

# Acquisition by Copart, Inc. of Green Parts Specialist Holdings Ltd (Hills Motors)

## Decision on relevant merger situation and substantial lessening of competition

**ME/7010/22**

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 28 November 2022. Full text of the decision published on 4 January 2023.

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

### SUMMARY

1. On 5 July 2022, Copart UK Limited, a wholly owned subsidiary of Copart, Inc. (**Copart**), acquired the entire issued share capital of Green Parts Specialist Holdings Ltd (formerly named ILT Project Limited) (**Hills Motors**) (**the Merger**). Copart and Hills Motors are together referred to as the **Parties** and for statements referring to the future, as the **Merged Entity**.
2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that each of Copart and Hills Motors is an enterprise; that these enterprises have ceased to be distinct as a result of the Merger; and that the share of supply test in the Enterprise Act 2002 (the **Act**) is met. The four-month period for a decision, as extended, has not yet expired. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
3. The Parties overlap in the supply of salvage vehicle commercialisation services (**salvage services**) and the supply of salvage vehicles in the UK. Salvage vehicles are damaged vehicles that are typically deemed no longer fit for use on the road

and/or uneconomical for repair, following a road accident, theft or weather-damage. Providers of salvage services (also referred to as **salvagers**) collect, store and commercialise (eg, through the sale of the vehicle or their parts) salvage vehicles on behalf of upstream customers such as insurance companies, fleet management companies, claims management companies and the police (collectively, **upstream customers**). Where fit for sale, salvagers sell salvage vehicles to downstream customers such as dismantlers, body shops, repairers and end-customers (collectively, **downstream customers**) via online auctions. Dismantlers – including salvagers with dismantling capabilities – dismantle the vehicles and sell their recycled official manufacturer (**OEM**) parts (**green parts**)).

4. Salvagers – including the Parties – are therefore active in both the supply of salvage services (to upstream customers) and the supply of salvage vehicles (to downstream customers). There is also a vertical relationship between Copart and Hills Motors, given that Hills Motors has in-house dismantling capability and supplies green parts (whereas Copart does not).
5. The CMA considered whether the Merger may give rise to a substantial lessening of competition (**SLC**) as a result of:
  - (a) horizontal unilateral effects in the supply of salvage services in the UK;
  - (b) horizontal unilateral effects in the supply of salvage vehicles in the UK; and
  - (c) input foreclosure of rival suppliers of green parts in the UK through restricted access to salvage vehicles.

### **Horizontal unilateral effects in the supply of salvage services**

6. In relation to the supply of salvage services in the UK, the CMA's investigation found that the Merger combines the largest and fourth largest suppliers, and the Merged Entity would have a high combined share of supply (in excess of 60%). The CMA considers that there are few significant alternative suppliers, specifically (i) IAA, Inc. (**IAA**) and (ii) e2e Total Loss Vehicle Management (**e2e**), which is a consortium comprised of a number of salvagers as its members (including, pre-Merger, Hills Motors). The Parties are two of a few salvagers that compete for national contracts and the Parties' internal documents, in particular from Hills Motors, showed instances of monitoring each other's contracts. Customers and competitors that responded to the CMA's merger investigation also stated that the Parties are two of

a few significant alternatives. The CMA therefore considers that competition mainly takes place among a few firms, and the Parties are sufficiently close competitors that the elimination of competition between them may raise competition concerns.

7. In light of the above, the CMA found that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of salvage services in the UK.

### **Horizontal unilateral effects in the supply of salvage vehicles**

8. The CMA found that the market dynamics in the upstream market for salvage services, specifically the Parties' high share of supply and the lack of alternative players, was reflected in the downstream market for the supply of salvage vehicles. As a result, the CMA also found that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of salvage vehicles in the UK.

### **Input foreclosure of rival suppliers of green parts through restricted access to salvage vehicles**

9. In relation to input foreclosure of rival suppliers of green parts, the CMA believes that the Merged Entity would have the ability to restrict access to salvage vehicles to rival suppliers of green parts by virtue of its position as the largest supplier of salvage vehicles in the UK, which are an essential input for the supply of green parts. The CMA also considers that the Merged Entity would have the incentive to pursue such a foreclosure strategy, given that an important rationale for the Merger is for Copart to provide existing and potential salvage service customers with a green parts supply service and Copart has expressed intentions to scale Hills Motors dismantling capabilities to this end. The CMA believes that foreclosure of rival suppliers, if it occurred, would have an effect on competition. The Merged Entity is an important source of salvage vehicles for dismantlers, including those not active in the supply of salvage services or who supplement their source of salvage vehicles for dismantling with salvage vehicles purchased from Copart or Hills Motors.
10. In light of the above, the CMA found that the Merger gives rise to a realistic prospect of an SLC in the UK as a result of input foreclosure of rival suppliers of green parts through restricted access to salvage vehicles.

## **Conclusion**

11. The CMA is therefore considering whether to accept undertakings under section 73 of the Act. Copart has until 5 December 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 22(1) and 34ZA(2) of the Act.

## ASSESSMENT

### PARTIES

12. Copart<sup>1</sup> is headquartered in the United States with operations in countries across Asia, Europe, and South America. The turnover of Copart in the financial year ending 31 July 2022 was approximately £2.2 billion worldwide, of which approximately £[redacted] million was generated in the UK.<sup>2</sup>
13. Hills Motors<sup>3</sup> is headquartered in the UK. The turnover of Hills Motors in the financial year ending 30 November 2021 was approximately £[redacted] million worldwide, of which £[redacted] million was generated in the UK.<sup>4</sup>

### TRANSACTION

14. On 5 July 2022, Copart UK Limited, a wholly owned subsidiary of Copart, acquired the entire issued share capital of Hills Motors.<sup>5</sup>
15. The Parties submitted that the rationale for the Merger is for Copart to provide salvage service customers with an in-house, end-to-end salvage and dismantling service, including the supply of green parts.<sup>6</sup> Copart submitted that a green parts supply service – in which the provenance of the green parts is verifiable, through Copart having end-to-end control of the supply chain – is important to and sought by Copart’s existing and potential customers further to recent industry changes (see paragraph 25 below). This is reflected in Copart’s public announcement and internal documents regarding the business case for the Merger.<sup>7</sup>

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<sup>1</sup> In this decision, Copart refers to Copart, Inc. together with all entities under common ownership or common control, or over which it exerts material influence within the meaning of section 26 of the Enterprise Act 2002 (the **Act**) excluding Hills Motors.

<sup>2</sup> Final Merger Notice submitted to the CMA on 30 September 2022 (**FMN**), paragraph 25.

<sup>3</sup> In this decision, Hills Motors refers to Green Parts Specialist Holdings Ltd together with all entities under common ownership or common control, or over which it exerts material influence within the meaning of section 26 of the Act.

<sup>4</sup> FMN, paragraph 26.

<sup>5</sup> FMN, paragraphs 4, 9 and Annex 1.

<sup>6</sup> FMN, paragraph 10. Parties’ response to the CMA’s Issues Letter submitted on 4 November 2022 (**Response to Issues Letter**),

<sup>7</sup> [Copart announces the acquisition of Hills Salvage & Recycling – The Green Parts Specialists and](#) FMN, Annex 16, page 8.

16. The Merger is not subject to review by any other competition authority.<sup>8</sup>

## PROCEDURE

17. The Merger was considered at a Case Review Meeting.<sup>9</sup>

## JURISDICTION

18. The Parties are both ‘enterprises’ within the meaning of the Act.<sup>10</sup> Further to the transaction described in paragraph 14, these enterprises have ceased to be distinct.<sup>11</sup>
19. In 2021, Hills Motors generated revenue of £[<] million in the UK. Accordingly, the Merger does not satisfy the turnover threshold set out in section 23(1)(b) of the Act.
20. According to the Parties’ estimates and the CMA’s estimates (see Table 1 below), Copart and Hills Motors have a combined share of supply of more than 25% in the supply of salvage services in the UK with an increment arising as a result of the Merger. Accordingly, the share of supply test in section 23(4) of the Act is met.
21. The Merger completed on 5 July 2022 and was first made public on 12 July 2022.<sup>12</sup> The four-month deadline for a decision under section 24 of the Act is 2 December 2022,<sup>i</sup> following an extension under section 25(1) of the Act.
22. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
23. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 4 October 2022 and the statutory 40 working day deadline for a decision is therefore 28 November 2022.

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<sup>8</sup> FMN, paragraph 14.

<sup>9</sup> See [Mergers: Guidance on the CMA’s jurisdiction and procedure \(CMA2revised\)](#), December 2020, from page 46.

<sup>10</sup> Section 129 of the Act.

<sup>11</sup> Section 26 of the Act.

<sup>12</sup> FMN, paragraph 28. A copy of the press release issued by Copart is available here: [Copart announces the acquisition of Hills Salvage & Recycling – The Green Parts Specialists.](#)

## COUNTERFACTUAL

24. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers, the CMA generally adopts pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger.<sup>13</sup> However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.<sup>14</sup>
25. The Parties submitted that the appropriate counterfactual in this case is the prevailing conditions of competition<sup>15</sup> but that the CMA should take into account the impact of increasing demand for green parts from insurance companies and other customers on Copart's competitive position.<sup>16</sup>
26. The CMA notes that the counterfactual is not intended to be a detailed description of the conditions of competition that would prevail absent the merger (which are better considered in the competitive assessment).<sup>17</sup> As such, in assessing the relevant counterfactual, the CMA is likely to focus only on significant changes affecting competition between the merger firms, where there are reasons to believe that those changes would make a material difference to its competitive assessment.<sup>18</sup> In this case, the CMA has not received evidence which shows that increasing demand from customers for green parts would result in a significant change to Copart's competitive position which would materially alter the competitive assessment. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual. The CMA has taken into account the growing importance of

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<sup>13</sup> [Merger Assessment Guidelines \(CMA 129, March 2021 \(Mergers Assessment Guidelines\)\)](#), paragraph 3.1.

<sup>14</sup> [Merger Assessment Guidelines](#), paragraph 3.12.

<sup>15</sup> FMN, paragraph 37.

<sup>16</sup> In this regard, the Parties submitted that: (i) recent supply chain disruption – resulting from the COVID-19 pandemic, Brexit, and the war in Ukraine (where many German-marked car products were manufactured) – has led to shortages in the supply of OEM vehicle parts and consequent increased demand for green parts; and (ii) such demand has and continues to be led largely by insurance companies who value green parts as a source of financial and emissions savings (the latter being relevant to insurance companies meeting their own environmental, social, governance (ESG) policy commitments). FMN, paragraphs 38-42 and Response to Issues Letter, paragraphs 7-17.

<sup>17</sup> [Merger Assessment Guidelines](#), paragraph 3.7.

<sup>18</sup> [Merger Assessment Guidelines](#), paragraph 3.9.

green parts in the supply of salvage services and its impact on Copart, where relevant, in its competitive assessment.

