (**grouts**) in offshore wind turbine installation in Europe (including the UK).
190. The CMA has considered the extent to which Sika would be likely, absent the Merger, to expand its offering of offshore grouts to include an ultra-high strength grout capable of use in offshore wind turbine installation. In this scenario, the Merger would remove the potential for future competition between the Parties.¹⁹⁸

¹⁹⁷ Note of a call with a Third Party [X].

¹⁹⁸ [Merger Assessment Guidelines \(CMA129\)](#), paragraph 5.2.

Background on the use of structural cementitious grouts in offshore wind turbine installation

191. Offshore wind turbine installations often require structural grouting to support the connection between the large, heavy and slender turbines and the foundations on the seabed.¹⁹⁹ Installers will ordinarily use grouts that have been approved by DNV, a private verification body.²⁰⁰ While DNV approval is not a legal requirement for products used in offshore wind turbine applications, in practice it is a requirement imposed by project specifiers, owners and insurers.²⁰¹
192. There are ten grouts that have DNV approval,²⁰² with a range of compressive strengths.²⁰³ MBCC supplies five DNV approved grouts, while Sika has one DNV approved grout and has been testing an additional product to DNV standards. The other suppliers of DNV approved grouts are ITW, Y-MatTec and Ruentex.
193. The Parties also submitted that PAGEL has recently obtained DNV approval.²⁰⁴ However, the PAGEL-PES joint-venture has not yet completed the DNV approval requirements.²⁰⁵

Frame of reference

Product scope

194. The Parties submitted that alternative methods of securing offshore wind turbines, such as (i) bolted or flanged connections; or (ii) non-grout products, including mortars, cement-based products, or non-structural skirt backfill grouts are commonly used as more cost-efficient and faster substitutes for grouted connections.²⁰⁶
195. Third-party evidence suggests that the choice of method for securing an offshore wind turbine is largely driven by structural and environmental considerations.²⁰⁷ The CMA has therefore used the Parties' overlapping activities in the supply of DNV

¹⁹⁹ [‘Solutions for Wind Energy Foundations’](#), last accessed on 20 June 2022.

²⁰⁰ Note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

²⁰¹ Note of a call with a Third Party [§<]; note of a call with a Third Party [§<].

²⁰² [‘Search | Approval finder \(dnv.com\)’](#), last accessed 29 June 2022.

²⁰³ Compressive strength refers to the maximum downward load that a grout sample can withstand before failure occurs. The compressive strength of grout is expressed in megapascal pressure units (MPa) with a higher value indicating higher compressive strength,

²⁰⁴ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.16.

²⁰⁵ Email from a Third Party [PES] of 11 July 2022; email from a Third Party [§<].

Parties' response to the Issues Letter – ‘Horizontal Unilateral Effects in the Supply of Structural Cementitious Grouts’, paragraph 2.18-2.21.

²⁰⁷ Note of a call with a Third Party [§<].

approved grouts as its product frame of reference. However, the CMA has not needed to reach a conclusion on whether the frame of reference should include other methods for securing offshore wind turbines as it has not found the Merger to give rise to competition concerns in relation to the Parties' overlapping activities.

Geographic scope

196. The Parties submitted that the supply of grouts is global and that conditions of competition are the same internationally because DNV approval is recognised globally, and products can be transported globally.²⁰⁸
197. The Parties note that MBCC supplies customers across the EEA from its production facility in Belgium.²⁰⁹ Third parties also observed that importing and exporting grouts is common within Europe, including the UK.²¹⁰ However, a number of customers also told the CMA that importing grouts from Asia (for example, from Ruentex) for use in Europe, including the UK, would likely be prohibitively expensive.²¹¹
198. The CMA therefore considers that the appropriate geographic frame of reference is Europe (including the UK). The CMA has taken into account constraints from suppliers based outside Europe in its competitive assessment.

The Parties' current offerings

199. MBCC is widely regarded by customers and competitors as a very strong supplier.²¹² Third parties indicated that MBCC has the broadest product range, with half of the current DNV approved grouts,²¹³ and has a considerable depth of experience in Europe and the UK.²¹⁴ One customer noted that MBCC products had been used in the vast majority of offshore wind farm projects in Europe.²¹⁵

²⁰⁸ Parties' response to the CMA's RFI 4, paragraph 27.

²⁰⁹ Parties' response to the CMA's RFI 4, paragraph 27(b).