## FRAME OF REFERENCE

27. The assessment of the relevant market is an analytical tool that forms part of the analysis of the competitive effects of the merger and should not be viewed as a separate exercise from the competitive assessment.<sup>19</sup> It involves identifying the most significant competitive alternatives available to customers of the merger firms and includes the sources of competition to the merger firms that are the immediate determinants of the effects of the merger.<sup>20</sup>
28. While market definition can be an important part of the overall merger assessment process, the CMA's experience is that, in most mergers, the evidence gathered as part of the competitive assessment on constraints on the merger firms' behaviour, captures the competitive dynamics more fully than formal market definition.<sup>21</sup> There may be no need for the CMA's assessment of competitive effects to be based on a highly specific description of any particular market definition (including, for example, descriptions of the precise boundaries of the relevant markets and bright-line determinations of whether particular products or services fall within the relevant market).<sup>22</sup>

### Product scope

29. The Parties submitted that the appropriate product frames of reference for the purpose of assessing the horizontal overlaps are: (i) the supply of salvage services (without sub-segmentation by type of customer);<sup>23</sup> and (ii) the supply of salvage vehicles (without sub-segmentation by type of customer from which the vehicle was

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<sup>19</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.1.

<sup>20</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.2.

<sup>21</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.2.

<sup>22</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.5.

<sup>23</sup> For example, commercial or private or – within commercial – insurance companies, fleet management companies, claims management companies, etc. FMN, paragraphs 80-83.



sourced or by damage category).<sup>24</sup> The Parties also assessed the competitive impact of the Merger in the supply of green parts.<sup>25</sup>

30. In IAA / SYNETIQ, the CMA assessed competitive dynamics relevant to the activities of the merger parties in that case, namely the supply of salvage services to insurance companies and the supply of salvage vehicles.<sup>26</sup>

31. Considering the Parties' activities in this case, the CMA notes the following.

- (a) The Parties overlap in the supply of salvage services to upstream customers.<sup>27</sup> The CMA has not received evidence to suggest it is necessary to distinguish separate product of frames of reference by customer type. The CMA has taken into account the differences between customers, where relevant, in the competitive assessment.

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<sup>24</sup> FMN, paragraphs 87-91. The Parties described salvage vehicles are damaged vehicles that are typically deemed no longer fit for use on the road and/or uneconomical for repair, following a road accident, theft or weather-damage (FMN, paragraph 44). In the Parties' merger notice, the Parties submitted that salvage vehicles can be classified into four categories according to their physical state, in accordance with insurance industry categories set out in Association of British Insurer's [code of practice](#): category A (vehicles deemed not suitable to be repaired and must be crushed in their entirety); category B (vehicles deemed not suitable for repair but whose useable parts can be recycled); category S (repairable vehicles that have sustained structural damage); category N (repairable vehicles that have sustained non-structural damage) (FMN, paragraph 54). In Response to Issues Letter, the Parties submitted that salvage vehicles include vehicles that fall outside of these four categories (because they have not been categorised by insurers) and are given informal categories by salvagers such as U (unrecorded) or X (stolen) (Response to Issues Letter, page 16).

<sup>25</sup> FMN, paragraphs 43; 73-75 and 142.

<sup>26</sup> The CMA's assessment focussed on the supply of salvage services to insurance customers as the Parties primarily overlapped in this category. See CMA's decision on reference under section 22(1) of the Act given on 2 March 2022 in respect of the acquisition by IAA, Inc. (IAA) of SYNETIQ Holdings Limited (SYNETIQ) (IAA / SYNETIQ), paragraphs 36 and 34.

<sup>27</sup> Primarily insurance companies, but also others such as fleet management companies. Annex 2 the Parties' response to the CMA's request for information of 8 September 2022 (RFI 2 Response). In this respect, the CMA notes that the vast majority of salvage service customers (including the vast majority of the Parties' salvage service customers) are insurance companies. The CMA estimates – based on data gathered from the Parties and third-party salvagers on the volume of category A, B, N and S salvage vehicles (overall and split by damage category) they sourced in the UK annually from 2019-2021 split by upstream customer type – that over 85% of salvage vehicles are handled on behalf of insurance companies. According to data submitted by the Parties, >[<] % of category A, B, N and S salvage vehicles sourced by Copart and >[<] % of category A, B, N and S salvage vehicles sourced by Hills Motors annually in the UK in each of the last the three years were from insurance companies (RFI 2 Response, Annex 2). As explained in paragraph 43(c) below, the Parties submitted that, while there are (informal) categories of salvage vehicle that fall outside of categories A, B, N and S (namely, categories U and X) the competitor set and competitive dynamics for the supply of salvage services for category U and X salvage vehicles do not differ to those for category A, B, N and S salvage vehicles. Therefore, the CMA considers that the data gathered on category A, B, N and S salvage vehicles are informative of conditions of competition in (and customers of) salvage services overall.

- (b) The Parties overlap in the supply of salvage vehicles. The CMA has not received evidence to suggest that the competitive impact of the Merger would differ if assessed by reference to the supply of all salvage vehicles (overall) or to the supply of a particular subset of salvage vehicles (for example, salvage vehicles sourced from a particular upstream customer type, or a falling into a particular damage category), in particular given the following.
- (i) All salvagers active in the supply of salvage services in the UK are also active in the supply of salvage vehicles to downstream customers in the UK.<sup>28</sup> As such, the CMA considers that the competitive presence of salvagers in the downstream supply of salvage vehicles will closely reflect their competitive presence in the upstream supply of salvage services.
  - (ii) The CMA notes that different types of salvage vehicle may be more or less substitutable for certain downstream customers' needs.<sup>29</sup> Given that the range of salvage vehicles supplied will reflect the range of vehicles sourced, the CMA considers that the relative presence of salvagers in the supply of salvage vehicles (whether all salvage vehicles or a specific subset of salvage vehicles) will be similar to their presence in the supply of salvage services. The CMA therefore considers that the downstream

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<sup>28</sup> Evidence supplied to the CMA by rival salvagers indicated that they did not tend to export salvage vehicles acquired in the UK for sale abroad and did not tend to import salvage vehicles for sale in the UK. As such, the volumes of vehicles handled by salvagers on behalf of upstream customers is likely to closely match the volume of vehicles sold to downstream customers. Third-party responses to the CMA's competitor questionnaire, question 13.

<sup>29</sup> The Parties submitted that the primary buyers of salvage vehicles at auctions are vehicle dismantlers, rebuilders, repair licensees, used vehicle dealers, body shops, exporters and the general public, and that these types of customers purchase salvage vehicles for different purposes (eg, vehicle dismantlers either dismantle a vehicle and supply its (green) parts or sell the entire vehicle, whereas vehicle rebuilders and repair licensees purchase salvage vehicles to repair and resell (while used vehicle dealers generally purchase recovered stolen or slightly damaged goods for resale)). FMN, paragraphs 66-72. In this regard, the CMA notes that not all salvage vehicles are suitable for dismantling. For example, category A vehicles are vehicles deemed not suitable to be repaired and must be crushed in their entirety, whereas category B vehicles are vehicles deemed not suitable for repair but whose useable parts can be recycled (see footnote 24). The Parties submitted that only a subset of category B and category S vehicles are used as an input in the supply of green parts (Parties' slide deck prepared for the CMA's Issues Meeting on 3 November 2022, slide 3).

dynamics in the supply of salvage vehicles reflects the upstream competitive dynamics.<sup>30</sup>

- (c) There is a vertical relationship between Copart and Hills Motors as salvage vehicles are an input into the supply of green parts by dismantlers (where Hills Motors is active). The CMA has considered, based on demand- and supply-side factors, whether the appropriate frame of reference for green parts could be wider and incorporate the supply of salvage vehicles. The CMA does not consider it appropriate to include the supply of salvage vehicles and as such has assessed the competitive impact of the Merger in the supply of green parts separately from the supply of vehicles for the following reasons.
- (i) From a demand-side perspective, the CMA does not consider salvage vehicles and green parts to be substitutes to one another given their differing characteristics and intended use. While salvage vehicles can be dismantled to obtain or supply green parts (i) not all salvage vehicles are suitable for dismantling to obtain or supply green parts (see footnote 29) and (ii) customers (for example, private individuals, garages) may require green parts but they are unlikely to purchase a whole salvage vehicle instead of the specific green parts they need and many may not have in-house capabilities to dismantle salvage vehicles themselves.<sup>31</sup>
- (ii) From a supply-side perspective, the evidence received by the CMA indicates that while many salvagers are also dismantlers, conditions of competition in the supply of green parts and the supply of salvage vehicles differ. While some salvagers (such as IAA, e2e<sup>32</sup> and Hills Motors) have in-house dismantling capabilities (in the case of e2e, such capabilities being those of its members)<sup>33</sup> and are active in the supply of

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<sup>30</sup> For example, the CMA gathered data from the Parties and third-party salvagers on the volume of category A, B, N and S salvage vehicles they sourced in the UK (overall and split by damage category). Using this data, the CMA estimates that the Parties' combined shares of supply are similarly high (between [50-60]%-[60-70]% depending on the damage category) regardless of the damage category of vehicle handled.

<sup>31</sup> Several salvagers that responded to the CMA's investigation indicated that they supply green parts to other customers, such as private individuals, trade customers and body shops (as well as insurer-approved repair networks). Third-party responses to the CMA's competitor questionnaire, question 15(c).

<sup>32</sup> e2e is a membership organisation comprised of a number of salvagers as its members. e2e acts as a single interface between upstream customers and its members (who provide the salvage services as a collective network).

<sup>33</sup> FMN, paragraph 129 and 130.

green parts, others (such as Copart) are not.<sup>34</sup> Further, some dismantlers are not active in the supply of salvage services (and instead source their vehicles from salvagers) (eg JMS Breakers).<sup>35</sup>

### **Conclusion on product scope**

32. For the reasons set out above, the CMA considers that the appropriate product frames of reference for assessing the impact of the Merger are: (i) the supply of salvage services; (ii) the supply of salvage vehicles; and (iii) the supply of green parts.

### **Geographic scope**

33. The Parties submitted that the appropriate frame of reference for the supply of salvage services and the supply of salvage vehicles is UK-wide.<sup>36</sup> The Parties also assessed the competitive impact of the Merger on the supply of green parts in the UK.<sup>37</sup>
34. Considering the product frames of reference described above, the CMA notes the following.
- (a) The evidence received by the CMA indicates that the main suppliers of salvage services (Copart, IAA, e2e, Hills Motors) supply salvage services via nationwide contracts.<sup>38</sup> In particular, the vast majority of salvage service

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<sup>34</sup> FMN, paragraphs 73 and 118.

<sup>35</sup> FMN, paragraph 135 and Copart's response to the CMA's notice under section 109 of the Act dated 7 October, Annex 2.

<sup>36</sup> FMN, paragraph 92.

<sup>37</sup> FMN, paragraph 73-75 and 142.

<sup>38</sup> FMN, paragraph 122. Salvage service customers that responded to the CMA's investigation submitted that they had national (UK-wide) contracts with their existing salvagers and identified the Parties, IAA, e2e, Recycling Lives and SureTrak as capable of meeting their requirements. Copart and IAA were identified most frequently and Recycling Lives and SureTrak least frequently (each being identified once with a ranking of 1 for suitability out of a scale of 1-3, where 3 is the most suitable). Third-party responses to the CMA's customer questionnaire, questions 3 and question 6. As noted in paragraph 47(a), while Hills Motors has historically been a smaller player in the supply of salvage services with a more regional focus, Hills Motors currently competes for, and has won [X] UK-wide contracts (although it subcontracts parts of the [X] contract to salvagers in certain parts of the UK).

customers are insurance customers,<sup>39</sup> who typically have national salvage service requirements.<sup>40</sup>

- (b) While salvage vehicles customers, such as dismantlers, may seek to acquire vehicles locally (to reduce transport costs),<sup>41</sup> salvage vehicles are typically sold via online auctions accessible by buyers across the UK,<sup>42</sup> indicating that salvagers do not limit the supply of salvage vehicles by region.
- (c) According to the Parties, insurance customers are an important source of demand for green parts<sup>43</sup> and are increasingly seeking salvage service contracts that include the supply of green parts (see paragraph 15). IAA, e2e and Hills Motors (who supply salvage services under national contracts, see paragraph 47) offer green parts to upstream salvage service customers.<sup>44</sup> While some of the smaller salvagers active in the supply of green parts that responded to the CMA's investigation indicated that they are active regionally,<sup>45</sup> green parts may be supplied via online sales through platforms such as eBay,<sup>46</sup> indicating that suppliers do not limit their sales by geography.

### **Conclusion on geographic scope**

35. The CMA therefore believes that, for the purpose of assessing the impact of the Merger, the appropriate geographic scope for each product frame of reference is UK-wide. To the extent there is regional variation in competition for the supply of salvage services, salvage vehicles or green parts, the CMA has not received evidence to suggest that this would have a material impact on its competitive assessment.

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<sup>39</sup> FMN, paragraph 50.

<sup>40</sup> FMN, paragraphs 83 and 122. Third-party responses to the CMA's customer questionnaire, question 3. See footnote 38. While some smaller salvagers that responded to the CMA's investigation indicated that they offer nationwide coverage (eg, in terms of vehicle collection), the geographic coverage of their main contracts was regional (Third-party responses to the CMA's competitor questionnaire, questions 2 and 5).

<sup>41</sup> Parties' response to the CMA's request for information dated 25 October 2022 (**RFI 4 Response**).

<sup>42</sup> See IAA / SYNETIQ, paragraph 32. The CMA has not received evidence to suggest that the supply of salvage vehicles to downstream customers has evolved in a material respect.

<sup>43</sup> FMN, paragraph 40.

<sup>44</sup> FMN, paragraphs 118, 129 and 130.

<sup>45</sup> Third-party responses to the CMA's competitor questionnaire, questions 5 and 15(c).

<sup>46</sup> FMN, paragraph 142.

## Conclusion on frame of reference

36. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:
- (a) the supply of salvage services in the UK;
  - (b) the supply of salvage vehicles in the UK; and
  - (c) the supply of green parts in the UK.

## COMPETITIVE ASSESSMENT

### Horizontal unilateral effects in the supply of salvage services in the UK (ToH1)

37. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.<sup>47</sup> In differentiated markets, horizontal unilateral effects are more likely when the merging parties are close competitors.<sup>48</sup> The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of salvage services with reference to shares of supply, closeness of competition and the competitive constraints from alternative suppliers.
38. We note that at various points the Parties have asked us to take account of events that happened directly in response to the Merger as part of our competitive assessment. As explained above, the CMA assesses a transaction against the counterfactual (that is, against what would have happened absent the transaction). Changes that happened as a result of the Merger, such as Hills Motors exiting the e2e consortium<sup>49</sup> or withdrawing from certain tender processes (see paragraph 52) are not relevant to the CMA's assessment, except to the extent that such events may illustrate particular effects the Merger is having or may have in the market.

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<sup>47</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 4.1.

<sup>48</sup> [Merger Assessment Guidelines](#), March 2021, paragraph 4.8.

<sup>49</sup> Parties' submission to the CMA dated 10 November 2022, page 6.



### ***Shares of supply***

39. The Parties submitted that the CMA's estimates of the shares of supply should include the supply of salvage services to all upstream customers in the UK, on which basis the Parties estimate they will have a [40-50]% combined share of supply.<sup>50</sup> The Parties submitted that, in any event, shares of supply are not particularly probative of a supplier's competitive strength given that a gain or loss of a single contract could have a material impact on the share of supply.<sup>51</sup>
40. As noted in IAA / SYNETIQ, the CMA considers that the nature of demand in salvage services (in which contracts are usually tendered around every 3 years) may mean that shares of supply at a point in time may not be particularly probative of a supplier's competitive strength.<sup>52</sup> Shares of supply may, however, provide an indication of the relative size and strength of competitors, and also whether a supplier has maintained a similar position in the market over a period of time. As such, the CMA placed more weight on evidence of closeness of competition between the Parties and of the competitive constraints from alternative suppliers (in particular, for national contracts, see paragraph 47 below). Nevertheless, for the reasons given in paragraph 43, the CMA considers that its share of supply estimates (as described in paragraph 41 and set out in Table 1 below) are indicative of Copart's significant success in winning contracts to date and the position of the Parties relative to other players.
41. The CMA asked the Parties and third parties to provide the number of salvage vehicles that had been categorised as either category A, B, N, or S that they handled on behalf of upstream customers in 2021.<sup>53</sup> The CMA asked for this data to cover all upstream customer types, including insurance companies as well as other upstream customers (such as fleet management companies and claims

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<sup>50</sup> Response to Issues Letter, paragraph 32, and FMN, paragraph 95. The Parties' estimated share of supply for Hills Motors includes volumes conducted by Hills Motors on behalf of e2e.

<sup>51</sup> FMN, paragraph 116 and Response to Issues Letter, paragraphs 32-36.

<sup>52</sup> See IAA / SYNETIQ, paragraph 42.

<sup>53</sup> For salvagers who supply salvage services as part of a consortium (such as the e2e consortium) (**consortium members**), the CMA gathered data on the number of salvage vehicles they handled on behalf of upstream customers through the consortium and independently. In calculating the estimates in Table 1, the CMA attributed volumes that consortium members handled independently to the member and attributed volumes that they handled on behalf a consortium to the consortium.

management companies). Table 1, below, shows the CMA’s estimates of the Parties’ and third parties’ shares in the supply of salvage services in the UK.

**Table 1: Share of supply of salvage services, in the UK, based on number of vehicles (in category A, B, N and S) handled, %, 2021**

	<i>2021</i>
Copart	[50-60]%
Hills Motors	[5-10]%
<b>Combined</b>	<b>[60-70]%</b>
IAA	[20-30]%
e2e	[5-10]%
SureTrak	[0-5]%
ASM	[0-5]%
Others	[0-5]%

Source: CMA analysis of the Parties’ data and competitors’ data in response to the CMA’s competitor questionnaire.

42. The Merger combines the largest and fourth largest player in the supply of salvage services. The data set out in Table 1 shows that the Merged Entity has a very high share of supply of [60-70]% with an increment of [5-10]% resulting from the Merger on the basis of the number of vehicles in category A, B, N or S handled.<sup>54</sup> Based on these estimates, the Merged Entity is the largest player by a substantial distance.<sup>55</sup> The CMA notes that the shares of supply provided by the Parties would also make the Merged Entity the largest player in this segment. The shares of supply calculated by the CMA and the shares of supply put forward by the Parties both also show that there are only a small number of significant suppliers in this segment with Copart, IAA and e2e being substantially larger than other suppliers, and that the Merger will result in the largest supplier, Copart, removing one of the most significant (or the most significant) smaller supplier from the market with the

<sup>54</sup> The CMA notes that these shares are broadly consistent with third-party estimates. One third party has estimated that the Merged Entity will have a share of supply of around two-thirds.

<sup>55</sup> The CMA notes that the above shares of supply will understate the number of cars handled by individual members of e2e given that these vehicles are attributed to e2e. If e2e volumes are allocated to the salvager that handles them, Hills Motors’ share increases to [5-10]% and the Merged Entity’s combined share increases to [60-70]%.



remaining smaller suppliers being substantially smaller even than Hills Motors was prior to the Merger.<sup>56</sup>

43. While shares of supply do not fully capture competitive dynamics (see paragraph 40), the CMA considers that the estimates in Table 1 are indicative of the strength of the Parties and structure of the market post-Merger. In this regard, the CMA notes the following.
- (a) Data gathered by the CMA indicates that Copart has consistently handled a large number of salvage vehicles since 2016<sup>57</sup> and Hills Motors has been consistently growing since 2017<sup>58</sup> and is described in internal and industry documents as the fourth largest salvager in the UK.<sup>59</sup> Given Hills Motors' growth trajectory, the estimates may understate Hills Motors' future growth absent the Merger.<sup>60</sup>
  - (b) With respect to the Parties' submissions that Copart's market position is under threat, owing to insurance companies requiring in-house dismantling and supply of green parts (see paragraph 25), the CMA has not received evidence to show that Copart is unable to compete for (and win) contracts for customers who expressed a request for a green parts supply service.<sup>61</sup> Further, the evidence received by the CMA, as discussed further below, indicates that Copart is continuing to win new business.

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<sup>56</sup> In the data submitted by the Parties, they have submitted that Charles Trent has a larger share than Hills prior to the Merger. While this data does not correspond with the evidence gathered by the CMA, even if Charles Trent were a similar size to Hills prior to the Merger, it remains the case that all other smaller suppliers are substantially smaller than Hills was prior to the Merger.

<sup>57</sup> RFI 2 Response, Annex A.

<sup>58</sup> RFI 1 Response, Annex 2.

<sup>59</sup> For example, an internal document provided by Hills Motors states '[redacted]'; Hills Motors' response to the CMA's notice under section 109 of the Act dated 12 September, document titled '[redacted]'. Further, a market report provided by the Parties indicates that Hills Motors is the fourth largest salvager in the UK; FMN, Annex 20 titled '[redacted]', page 41.

<sup>60</sup> The Parties submitted that Copart handled [redacted] vehicles in 2016 and [redacted] vehicles in 2021. Hills Motors handled [redacted] vehicles in 2017 and [redacted] vehicles in 2021. RFI 2 Response, Annex A.

<sup>61</sup> Rather, as set out in paragraph 51(a), the CMA received evidence that Copart has continued to compete for, and win, contracts even when customers requested or required that a salvager provide a green-parts offering as part of its salvage service. In particular, the Parties submitted information on the rating framework for, and outcome of, [redacted] tender opportunities since 2016 for which, the Parties stated, the customer requested or required that a salvager provide a green-parts offering as part of its salvage service. The evidence available to the CMA indicates that Copart still continued to compete in the majority of these opportunities, and it won [redacted] of these opportunities.