²¹⁰ Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED].

²¹¹ Third Party response [REDACTED] to the CMA's customer questionnaire; note of a call with a Third Party [REDACTED].

²¹² Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED], Third Party responses [REDACTED] to the CMA's competitor and customer questionnaires.

²¹³ '[Search | Approval finder \(dnv.com\)](#)', last accessed 29 June 2022; note of a call with a Third Party [REDACTED], Third Party response [REDACTED] to the CMA's customer questionnaire.

²¹⁴ Note of a call with a Third Party [REDACTED].

²¹⁵ Third Party responses [REDACTED] to the CMA's customer questionnaire.

200. Sika entered the supply of grouts through its acquisition of Parex in 2019, which owned the DNV approved 100 Newton Grout AW (later rebranded SikaGrout 3620). SikaGrout 3620 is specifically designed for used in the wind turbine industry.²¹⁶

Competitive interaction between the Parties' offshore grout offerings

201. The Parties submitted that they do not compete at all in the UK, let alone closely, in the supply of grouts approved by DNV for offshore wind turbine connections.²¹⁷
202. Sika submitted that it has [redacted] SikaGrout 3620 for use in offshore wind turbines [redacted].²¹⁸ Sika explained that SikaGrout 3620 has not been used to install offshore wind turbines anywhere in Europe and in the UK has only been used for onshore applications (where lower compressive strengths are required). Sika submitted that a customer in [Europe] had trialled SikaGrout 3620 [redacted].²¹⁹
203. The CMA received evidence from customers and suppliers to assess what factors are considered important in determining the relative strength of, and competitive constraint exerted by, other competitors. The evidence suggests that along with DNV approval, having a reference or past case study in local conditions provides a competitive advantage.²²⁰
204. Evidence from customers, including those that have invited Sika to tender for the supply of structural cementitious grouts,²²¹ indicate that Sika is recognised as a weak competitor compared to MBCC and ITW.²²² Third Parties told the CMA that Sika has a limited range of DNV approved products that does not include an ultra-high strength grout; and a limited track record in offshore applications.²²³ One customer noted that Sika has been trying to enter the market for many years without success.²²⁴

²¹⁶ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.3. Sika later rebranded this product to SikaGrout 3620.

²¹⁷ Parties' response to the CMA's RFI 4, paragraph 22.

²¹⁸ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.7.

²¹⁹ Parties' response to the Issues Letter – Structural cementitious grouts, paragraphs 2.4-2.5.

²²⁰ Note of a call with a Third Party [redacted]; note of a call with a Third Party [redacted]; Third Party response [redacted] to the CMA's competitor questionnaire. One customer noted that the offshore wind turbine industry is generally risk adverse and there is a reluctance from structural engineers and customers to trial a new supplier or product, given the severe consequences of a product failing.

²²¹ Parties' response to the CMA's RFI 4, Tables 6 and 7.

²²² Third Party responses [redacted] to the CMA's customer questionnaire.

²²³ Third Party responses [redacted] to the CMA's customer and competitor questionnaires.

²²⁴ Third Party response [redacted] to the CMA's customer questionnaire.

205. The CMA therefore believes that Sika currently exerts only a limited constraint on MBCC.

Sika's ability and incentive to expand its offshore grout offering

206. Sika submitted that it does not have the ability or incentive to expand its offshore grout offering, and that previous efforts to do so – through the development of [X] – have been [X].
207. The evidence from Sika's internal documents is mixed and does not consistently support Sika's submissions. A number of documents [X] (including as recently as January 2022)²²⁵ and a document suggests [X] may have been influenced by the Merger.²²⁶ In addition, the [X].²²⁷
208. However, in light of the range of competitive constraints from alternative offshore grout suppliers that will remain post-Merger (as described further below), it has not been necessary for the CMA to conclude on whether Sika would have successfully expanded its offshore grout offering absent the Merger.

Competitive constraints from alternative suppliers of offshore grouts

209. The CMA has considered whether any loss of future competition brought about by the Merger would give rise to a SLC, taking into account other current constraints and potential entrants.
210. The Parties submitted that, outside ITW, global suppliers already supplying DNV approved offshore grouts are better placed than Sika to expand into Europe (including the UK), as DNV certification is globally recognised and these companies have a track record, unlike Sika.²²⁸ In addition, the Parties submitted that other potential suppliers are able to obtain DNV approval if they have the commercial

²²⁵ Annex 175 to the FMN; Annex 195 to the FMN. While the Parties submit that this is a historic document that does 'not reflect current business strategy', the CMA notes that this is reference to a presentation given by Sika's CEO on 13 January 2022.