- (c) The Parties submitted that the share of supply should include category U and X vehicles in addition to categories A, B, S, and N.<sup>62</sup> The Parties further submitted that there are no material competitors in categories U and X that are not present in categories A, B, S, and N, nor are there different competitive dynamics between categories A, B, S and N and categories U and X.<sup>63</sup> Consequently, the CMA considers that the inclusion of category U and X vehicles would not make a material difference to the CMA’s assessment that the Merger combines the first and fourth largest supplier of salvage services, and the Merged Entity is the largest supplier by some distance. The CMA further notes that, even on the basis of the Parties’ estimated shares of supply, the Merged Entity would still have a high share of supply and would be the largest supplier.<sup>64</sup>
- (d) The CMA notes that the Parties also submitted that there was no evidence to support the assertion that Hills Motors’ share of supply increased from [0-5]% in the IAA / SYNETIQ decision to [5-10]%. The Parties submitted that Hills Motors’ share had not increased since the IAA / SYNETIQ decision stating that Hills Motors recently [~~3~~], as well [~~3~~] following the announcement of the Merger.<sup>65</sup> The CMA notes that in assessing Hills Motors’ share of supply of supply absent the Merger in Table 1, the CMA has allocated volumes attributable to e2e (see footnote 55). In addition, the CMA notes that Hills Motors will no longer be a member of e2e going forward is a direct result of the Merger.<sup>66</sup> A reduction in Hills Motors’ share of supply due to e2e business lost as a result of the Merger is therefore not relevant to the CMA’s assessment.<sup>67</sup> Further, while, as noted above, the CMA considers the share of supply

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<sup>62</sup> Parties’ slide deck prepared for the CMA’s Issues Meeting on 3 November 2022, slide 3.

<sup>63</sup> Response to Issues Letter, response to Q3.

<sup>64</sup> FMN, paragraph 95. The CMA notes that the Parties did not provide shares of supply for IAA (including SYNETIQ) identifying that information as unavailable.

<sup>65</sup> Response to Issues Letter, paragraph 34 and paragraph 35. The CMA notes that the shares of supply presented in the IAA / SYNETIQ decision concerned the shares of supply for salvage services to insurance companies. In comparison, the shares of supply in this decision concern the shares of supply for salvage services to all customers. Further, the CMA has received evidence from third parties that Hills Motors has at least one other national contract.

<sup>66</sup> Parties’ submission to the CMA dated 10 November 2022, page 6.

<sup>67</sup> As set out in the CMA’s guidance, only events that would have happened in the absence of the merger under review—and are not a consequence of it—can be incorporated into the counterfactual. [Merger Assessment Guidelines](#), paragraph 3.4. In this respect, the CMA notes that since the IAA/SYNETIQ acquisition, Hills Motor’s share of the volumes handled by e2e had increased (Response to Issues Letter, paragraph 44).

estimates to be indicative rather than absolute, these estimates indicate that Hills Motors is substantially larger than any of the remaining competitors (other than IAA and e2e). This share of supply data is consistent with the evidence discussed below on the relative size and strength of competitors.

44. The share of supply data calculated by the CMA indicates that there are currently only four suppliers of salvage services with shares of more than 5%, and that Hills Motors is substantially larger than any of the smaller suppliers remaining in the market.<sup>68</sup> The CMA considers that the Merger combines the largest and fourth largest suppliers of salvage services, and the Merged Entity will have a combined share of supply substantially greater than that of the next largest supplier. The evidence indicates that Copart has consistently been the largest supplier of salvage services in the UK. While the CMA recognises there is some uncertainty about the Parties' precise shares of supply, the CMA considers that the available data provide useful information regarding the Merged Entity's position and the relative presence of alternative suppliers post-Merger. The CMA has considered the evidence on shares of supply alongside other sources of evidence on the Parties' closeness of competition and the remaining constraints from alternative suppliers post-Merger.

### ***Closeness of competition***

45. Closeness of competition is a relative concept. Where there is a degree of differentiation between the merger firms' products, they may nevertheless still be close competitors if rivals' products are more differentiated, or if there are few rivals. Where the CMA finds evidence that competition mainly takes place among a few firms, any two would normally be sufficiently close competitors that the elimination of competition between them would raise competition concerns, subject to evidence to the contrary.<sup>69</sup> As the Parties are two of a few significant players in the supply of salvage services (see above), in line with its guidelines, the CMA has considered whether there is persuasive evidence that the Parties are not close competitors in order to allay any competition concerns.

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<sup>68</sup> Even on the share of supply data submitted by the Parties, there would be only four suppliers following the Merger with a share of more than 5% and the fourth, Charles Trent, would be far smaller than any of the other remaining competitors.

<sup>69</sup> [Merger Assessment Guidelines](#), paragraph 4.10.

46. The Parties submitted the following in relation to closeness of competition:
- (a) The Parties argued that Copart is focussed on used and salvage vehicle auctions, that Hills Motors is a vehicle dismantling and recycling specialist, and as such they are not close competitors.<sup>70</sup>
  - (b) Further, the Parties submitted that Copart is becoming a materially weaker competitor because upstream customers more frequently request that suppliers of salvage services also supply green parts (using in-house dismantling and recycling services, which Copart does not have). The Parties submitted that Copart has not been invited to participate in, or losing, certain tenders.<sup>71</sup>
  - (c) Insurance companies require nationwide vehicle collection, inspection, storage, and processing services which Hills Motors cannot provide.<sup>72</sup>
  - (d) The lack of closeness of competition between the Parties is reflected in Copart's internal documents.<sup>73</sup> In particular, the Parties noted that Copart identifies Hills Motors relatively infrequently in its internal documents, and, when it does so, Hills Motors is mentioned alongside a number of other competitors.<sup>74</sup>
  - (e) Tender data indicates that the Parties have never directly competed against each other in any tender.<sup>75</sup>
  - (f) The fact that both Copart and Hills Motors are two of a few suppliers of salvage services that have their own auction platform (either in operation or under development) does not suggest that the Parties are close competitors.<sup>76</sup>
47. As discussed in paragraphs 41 to 43 above, the evidence received by the CMA indicates that the Parties are two of a small number of material suppliers of salvage services in the UK. Hills Motors is the fourth largest supplier of such services but is smaller than the three largest suppliers. The evidence gathered by the CMA, which

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<sup>70</sup> FMN, paragraph 117-118.

<sup>71</sup> Response to Issues Letter, paragraphs 7-14

<sup>72</sup> FMN, paragraph 121-122.

<sup>73</sup> FMN, paragraph 120-125.

<sup>74</sup> Response to Issues Letter, paragraph 40.

<sup>75</sup> Response to Issues Letter, paragraph 39.

<sup>76</sup> Response to Issues Letter, paragraph 41.

is set out in more detail below, indicates that while Hills Motors was a relatively small supplier, it provided a material constraint to Copart, and was in a position to provide an even stronger constraint in future, in relation to the supply of salvage services:

- (a) Customers who responded to the CMA, generally identified only a few salvagers who could meet their requirements.<sup>77</sup> The responses to the CMA's merger investigation indicate that the ability to provide nationwide coverage is one of the most important service parameters that customers consider when selecting a salvager<sup>78</sup> and that the Parties are two of a few salvagers who compete for such national contracts.<sup>79</sup> While Hills Motors, outside of e2e, has historically been a smaller player in the supply of salvage services with a more regional focus, the CMA notes that Hills Motors has, at least in recent years, taken on certain UK-wide contracts.<sup>80,81</sup> As such, and in contrast with the Parties' submissions, the CMA considers that Hills Motors is a credible supplier of salvage services on a nationwide basis, unlike many of its other smaller rivals.<sup>82</sup> Hills Motors' customers indicated that they contract with Hills Motors on a national basis and that Copart could also meet their needs.<sup>83</sup>
- (b) Evidence from competitors indicates that they view the Parties as close competitors. The majority of competitor respondents to the CMA's investigation told the CMA that the Parties are close competitors.<sup>84</sup> Some competitors identified that the Parties are particularly close competitors because both of the Parties supply salvage services to insurance customers, and others highlighted that both provide national coverage.<sup>85</sup> The CMA asked competitors to identify their main rivals in the supply of salvage services in the UK and how closely

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<sup>77</sup> Third-party responses to the CMA's customer questionnaire, question 6.

<sup>78</sup> All of the customers that responded to the CMA's investigation indicated that the ability for a salvager to provide nationwide coverage in collecting salvage vehicles is one of the most important service parameters they consider when selecting a salvager.

<sup>79</sup> See paragraph 40.

<sup>80</sup> RFI 1 Response, Annex 2. Third-party responses to the CMA's customer questionnaire, question 3.

<sup>81</sup> The CMA further notes that Ian Hill has publicly stated that Hills Motors is 'one of the largest and most sophisticated salvage and recycling operations in the UK, maintaining contracts and supporting clients nationally' [Hills – Making The UK Green – Auto Recycling World](#).

<sup>82</sup> There is an absence of evidence that these smaller rivals have the ability to compete for, and win, national contracts.

<sup>83</sup> Third-party responses to the CMA's customer questionnaire, questions 3 and 6.

<sup>84</sup> Third-party responses to the CMA's customer questionnaire, question 6.

<sup>85</sup> Third-party responses to the CMA's competitor questionnaire, question 6.

they compete. Copart was the most frequently identified competitor whilst Hills Motors was the third most frequently identified competitor.

48. The Parties have argued that their offerings are complementary rather than competitive because Hills Motors has a green-parts offering and Copart does not.<sup>86</sup> While Hills Motors' green-parts offering differentiates it from Copart, and may provide it with a competitive advantage in certain cases, the Parties' core salvaging services offerings directly overlap. In this regard:
- (a) The majority of vehicles handled by Hills Motors are sold via auction.<sup>87</sup> Similarly, the majority of Hills Motors' revenue is derived from such sales.<sup>88</sup>
  - (b) In its public announcement, Copart described the Merger as benefitting Copart through the addition of Hills Motors' strength in salvage services (in terms of volume and capability)<sup>ii</sup> as well as its green parts supply capabilities, as a result of which the Merged Entity can offer an 'unrivalled' nationwide service.<sup>89</sup>
49. Hills Motors' internal documents indicate that it considered Copart a competitor, and [redacted]. Copart's internal documents indicate that, despite Hills Motors being smaller than Copart, Copart considered Hills Motors to be a [redacted] competitor, and a [redacted] important constraint [redacted].
- (a) The CMA notes that the Parties have submitted that Copart's internal documents monitor a much broader range of competitors and only a relatively small number of these documents mention Hills Motors.<sup>90,91</sup> The CMA considers that Copart's internal documents typically refer to a small number of

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<sup>86</sup> FMN, paragraphs 74-75. The Parties submitted that while Copart has some limited activities in breaking cars, through its U-Pull-It operation (through which buyers can rent dismantling bays from Copart and buy a vehicle, remove the parts and Copart will dispose of the vehicle shell if the customer does not have the appropriate facilities or licences), Copart does not compete with dismantlers supplying green parts through this operation (as Copart does not itself dismantle the vehicles nor does it sell the parts).

<sup>87</sup> FMN, Annex 16, '[redacted]', page 8.

<sup>88</sup> FMN, Annex 16, '[redacted]', page 10. Of approximately £[redacted]m of revenue, Hills Motors' revenue from dismantling is approximately £[redacted]m (with a further £[redacted]m from scrap). £[redacted]m of revenue is derived from salvage.

<sup>89</sup> 'When you combine the strength of our salvage solutions, both in the volume and capability sense, with [Hills Motors'] world class green parts service and progressive inventory platform, we really can offer an unrivalled nationwide service'. [Copart announces the acquisition of Hills Salvage & Recycling – The Green Parts Specialists.](#)

<sup>90</sup> Response to Issues Letter, paragraph 40.

<sup>91</sup> The Parties made no such submissions in relation to the CMA's interpretation of the internal documents supplied by Hills Motors.



competitors (most frequently [redacted]).<sup>92</sup> Whilst Hills Motors is identified less frequently than [redacted], it does appear as a competitor in some internal documents. In some internal documents Hills Motors is identified alongside a wider number of rivals (such as [redacted]).<sup>93</sup> However, in other internal documents Hills Motors is accorded a higher degree of significance and competitive threat than these competitors.<sup>94</sup> A Copart internal document dated January 2022 considered the competitor landscape and labelled Hills Motors as a [redacted].<sup>95</sup> Further, Copart internal documents include discussions of [redacted].<sup>96</sup>

- (b) An internal document from Hills Motors indicates that [redacted]. This document [redacted].<sup>97</sup> A Hills Motors business update, dated March 2022, also shows [redacted].<sup>98</sup>

50. With respect to Hills Motors' competitive position in salvage services, prior to the Merger, Hills Motors had invested in developing an auction platform that would have supported its salvage service business. The Hills Motor auction platform had been under development [redacted].<sup>99</sup> Some customers that responded to the CMA's investigation indicated that a salvager having a proprietary auction platform is an important factor which they take into account when considering and selecting a salvager.<sup>100</sup> Absent the Merger, the Parties would have been two of a few players who operate a proprietary auction platform.<sup>101,102</sup> The Parties further noted that having a proprietary auction platform was required in a recent tender (see paragraph 52). The CMA therefore considers that Hills Motors' investment in

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<sup>92</sup> For example, Copart's response to the CMA's notice under section 109 of the Act dated 12 September, Annex 7, '[redacted]' and Annex 8, '[redacted]', which assesses [redacted]; Annex 10, '[redacted]', which details [redacted]; Annex 13, '[redacted]' which [redacted]; Annex 20, which outlines [redacted].

<sup>93</sup> Copart's response to the CMA's notice under section 109 of the Act dated 12 September, Annex 11, '[redacted]' which lists [redacted]; and Annex 12, '[redacted]', which contains details [redacted].

<sup>94</sup> As described above, see for example: FMN, Annex 17, '[redacted]', page 10.

<sup>95</sup> FMN, Annex 17, '[redacted]', page 10.

<sup>96</sup> Copart's response to the CMA's notice under section 109 of the Act dated 12 September, Annex 22, '[redacted]', page 19; Annex 18, '[redacted]', page 43; Annex 19, '[redacted]', page 35.

<sup>97</sup> Hills Motors' response to the CMA's notice under section 109 of the Act dated 12 September, document titled '[redacted]'. See also page 5 that outlines [redacted] and states '[redacted]'

<sup>98</sup> Hills Motors' response to the CMA's notice under section 109 of the Act dated 12 September, document titled '[redacted]'.

<sup>99</sup> The Parties submitted that development works were suspended during the sale negotiations with Copart and would take [redacted] to resume (Parties' submission to the CMA dated 10 November 2022, page 3).

<sup>100</sup> Third-party responses to the CMA's customer questionnaire, questions 5 and 9.

<sup>101</sup> Other such players are IAA, e2e – who historically licensed SYNETIQ's platform, as an e2e member, on a white label basis and who recently launched its proprietary platform (see [e2e upgrades its premier online auction platform SalvageMarket — e2e Total Loss Vehicle Management](#)) – and Recycling Lives (whose share of supply is captured in 'Others' in Table 1, as less than [0-5]%).

<sup>102</sup> FMN, paragraph 59-61.

developing a proprietary auction platform indicates that Hills Motors would have been a close competitor to Copart absent the Merger.<sup>103</sup>

51. The Parties have argued that suppliers will need to have a dismantling and green parts function in order to remain competitive, and that ‘[t]his Transaction is the only way that Copart can continue to compete for salvage services’.<sup>104</sup> While there may be increasing customer demand for green parts, the evidence does not suggest that this change has undermined Copart’s position in the market or that Copart is no longer a very material competitor. The CMA notes that the test is not whether Copart would have maintained its historic share of supply absent the merger, the test is whether the Merger may result in a substantial lessening of competition, which involves an assessment as to whether the Parties would have exerted a material competitive constraint on each other absent the Merger and whether there would be sufficient other constraints remaining following the Merger.
- (a) The Parties submitted information on the rating framework for, and outcome of, [redacted] tender opportunities since 2016 for which, the Parties stated, the customer requested or required that a salvager provide a green-parts offering as part of its salvage service.<sup>105</sup> The evidence available to the CMA indicates that Copart still continued to compete in the majority of these opportunities,<sup>106</sup> and it won [redacted] of these opportunities.<sup>107</sup>
- (b) While internal documents show that Copart recognised increasing customer demand for green parts services as a threat, these documents are not consistent with the Parties’ position that the requirement for green parts

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<sup>103</sup> The Parties submitted that Hills Motors’ platform [redacted] (Issues Letter response, paragraph 41). The CMA notes that the Parties have described Hills Motors platform as [redacted] prior to the project being superseded by the Merger in July 2022 (FMN, paragraphs 61-62). The CMA considers that Hills Motors would not have undertaken such an investment had it not considered that investment worthwhile. Further, the CMA considers that the development a platform of any level of sophistication indicates that Hills Motors is a closer competitor to Copart relative to rivals that do not have the size, scale or resources to develop a platform of their own.

<sup>104</sup> Issues Letter response, para 16.

<sup>105</sup> Copart’s response to the CMA’s notice under section 109 of the Act dated 3 November 2022, question 5. Having reviewed these tender opportunities, the CMA considers that [redacted] of these [redacted] opportunities did not request or require a green-parts offering.

<sup>106</sup> The CMA understands that Copart competed in the following opportunities, all of which asked prospective bidders about their green parts strategy: [redacted]. Copart also bid for [redacted] which did not appear to ask prospective bidders about green parts.

<sup>107</sup> Copart won contracts with [redacted]. [redacted] requested information on prospective bidders’ green parts strategy. [redacted] did not appear to ask prospective bidders about green parts.



services would mean that Copart would not be a material competitor in future. None of the internal documents supplied by Copart suggest the business considered it was facing an existential threat. For example, Copart's 2022 annual plan [redacted]. Copart's internal documents do show that it was continuing to acquire new customers, to expand volumes with existing customers and to win contract renewals<sup>108,109</sup>

52. The Parties' opportunities data indicates that the Parties have been invited to compete against each other directly on [redacted] recent occasions,<sup>110</sup> including one (in [redacted]) in which [redacted].<sup>111</sup> The Parties submitted that Copart and Hills Motors have never directly competed against each other in any other tender, including in these [redacted] opportunities, given: (i) with respect to [redacted] occasion, while Hills Motors' was invited to (and submitted a) bid independently of e2e, the tender requested details of the proposed supplier's [redacted], which Copart was not able to offer;<sup>112</sup> (ii) in another (in [redacted]), Hills Motors could not compete, due to its lack of a proprietary auction platform (which was a requirement of the tender);<sup>113</sup> and (iii) in [redacted] Hills Motors did not put forward a tender because it was after completion of the Merger.<sup>114</sup> The CMA considers that, these opportunities nevertheless indicate that that the Parties have increasingly been considered as alternatives to each other, given:
- (a) The [redacted] opportunity indicates that Hills Motors was already considered an alternative to Copart. The Parties' opportunities data states that Hills Motors competed in the [redacted] opportunity independently and not as part of e2e.<sup>115</sup>

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<sup>108</sup> Copart's response to the CMA's notice under section 109 of the Act dated 12 September, Annex 4, '[redacted]', slide 8.

<sup>109</sup> Copart's response to the CMA's notice under section 109 of the Act dated 12 September, Annex 18, '[redacted]', slide 17.

<sup>110</sup> Out of a total of [redacted] opportunities in which the Parties competed between 2018 and August 2022. The [redacted] opportunities in which the Parties competed directly were: [redacted]. RFI 1 Response, Annex 4.

<sup>111</sup> On a further [redacted] occasions – [redacted] – Copart competed against e2e, of which Hills Motors was a member at the time. RFI 1 Response, Annex 4, '[redacted]'.

<sup>112</sup> Parties' response to the CMA's questions of 24 November 2022.

<sup>113</sup> The Parties submitted that Hills Motors did submit a bid, however there was not a realistic chance of it winning the tender, given it could not fulfil the requirements of the tender. Parties' response to the CMA's questions of 24 November 2022.

<sup>114</sup> Response to Issues Letter, paragraph 39. The CMA notes that while the tender is recorded in the Parties' opportunity data as '[redacted]', the deadline for proposals was in [redacted] and outcome was due in [redacted]. See Copart's response to the CMA's notice under section 109 of the Act dated 3 November 2022, Annex 2, '[redacted] Request for Proposal Salvage services'.

<sup>115</sup> RFI 1 Response, Annex 4, '[redacted]'.

- (b) With respect to the [§<] opportunity, the Parties told the CMA that Hills Motors stopped developing its own auction platform in anticipation of the Merger.<sup>116</sup> The CMA does not consider a lack of competition between the Parties owing to actions taken as a consequence of the Merger to be evidence that the Parties would not have competed absent the Merger.<sup>117</sup>
- (c) For the same reason, the CMA does not consider that the fact that Hills Motors did not bid for the [§<] opportunity because the Merger had completed (at the point at which the successful bidder would have been selected) is evidence that the Parties would not have competed had the Merger not occurred.
- (d) In addition, evidence supplied to the CMA by customers<sup>118</sup> indicates that the Parties have competed head-to-head for at least one recent contract.<sup>119,120</sup>

53. On the basis of the evidence above, the CMA considers that the Parties are two of a few close competitors in the supply of salvage services in the UK.

### ***Competitive constraints***

54. The Parties submitted that the Merged Entity will be constrained by strong competitors such as IAA, e2e, Jonathan Lloyd, SureTrak, as well as other competitors.<sup>121</sup> The Parties submitted that e2e will remain a strong competitor despite Hills Motors' departure from the consortium. The Parties noted that Hills Motors only gained a larger presence in e2e recently following the departure of SYNETIQ from the consortium. The Parties submitted that there is sufficient spare capacity to take over Hills Motors' volumes, noting that Hills Motors' capacity had been distributed to [§<].<sup>122</sup>
55. The CMA has considered the evidence relating to the remaining constraints on the Merged Entity from IAA, e2e, and other suppliers. As noted above, while shares of

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<sup>116</sup> The Parties submitted that [§<] and [§<] as the project was superseded by the acquisition of Hills Motors by Copart (FMN, paragraph 61). The Parties submitted that this was for [§<] (Parties' submission to the CMA dated 10 November 2022).

<sup>117</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 3.4.

<sup>118</sup> The CMA asked the Parties' customers to provide data on their most recent instances where they considered acquiring or changing their salvage service supplier (whether through a formal tender or informal bilateral process). CMA customer questionnaire, question 5.