²²⁶ Annex 07 to the Parties' response to the Issues Letter – Structural cementitious grouts, slide 2. See also Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 17(f).

²²⁷ Annex 07 to the Parties' response to the Issues Letter – Structural cementitious grouts. In 2022, Sika estimated that the annual global potential within the offshore wind market is [X]: Annex 195 to the FMN, page 42.

²²⁸ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.17.

desire to do so.²²⁹ The Parties noted that MBCC considers [X] and [X] to be closer competitors than Sika having [X] offshore wind turbine projects in Europe.²³⁰

211. Third-party evidence broadly supported the Parties' submissions. ITW (based in Denmark) was widely recognised as the strongest competitor to MBCC by third parties.²³¹ Y-MatTec (based in Denmark) described its DNV approved G2000 as an ultra-high strength grout, [X], and has [X].²³² The joint venture between PAGEL (based in Germany) and PES (based in the UK) is currently in the process of obtaining DNV approval for an ultra-high strength grout.²³³ Both companies were identified as potential entrants by customers.²³⁴ A number of customers also mentioned Ruentex (based in Malaysia) as a potential entrant in Europe, although they noted that being based in Asia would be a competitive disadvantage.²³⁵

212. The CMA considers that MBCC faces a strong constraint from ITW, with a number of suppliers currently entering or expanding into the supply of grouts for offshore wind turbine installation. Two of these other potential suppliers, Y-MatTec, which already has DNV approval, and PAGEL-PES, which is in the process of obtaining DNV approval, appear similarly well-placed to enter as Sika.

Conclusion on horizontal unilateral effects in the supply of structural cementitious grouts

213. The CMA believes that Sika imposes a limited competitive constraint on MBCC currently, and the removal of Sika as a future constraint would not have a significant impact on competition given MBCC faces sufficient existing and potential constraint from other suppliers.

THIRD PARTY VIEWS

214. The CMA contacted customers and competitors of the Parties and the DWI. The CMA received input from over 100 customers and over 15 competitors to inform its

²²⁹ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.16.

²³⁰ Parties' response to the Issues Letter – Structural cementitious grouts, paragraph 2.17.

²³¹ Note of a call with a Third Party [X]; Third Party responses [X] to the CMA's customer questionnaire; Third Party response [X] to the CMA's competitor questionnaire.

²³² Third Party response [X] to the CMA's competitor questionnaire.

²³³ ['DNV MPQA Certification for PAGEL Offshore Grout Material'](#), last accessed on 21 July 2022; email from a Third Party [PES] of 11 July 2022.

²³⁴ Third Party responses [X] to the CMA's customer questionnaire.

²³⁵ Third Party responses [X] to the CMA's customer questionnaire.

understanding of the industry in the UK and to provide context to its review of the Parties' submissions and internal documents provided throughout this investigation.

215. Some customers raised concerns regarding the consolidation of the industry and reduction of choice.²³⁶ A competitor also raised concerns that the consolidation of the industry leads to the rationalisation of employees and loss of expertise.²³⁷ Some customers raised concerns regarding supply chain issues causing price increases, raw material shortages and energy cost increases.²³⁸
216. Third-party comments have been taken into account where appropriate in the competitive assessment above.

CONCLUSION ON SUBSTANTIAL LESSENING OF COMPETITION

217. 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 the supply of chemical admixtures in the UK.

²³⁶ Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED].

²³⁷ Note of a call with a Third Party [REDACTED].

²³⁸ Note of a call with a Third Party [REDACTED]; note of a call with a Third Party [REDACTED].

DECISION

218. 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.
219. 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 is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.²³⁹ The Parties have until 3 August 2022²⁴⁰ to offer an undertaking to the CMA.²⁴¹ The CMA will refer the Merger for a phase 2 investigation²⁴² 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 decides²⁴³ by 10 August 2022 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, Mergers
Competition and Markets Authority
27 July 2022

²³⁹ Section 33(3)(b) of the Act.

²⁴⁰ Section 73A(1) of the Act.

²⁴¹ Section 73(2) of the Act.

²⁴² Sections 33(1) and 34ZA(2) of the Act.

²⁴³ Section 73A(2) of the Act.