<sup>119</sup> A competitor also identified the Parties as competing against each other directly for a particular contract.

<sup>120</sup> Customer evidence also indicates that Copart also competed with e2e whilst Hills Motors was a member.

<sup>121</sup> FMN, paragraph 126-136.

<sup>122</sup> Response to Issues Letter, paragraphs 43-44.

supply may not fully reflect market dynamics, they do provide some indication of relative strength. Competitors other than IAA and e2e are substantially smaller than Hills Motors was prior to the merger.

56. The following evidence received by the CMA indicates that IAA will continue to provide a strong competitive constraint on the Merged Entity post-Merger.
- (a) Most of the Parties' customers who responded to the CMA's investigation identified IAA as an alternative salvager that could supply salvage services in the UK. Customers generally gave IAA a slightly lower ranking for suitability compared to the Parties.
  - (b) Most competitor respondents to the CMA's investigation identified IAA as a competitor for salvage services in the UK. The majority of these competitors considered IAA to be a close competitor to them.<sup>123</sup>
  - (c) Data from the Parties' customers on their most recent tenders indicates that IAA competes regularly against the Parties.<sup>124</sup>
  - (d) In the document described in paragraph 49(a), considering the competitor landscape, [X] is labelled as a [X]. [X] is labelled as [X].<sup>125</sup>
57. The following evidence received by the CMA indicates that pre-Merger, e2e provided a moderate competitive constraint on Copart.<sup>126</sup>
- (a) Some of the Parties' customers identified e2e as an alternative salvager that could supply salvage services in the UK.<sup>127</sup>
  - (b) Data from the Parties' customers on their most recent tenders indicates that e2e competed against Copart for some opportunities. Copart competed for [X] opportunities that e2e competed for.<sup>128</sup>

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<sup>123</sup> Third-party responses to the CMA's competitor questionnaire, question 6.

<sup>124</sup> Third-party responses to the CMA's customer questionnaire, question 5.

<sup>125</sup> FMN, Annex 17, '[X]', page 10.

<sup>126</sup> As Hills Motors was part of e2e prior to the Merger, Hills Motors did not typically compete head-to-head with e2e

<sup>127</sup> Third-party responses to the CMA's customer questionnaire, question 6.

<sup>128</sup> Third-party responses to the CMA's customer questionnaire, question 5.

(c) In the document described in paragraph 49(a), in which Copart categorised its competitors, [redacted] is labelled as [redacted]. [redacted] is labelled as [redacted].<sup>129</sup>

58. However, there is some evidence which indicates that the departure of Hills Motors from the e2e consortium could leave e2e a weaker competitor post-Merger. Prior to the merger, a large proportion [redacted] of the services provided by e2e were provided by Hills Motors.<sup>130</sup>

(a) Third Parties raised concerns, with a customer noting that they were concerned about e2e's offering after the departure of Hills Motors.<sup>131</sup> Further, the majority of competitors responding to the CMA stated that e2e will be weaker without Hills Motors, stating that e2e will be unable to compete as effectively without Hills Motors and some noting that Hills Motors was a significant member of e2e.<sup>132</sup> [redacted].<sup>133</sup>

(b) The CMA notes that although e2e has other members to distribute Hills Motors' capacity to, the departure of Hills Motors has led e2e to distribute volumes between fewer salvagers. Moreover, Hills Motors is a relatively large salvager compared to other members (see Table 1) and was, at the time of its departure from e2e, responsible for processing a significant proportion of the volumes handled by e2e.

59. The evidence received by the CMA indicates that other suppliers such as SureTrak<sup>134</sup>, ASM, Recycling Lives, Charles Trent, Jonathan Lloyd and Silverlake will provide a weak constraint on the Merged Entity post-Merger. The Parties' customers did not frequently identify any of the smaller suppliers of salvage services in the UK as alternatives to the Parties. In particular, each of Recycling Lives and SureTrak was identified by a very limited number of customers and both of these suppliers received the lowest ranking for suitability.<sup>135</sup> No customers identified

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<sup>129</sup> FMN, Annex 17, '[redacted]', page 10.

<sup>130</sup> Note of call with a third party on 8 September, paragraph 12.

<sup>131</sup> Third-party responses to the CMA's competitor customer questionnaire, question 7.

<sup>132</sup> Third-party responses to the CMA's competitor questionnaire, questions 7 and 8.

<sup>133</sup> Note of call with a third party on 8 September, paragraph 20.

<sup>134</sup> The CMA notes that SureTrak [redacted]. However, for the reasons set out below, it considers that SureTrak will provide a weak constraint on the Merged Entity post-Merger.

<sup>135</sup> Third-party responses to the CMA's customer questionnaire, question 6.

Jonathan Lloyd as an alternative to the Parties. The majority of customers that responded to the CMA only identified the Parties, IAA and e2e.

60. In addition:

- (a) The Parties' competitors did not frequently identify any of the smaller suppliers of salvage services in the UK as competitors.<sup>136</sup>
- (b) The tender information supplied by the Parties indicates that when the Parties bid against each other, there are on average less than three known bidders per process. Tender information supplied by customers indicates that, in total, across the opportunities considered, there were six unique bidders and on average there were only three bidders per tender.<sup>137</sup>
- (c) While customers that responded to the CMA's merger investigation did not consistently express concerns about the Merger, they were unable to identify many alternatives to the Parties.<sup>138</sup> The CMA notes that this lack of alternatives suggests that the Parties are likely to face insufficient competitive constraints following the Merger.

61. Based on the evidence set out above, the CMA considers that there are insufficient constraints from alternative suppliers on the Merged Entity.

***Conclusion on horizontal unilateral effects in the supply of salvage services in the UK (ToH1)***

62. For the reasons set out above, the CMA believes that the Parties have a high combined share of supply of salvage services, are close competitors and face insufficient remaining constraints from alternative suppliers of salvage services. Accordingly, the CMA believes that there is a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of salvage services in the UK.

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<sup>136</sup> Third-party responses to the CMA's competitor questionnaire, question 6.

<sup>137</sup> The CMA notes that this average includes an older opportunity from 2018 for which six players (now consolidated into four) were considered from a salvage service customer who received bids from salvagers who subsequently formed SYNETIQ (now part of IAA). Without the inclusion of this contract, the average is 2.5 bids.

<sup>138</sup> Customers identified on average only 3.6 alternative salvagers that could meet their requirements.

## **Horizontal unilateral effects in the supply of salvage vehicles in the UK (ToH2)**

63. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in relation to horizontal unilateral effects in the supply of salvage vehicles in the UK.
64. The CMA's assessment indicates that the competitors that the Parties face in the supply of salvage services – such as IAA and e2e – are also present in the supply of salvage vehicles. As noted above (see paragraph 31(b)(i)), the evidence received by the CMA indicates that all salvagers active in the supply of salvage services in the UK are also active in the supply of salvage vehicles to downstream customers in the UK. The CMA therefore considers that the shares of supply of salvage vehicles in the UK will not be materially different to the shares of supply of salvage services in the UK set out in Table 1. Likewise, the CMA has no reason to believe, or evidence to suggest, that the relative competitive strength of the Parties or their rivals will differ materially between the supply of salvage services and the supply of salvage vehicles.

### ***Conclusion on horizontal unilateral effects in the supply of salvage vehicles in the UK (ToH2)***

65. For the same reasons given in relation to ToH1, the CMA considers that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of salvage vehicles in the UK.

## **Vertical effects**

66. Vertical effects may arise when a merger involves firms at different levels of the supply chain, for example a merger between an upstream supplier and a downstream customer or a downstream competitor of the supplier's customers. The concern with an input foreclosure theory of harm is that the merged entity may use its control of an important input to harm its downstream rivals' competitiveness, for example by refusing to supply the input (total foreclosure) or by increasing the price or worsening the quality of the input supplied to them (partial foreclosure). This might then harm overall competition in the downstream market, to the detriment of customers.<sup>139</sup>

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<sup>139</sup>Merger Assessment Guidelines, paragraph 7.9.

67. As noted in paragraph 3 above, both Parties are active in the supply of salvage vehicles, and Hills Motors is also active in the supply of green parts. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in the supply of green parts in the UK, as result of the foreclosure of rival suppliers of green parts through restricted access to salvage vehicles. In particular, the CMA considered whether the Merged Entity would restrict access to salvage vehicles that are needed by dismantlers in order to effectively compete in the supply of green parts.
68. For the purposes of its assessment, the CMA considered: (i) the Merged Entity's ability to foreclose rival suppliers of green parts; (ii) its incentive to do so; and (iii) the effect of a foreclosure strategy on competition in the supply of green parts.

### ***Ability to foreclose rivals***

69. The Parties submitted that there is no prospect of foreclosing competing dismantlers from access to salvage vehicles for dismantling. The Parties submitted that dismantlers will have access to salvage vehicles from a range of alternative suppliers,<sup>140</sup> and, post-Merger, Hills Motors will only be able to provide dismantling services for a small proportion of salvage vehicles sold by Copart due to their limited dismantling capacity, therefore, restricting its ability to foreclose downstream suppliers.<sup>141</sup> The Parties further submitted that it would not make commercial sense to increase Hills Motors' dismantling capacity post-Merger, because a larger dismantling operation would lead to stockpiling large volumes of green parts, which would not be economical.<sup>142</sup> The Parties have also submitted that post-Merger, Hills Motors will continue to bid and buy salvage vehicles on Copart's auction platform alongside other dismantlers, to ensure that upstream customers (eg, insurers) get a transparent value for their vehicles.<sup>143</sup> The Parties submitted that Copart's existing contractual arrangements require Copart to maximise returns on vehicles, which may best achieved through sales on its auction platform, as opposed to dismantling vehicles.<sup>144</sup>

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<sup>140</sup> Response to Issues Letter, paragraph 58.

<sup>141</sup> FMN, paragraph 149.

<sup>142</sup> Response to Issues Letter, paragraphs 62-63.

<sup>143</sup> Parties' response to Q1, RFI4.

<sup>144</sup> Response to Issues Letter, paragraphs 51-54.



70. The CMA assessed whether the Merged Entity has the ability to foreclose rival suppliers of green parts by restricting access to salvage vehicles. As access to salvage vehicles for dismantling is necessary to supply green parts, in its assessment, the CMA focussed on (i) the Merged Entity's position upstream in the supply of salvage vehicles and (ii) the extent to which any constraints on the Merged Entity's in-house dismantling capacity or contractual obligations limits its ability to engage in any foreclosure strategy.
71. Based on the evidence set out below, the CMA considers that the Merged Entity has a very high share of supply of salvage vehicles upstream (including salvage vehicles used in the supply of dismantling) and there are few alternatives that rivals could switch to.
- (a) As set out above, the CMA considers that the Merged Entity is a very important supplier of salvage vehicles. According to the CMA's estimates, and as described in Table 1, the Merged Entity has a very high share of [60-70]% (Copart: [50-60]%; Hills Motors: [5-10]%) in the supply of salvage services in the UK,<sup>145</sup> which the CMA considers is likely to closely correspond to the Merged Entity's share of supply of salvage vehicles in the UK (see paragraph 31(b)(ii)).<sup>146</sup>
- (b) The CMA considers that the relative presence of salvagers in the supply of salvage vehicles used as input in the supply of green parts will be similar to their presence in the supply of salvage services. Consistent with this, according to the CMA's estimates using data provided by the Parties and third parties, the Parties have a high combined share of salvage vehicles used or supplied to third parties for dismantling (in excess of [60-70]%).<sup>147</sup> One third

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<sup>145</sup> Based on data on volume of category A, B, N and S vehicles handled (see footnote 27).

<sup>146</sup> Whilst category A, B, N and S vehicles do not constitute all vehicles that could be dismantled, for the reasons set out in paragraph 43(c), the CMA does not consider that its findings would be materially affected if other categories of vehicle were to be included.

<sup>147</sup> The CMA estimated shares of supply of salvage vehicles used by salvagers or supplied to third parties by salvagers for dismantling, using data provided by the Parties' and third parties on volumes of category A, B, N and S salvage vehicles used or supplied for this purpose. Based on this data, in the narrower category of salvage vehicles supplied to third-party dismantlers, the Parties' combined share of supply is even higher ([80-90]% with an increment of [5-10]% attributable to Hills Motors). The CMA notes that these estimates do not include 'informal' category U and X vehicles, and that not all salvage vehicles supplied to dismantlers will be used to supply green parts, however the CMA considers that these data indicate that the relative presence of salvagers (including the Parties) in the supply of salvage vehicles used as input in the supply of



party estimated that Copart has control of over 80% of salvage vehicles from upstream customers for dismantling<sup>148</sup> and other third-party evidence indicates that there are no other large suppliers of salvage vehicles for dismantling.<sup>149,150</sup>

72. As to whether any constraints on the Merged Entity's in-house dismantling capacity would limit its ability to engage in any foreclosure strategy, the CMA considers that, to the extent such constraints exist, they would not materially limit the Merged Entity's ability to foreclose rival suppliers of green parts for the following reasons.
- (a) The CMA received evidence that the Merged Entity may not need to refuse to supply all salvage vehicles used in the supply of green parts for rivals to be foreclosed. Third-party salvagers active in the supply of green parts indicated that differences between salvage vehicles – for example, in terms of the make/model/age of the vehicle, as well as the nature of the damage to the vehicle – can affect the potential value of the green parts that can be retrieved from the vehicle, and these differences are important factors in the dismantlers' decision to bid for a vehicle. While the Parties submitted that the 'value' of a salvage vehicle for use in the supply of green parts is subjective (depending on, for example, the vehicle being repaired and the repairer's existing stock), several salvagers and other third-parties active in the supply of green parts raised concerns that the Merged Entity would be able to retain 'high value' salvage vehicles in-house, to the disadvantage of rival green parts suppliers. This indicates that any capacity constraints on the Merged Entity's in-house dismantling capability in the near term may not preclude it from foreclosing rivals (as a reduction in the supply of 'high value' vehicles – or a reduction in the pool of salvage vehicles available from which 'high value' vehicles are selected – may harm rivals).

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green parts will be similar to their presence in the supply of salvage services (and, as such, the Parties' have a very high combined share of supply of the subset of salvage vehicles used for this purpose).

<sup>148</sup> Third-party submission dated 24 October 2022.

<sup>149</sup> Third-party responses to CMA's competitor questionnaire, question 12 and Copart's response to the CMA's notice under section 109 of the Act dated 7 October, Annex 2.

<sup>150</sup> The CMA notes the Parties' submissions that there are many dismantlers (Authorised Treatment Facilities- ATFs) which Copart does not currently supply (Response to Issues Letter, paragraph 58). However, given the apparently fragmented nature of the vehicle dismantling sector, the CMA has not been able to verify whether the relatively large number of dismantlers that are not supplied by Copart are active in the supply of green parts, or whether they operate a model focussed on retrieving scrap. Nor does the CMA, at this stage, have material evidence on the size of the sale of green parts or Hills Motors' presence within it.

(b) Moreover, the CMA received evidence that Copart intends to expand this capacity in order to meet upstream customers' requests for a green parts supply service (meaning that the salvage vehicles used by the Merged Entity to this end would not be available to third-party dismantlers to use in their green parts supply offering post-Merger). As set out in paragraph 15, the Parties submitted that the ability to provide upstream customers with a green parts supply service is an important rationale for the Merger. Consistent with this, the Parties' have commented publicly on their ambitions for growth to service its significant upstream customer base.<sup>151</sup> A financial due diligence report in respect of the Merger comments that Hills Motors is [§<].<sup>152</sup> The CMA therefore considers that, in Copart's own assessment, it has the ability to scale Hills Motors' dismantling capabilities for the purposes of supplying green parts to service its upstream customer base.<sup>153</sup> Nearly half of the dismantlers that responded to the CMA's merger investigation raised concerns that the quantity of salvage vehicles available from Copart will reduce post-Merger.

73. With regard to whether Copart's existing contractual arrangements limit its ability to engage in any foreclosure strategy, the Parties' submitted that Copart would continue to list all salvage vehicles on its auction platform and Hills Motors would bid for these alongside other dismantlers. The CMA notes that Copart has submitted that Hills Motors would need to bid for vehicles post-merger because Copart needs to ensure that upstream customers, such as insurance companies, get a transparent value for their salvage vehicles. In particular, Copart has noted that most of its contracts with upstream customers are on a [§<] and Copart will be subject to

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<sup>151</sup>In the announcement, Copart UK's CEO Jane Pocock comments that 'our huge buyer base will benefit as we will provide a sustainable and viable 'parts shop' offering them access to both the largest stock of vehicles, and now green parts'. The announcement notes that Hills Motors chose to sell to Copart as it considered ownership by Copart 'the best way to secure future growth' and quotes Ian Hill, Managing Director of Hills Motors as commenting that 'Our strategic goal has always been to offer the UK's largest inventory of quality assured Green Parts on the shelf, available for next day delivery. Combining our infrastructure with Copart has simply accelerated that process for which our customers will benefit hugely.' [Copart announces the acquisition of Hills Salvage & Recycling – The Green Parts Specialists](#). Further, Ian Hills, CEO of Hills Motors, publicly stated that Hills Motors' 'new dismantling facility will take [Hills Motors] to another level, enabling [Hills Motors] to process hundreds of late-model vehicles each week by further streamlining [Hills Motors'] processes and increasing capacity'. [Hills - Making The UK Green - Auto Recycling World](#)

<sup>152</sup> FMN, Annex 16, '[§<]', dated 24 June 2022, slide 20. In the document, Copart's advisers comment that [§<].

<sup>153</sup> As set out above, the CMA estimates that the Merged Entity has a share of supply of over 60% in the supply of salvage services, indicating that the Merged Entity's customer base (and corresponding demand for green parts) is significant.

[REDACTED].<sup>154</sup> In line with its guidelines, the CMA's assessment of the ability of the merged entity to foreclose its rivals is unlikely to place material weight on contractual protections, especially because over time contracts may be renegotiated and the underlying terms may change.<sup>155</sup> This is particularly relevant in this case given the Parties' submissions that securing an in-house green parts supply service is of particular importance for upstream customers (indicating that customers would be supportive of the Merged Entity adapting its business model to meet this demand) and the CMA's findings that upstream customers have limited alternative suppliers of salvage services.

74. Consistent with this, all dismantlers that responded to the CMA's merger investigation raised a concern about the supply of salvage vehicles for use in the supply of green parts.<sup>156</sup>
75. Based on the above, the CMA considers that the Merged Entity has the ability to foreclose rival suppliers of green parts in the UK.

### ***Incentive to foreclose rivals***

76. In assessing whether the Merged Entity has the incentive to foreclose rival suppliers of green parts, the CMA considered whether the overall magnitude of any potential gain in sales from the supply of green parts would be outweighed by the overall magnitude of any loss of sales of salvage vehicles to third-party dismantlers. In this regard the CMA notes the following.
  - (a) As noted above, the Parties submitted that the rationale for the Merger is for Copart to provide existing and potential salvage service customers with an end-to-end salvage and dismantling service. The CMA therefore considers that Copart has a strong incentive to deploy and develop Hills Motors' existing capabilities to dismantle the salvage vehicles it sources for the purposes of supplying green parts and servicing upstream customers, consistent with its public statements and internal analysis of the Merger set out above (see paragraph 72(b)).

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<sup>154</sup> Response to Issues Letter, paragraph 52.

<sup>155</sup> CMA, Merger Assessment Guidelines, paragraph 7.15.

<sup>156</sup> Third party responses to the CMA's competitor questionnaire, question 17; and third-party responses to the CMA's dismantler questionnaire, question 11.

- (b) In considering any downstream gains and upstream losses, given the rationale for the Merger and the business strategy described in the subparagraph above, the CMA does not consider it necessary to infer the Merged Entity's behaviour from a detailed assessment of its financial incentives.<sup>157</sup> Further, given Copart's leading positions in the supply of salvage services and salvage vehicles, the CMA considers that Copart likely has the scale and financial backing to withstand any short term losses from restricting the sale of salvage vehicles to third parties in pursuit of gains in the medium to long term through developing its green parts supply offering. As such, the CMA considers that an assessment of downstream gains and upstream losses in the short term may not reflect the Merged Entity's longer-term incentives.<sup>158</sup>
- (c) As such the CMA places limited weight on evidence relating to short term incentives which it has considered because the Parties have submitted calculations which, in their view, indicated that a foreclosure strategy would not be economically rational.<sup>159</sup> However, the CMA notes that the analysis of upstream losses takes into account all vehicles salvaged by Copart, not just those that would be dismantled in-house following the merger and is thus unrealistic.<sup>160</sup> As such, the CMA does not place any weight on this analysis. The CMA notes that the evidence it has received suggests that the potential upstream losses and downstream gains at a per vehicle level are relatively balanced although there are some uncertainties. In terms of potential downstream gains, the CMA considers, based on data in the Parties' internal documents, that potential gains to be between £[<] and £[<] per vehicle dismantled (depending on whether motorcycles are included or not).<sup>161</sup> These figures are based on Hills Motors sourcing vehicles for dismantling on the open market, and could therefore understate the average margins realised post-merger if Hills Motors is able to source vehicles directly (and more cheaply) via

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<sup>157</sup> Merger Assessment Guidelines, paragraph 7.19a.

<sup>158</sup> Merger Assessment Guidelines, paragraph 7.19e.

<sup>159</sup> Issues Letter Response, paragraph 65. Specifically, the Parties provided information on the value of all vehicles salvaged by Copart in 2021 (£[<], the upstream losses) and the possible value of all vehicles dismantled by third parties (£[<], the downstream gains).

<sup>160</sup> Issues Letter Response, paragraph 65. Specifically, the Parties provided information on the value of all vehicles salvaged by Copart in 2021, ie [<], in comparison with the possible value of only those vehicles dismantled by third parties, ie [<]. As such, the calculations exclude an important revenue stream, namely the value obtained through the sale of vehicles which are not dismantled.

<sup>161</sup> A due diligence report produced on the Hills Motors business estimated the average margin for dismantling to be £[<] per vehicle and £[<] per vehicle [<]. FMN, Annex 16, '[<]' slide 71.

Copart. In terms of potential upstream losses, the CMA estimates these to be around £[<] per vehicle.<sup>162</sup> However, the CMA places limited weight on this evidence because as set out above a short-term assessment does not necessarily reflect the Merger Entity's longer term incentives.<sup>163</sup>

77. Based on the above, the CMA considers that the Merged Entity has the incentive to foreclose rival suppliers of green parts in the UK.

### ***Effect on competition***

78. When it has been established that there will be harm to competitors this will often directly imply there will be harm to overall competition where the foreclosed firms play a sufficiently important role in the competitive process on the downstream market.<sup>164</sup> The CMA notes that some rivals in the supply of green parts are salvagers with in-house dismantling capability – in particular, IAA and e2e – who are able to source salvage vehicles from their upstream customers. However, several salvagers (including several e2e members) indicated that they source salvage vehicles for use in the supply of green parts from the Parties and raised concerns about the impact of the Merger on the availability of salvage vehicles for use in the green parts supply chain. Further, other green parts suppliers who do not supply salvage services to upstream customers (independently, or as part of a consortium) source their vehicles from salvagers. One such supplier told the CMA they source almost all (over 90%) of their vehicles from Copart and were concerned about the impact of a reduction in the availability of vehicles it purchases from Copart on their business. In this regard, the CMA notes that Copart currently provides salvage

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<sup>162</sup> Copart supplied approximately [<] vehicles generating revenue of approximately £[<]m (FMN, table above paragraph 98). As such, the CMA estimates the average sale price per car to be £[<] (errors due to rounding). Copart stated that its average margin per vehicle was £[<] (Issues letter response, page 18). This is an average margin per vehicle of approximately [<]%. Copart sold category B, S, and N vehicles for dismantling, with a weighted average sales price of approximately £[<] (CMA calculations based on RF14, Q5 and Copart's response to the CMA's notice under section 109 of the Act dated 7 October, Annex 2, tab 'Q3'). Applying the [<]% margin to this sales price gives an estimated margin of £[<] per vehicle.

<sup>163</sup> The Parties also stated that in its assessment of downstream gains and upstream losses the CMA should also consider the impact of a foreclosure strategy on the supply of salvage services, noting that if the Parties attempted to engage in a foreclosure strategy they could lose upstream customers of salvage services (Response to Issues Letter, paragraph 65). For customers to switch away from the Merged Entity in response to any foreclosure strategy (in order to impact the profitability of the Merged Entity and therefore the incentives to foreclose) they would need to have access to a good range of alternatives. As noted in Table 1 and paragraph 71(a) above, the Merged Entity is a very important supplier of salvage services and there are few alternatives.

<sup>164</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 7.21.

vehicles to [redacted] different dismantlers.<sup>165</sup> The CMA notes also the evidence set out above with respect to Copart's very significant position in the supply of salvage vehicles for dismantling, and the limited available alternatives.

79. Based on the above, the CMA considers that the effect of a foreclosure strategy would likely harm competition in the supply of green parts in the UK.

### **Conclusion on vertical effects**

80. For the reasons above, the CMA believes that the Merger gives rise to a realistic prospect of an SLC in the supply of green parts in the UK as a result of the foreclosure of rival suppliers of green parts through restricted access to salvage vehicles.

## **BARRIERS TO ENTRY AND EXPANSION**

81. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.<sup>166</sup> In terms of timeliness, the CMA's guidelines indicate that the CMA will look for entry to occur within two years.
82. In relation to the supply of salvage services, the Parties submitted that the time and costs for entry were 'moderately high'. In terms of large-scale entry, the Parties estimated that it would cost approximately £9.5 million to pay for the necessary land, professional fees and building costs. In addition, there would be the cost and time associated with finding and acquiring staff. They estimated it would take three to five years to establish a salvage business with a capacity to process 10,000 salvage vehicles per annum.<sup>167</sup>
83. In relation to dismantlers, the Parties submitted that entrants required 'a waster permit, a waste carrier's licence and a scrap metal dealers licence and access to a platform for purchasing in particular Category B vehicles from eg Copart and/or IAA'; equipment and infrastructure (such as a depollution rig and other tools); storage

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<sup>165</sup> The CMA notes that not all [redacted] dismantlers will be supplying green parts.

<sup>166</sup> [Merger Assessment Guidelines \(CMA129\)](#), March 2021, from paragraph 8.40.

<sup>167</sup> RFI 1 Response, paragraph 28.



space and land; as well as ‘sufficient financial resources or cashflow to buy the stock required to sustain the business’. The Parties submitted that all such elements were ‘readily available’ in the UK and that both small-scale and large-scale entry could be achieved in a year.<sup>168</sup>

84. The Parties estimated that ‘small-scale entry can be achieved with one staff member in a workshop for less than £50,000’, whereas entry on the scale of Hills Motors would likely cost ‘several million pounds [GBP]’. The Parties noted that ‘larger scale entry would then open up the possibility of purchasing salvage vehicles directly from customers such as insurers’.<sup>169</sup> The Parties also submitted that it would not be feasible for Copart, the largest supplier of salvage services in the UK, to enter the supply of dismantling services in a reasonable period of time, and that the Merger should, therefore, be allowed to proceed.<sup>170</sup>
85. The CMA gathered evidence from third parties on the extent to which there are barriers to entry in the supply of salvage services, the supply of salvage vehicles and the supply of green parts.
86. In relation to the supply of salvage services and salvage vehicles, the vast majority of competitors indicated that companies would find it difficult to enter and expand. In particular, third parties submitted that:
- (a) new entrants face high entry costs due to the need to acquire land and required licences;<sup>171</sup>
  - (b) new entrants would typically lack the reputation and geographic scale to compete effectively for large insurance contracts and other profitable work;<sup>172</sup>and
  - (c) there has been no successful entry into the market within recent years.<sup>173</sup>
87. In relation to the supply of green parts, the majority of competitors stated that it is hard for a firm to enter, expand and become a significant competitor. In particular,

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<sup>168</sup> RFI 1 Response, paragraphs 29-30.

<sup>169</sup> RFI 1 Response, paragraph 31.

<sup>170</sup> Parties response to the CMA’s notice under section 109 of the Act dated 3 November 2022, paragraph 6.

<sup>171</sup> Third-party responses to the CMA’s competitor questionnaire, question 11.

<sup>172</sup> Third-party responses to the CMA’s competitor questionnaire, question 11.

<sup>173</sup> Third-party responses to the CMA’s competitor questionnaire, question 11.

third parties submitted that new entrants primarily face difficulties securing supply of salvage vehicles from which to source green parts.<sup>174</sup> One competitor told the CMA that without simultaneously supplying salvage services it would be difficult for a company to also expand significantly in the supply of green parts.<sup>175</sup> Dismantlers also cited the costs of developing a green parts operation as prohibitive for new entrants.<sup>176</sup>

88. For the reasons set out above, the CMA believes that entry or expansion would not be sufficient, timely or likely to prevent a realistic prospect of an SLC as a result of the Merger.

## COUNTERVAILING BUYER POWER

89. The Parties submitted that upstream salvage service customers and downstream salvage vehicle customers could easily respond to any attempt to increase prices by switching to another supplier. In particular the Parties submitted that:
- (a) the countervailing buyer power of upstream customers is evidenced in recent examples of insurance companies switching away from Copart to IAA and e2e, and that the large and sophisticated nature of upstream customers, and their ability to switch to alternative suppliers, was acknowledged by the CMA in IAA / SYNETIQ; and<sup>177</sup>
  - (b) considering the downstream supply of salvage vehicles, prices are set at auction by pure market forces (not by Copart) and buyers at auction can readily switch to another auction platform.<sup>178</sup>
90. As set out in the CMA's guidance, most 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. This is because a

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<sup>174</sup> Third-party responses to the CMA's competitor questionnaire, question 16.

<sup>175</sup> Third-party responses to the CMA's competitor questionnaire, question 16.

<sup>176</sup> Third-party responses to the CMA's competitor questionnaire, question 16.

<sup>177</sup> Response to Issues Letter, paragraph 55. The Parties submitted further that large customers such as insurance companies are sophisticated and have strong bargaining power as evidenced in the impact of individual contracts on a salvager's market position and prompts from customers to Copart to acquire a dismantler such as Hills Motors. FMN, paragraphs 162 and 164.

<sup>178</sup> FMN, paragraph 165.



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.<sup>179</sup> Therefore, given the CMA's findings that there will be insufficient alternatives to constrain the Merged Entity, the CMA does not consider that customers will be able to exert buyer power to prevent an SLC arising.

## **THIRD PARTY VIEWS**

91. The CMA contacted customers and competitors of the Parties. All of the competitors that responded to the CMA's merger investigation expressed concerns regarding the impact of the Merger on the supply of salvage services. Further, the vast majority of competitors that responded to the CMA's merger investigation expressed concerns regarding the impact of the Merger on the supply of green parts. As noted above, while customers did not consistently express concerns about the Merger, they were unable to identify material alternative suppliers to the Parties.
92. Third-party comments have been taken into account where appropriate in the competitive assessment above.

## **CONCLUSION ON SUBSTANTIAL LESSENING OF COMPETITION**

93. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of (i) horizontal unilateral effects in relation to the supply of salvage services in the UK; (ii) horizontal unilateral effects in relation to the supply of salvage vehicles in the UK; and (iii) vertical effects resulting from the foreclosure of rival suppliers of green parts through restricted access to salvage vehicles in the UK.

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<sup>179</sup> [Merger Assessment Guidelines](#), paragraph 4.20.

## DECISION

94. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (iii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
95. The CMA therefore believes that it is under a duty to refer under section 22(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.<sup>180</sup> Copart has until 5 December 2022<sup>181</sup> to offer an undertaking to the CMA.<sup>182</sup> The CMA will refer the Merger for a phase 2 investigation<sup>183</sup> if Copart does not offer an undertaking by this date; if Copart indicates before this date that it does not wish to offer an undertaking; or if the CMA decides<sup>184</sup> by 12 December 2022 that there are no reasonable grounds for believing that it might accept the undertaking offered by Copart, or a modified version of it.
96. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 2 December 2022.<sup>iii</sup> For the avoidance of doubt, the CMA hereby gives Copart notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by Copart and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from Copart stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

**Sorcha O'Carroll**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**28 November 2022**

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<sup>180</sup> Section 22(3)(b) of the Act.

<sup>181</sup> Section 73A(1) of the Act.

<sup>182</sup> Section 73(2) of the Act.

<sup>183</sup> Sections 22(1) and 34ZA(2) of the Act.

<sup>184</sup> Section 73A(2) of the Act.

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i '2 December 2022' is a typographical error. The four-month deadline for a decision under section 24 of the Act was 9 December 2022.

ii Copart has subsequently clarified that the reference in its press release to 'our salvage solutions' refers to Copart's salvage solutions and not Hill Motors' salvage solutions. This does not impact the CMA's findings in this decision.

iii '2 December 2022' is a typographical error. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expired on 9 December 2022.