

Anticipated acquisition by The Yokohama Rubber Co., Ltd, of Trelleborg Wheel Systems Holding AB

Decision on relevant merger situation and substantial lessening of competition

ME/7014/22

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

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SUMMARY

1. The Competition and Markets Authority (**CMA**) has found that The Yokohama Rubber Co., Ltd (**YRC**)'s acquisition of Trelleborg Wheels Systems (**TWS**) (the **Merger**) does not give rise to a substantial lessening of competition (**SLC**) in the supply of off-highway tyres (**OHT**). **YRC** and **TWS** are together referred to as the **Parties**, and for statements related to the future, the **Merged Entity**.
2. YRC and TWS each supply OHT for various end uses (eg agriculture, construction) to original equipment manufacturers (**OEMs**) who sell tractors and industrial vehicles for use in sectors such as agriculture, forestry and construction.
3. The CMA assessed the potential impact of the Merger on the supply of OHT directly to OEMs in the EEA and UK in each of the following usage categories: (i) Agricultural – Traction Drive (**TD Agri**) (eg traction drive tyres for tractors); (ii) Agricultural – Fronts and Implements (**Fronts and Implements**) (eg tyres for agricultural machinery that can be attached to tractors); (iii) Agricultural – Forestry (**Forestry**) (eg tyres for vehicles including skidders, forwarders and harvesters) and (iv) Construction (eg tyres for excavators).

4. The CMA has found that the Merger will not lead to competition concerns in respect of the supply of any of these categories of OHTs directly to OEMs in the EEA and UK for the following reasons:
 - (a) In the supply of TD Agri tyres, the CMA considers that the Merger leads to a modest increment in shares of supply of [0-5]%. The CMA also considers that while the Parties exert some competitive constraint on one another, they are not each other's closest competitors. Additionally, the Merged Entity will face a material constraint from alternative suppliers including Michelin, BKT and Bridgestone.
 - (b) In the supply of Fronts and Implements tyres, the CMA considers that the Merger leads to a modest increment in shares of supply of [0-5]% and that the Parties' combined share of supply is [20-30]%. The CMA also considers that while the Parties exert some competitive constraint on one another, they are not each other's closest competitors. Additionally, the Merged Entity is likely to face a material constraint from BKT, which has a larger share of supply than the Merged Entity, and from Vredestein, TVS and CEAT which each have larger or similar shares of supply to YRC.
 - (c) In the supply of Forestry tyres, the CMA considers that the Parties have a combined share of supply of only [5-10]%, and that the Merger leads to a modest increment of [0-5]%. The CMA also considers that while the Parties exert some competitive constraint on one another, they are not each other's closest competitors. Additionally, the Merged Entity will face a material constraint from Nokian and BKT, each of which have a larger share of supply than the Merged Entity.
 - (d) In the supply of Construction tyres, the CMA considers that the Parties have a combined share of supply of [20-30]% and that the Merger leads to an increment in shares of supply of [5-10]%. The CMA also considers that while the Parties exert some competitive constraint on one another, they are not each other's closest competitors. Additionally, the Merged Entity will face a material constraint from Michelin, which has a larger share of supply than the Merged Entity, as well as from BKT and Bridgestone, which each have larger or similar shares of supply to YRC.
5. The CMA believes that these constraints, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of a SLC in the UK as a result of horizontal unilateral effects in relation to the supply directly to OEMs of TD Agri, Fronts and Implements, Forestry and Construction tyres in the EEA and UK.

6. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

PARTIES

7. YRC is headquartered in Tokyo and listed on the Tokyo Stock Exchange. It is active globally as a manufacturer and seller of OHT to OEMs and supplies new replacement OHT to distributors and dealers in the RT channel.¹ In the EEA and UK, YRC predominantly sells OHT under the brand names Alliance and Galaxy. The turnover of YRC in 2022 was approximately £[3] million worldwide and approximately £[3] million in the UK.
8. TWS is a Swedish company that is active in the manufacture and sale of OHT and complete wheels systems for off-highway vehicles to OEMs and in the RT channel. TWS sells OHT under its Trelleborg, Mitas, Cultor and Maximo brands.² Trelleborg is solely owned and controlled by Trelleborg AB (publ), a company listed on Nasdaq Stockholm. In 2022, TWS had an approximate worldwide turnover £1,065 million and approximately £[3] million in the UK.

TRANSACTION

9. On 25 March 2022, pursuant to a share purchase agreement, YRC agreed to acquire 100% of the issued share of capital of TWS from Trelleborg AB (publ) for a consideration of EUR 2.04 billion.³
10. The Merger is also the subject of review by competition authorities in the European Union and the United States of America.

PROCEDURE

11. The Merger was considered at a Case Review Meeting.⁴

¹ YRC also has a number of off-take agreements, under which other tyre manufacturers produce a limited volume of tyres for distribution by YRC. Final Merger Notice submitted to the CMA by the Parties on 30 January 2023 (FMN), footnote 18. YRC also produces tyres and aluminium alloy wheels for on-highway vehicles only. YRC is further active in the production and distribution of other rubber-based products and golf-related products.

² TWS further produces tyres and complete wheels systems for motorcycles, but the Parties do not overlap with regard to these activities. TWS also operates Interfit which provides replacement and after sale services with respect to TWS' tyre brands as well as brands of third parties.

³ FMN, paragraphs 46 and 47.

⁴ See [Mergers: Guidance on the CMA's jurisdiction and procedure \(publishing.service.gov.uk\)](#), as amended January 2022, paragraph 9.29 onwards.

JURISDICTION

12. The CMA believes that the Merger is sufficient to constitute arrangements in progress or contemplation for the purposes of the Act.⁵
13. Each of YRC and TWS is an enterprise. As a result of the Merger, these enterprises will cease to be distinct.
14. The Parties overlap in the supply of various types of OHT to both OEM and RT customers. In 2021, the Parties' combined share of supply of TD Agri tyres in the OEM channel in the UK exceeded 25% (by volume) and an increment to the share of supply arises as a result of the Merger.⁶ The CMA therefore believes that the share of supply test in section 23 of the Act is met.
15. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.
16. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 1 February 2023 and the statutory 40 working day deadline for a decision is therefore 28 March 2023.

COUNTERFACTUAL

17. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).⁷ For anticipated mergers, the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. In this case, the Parties submitted that the prevailing competitive conditions is the relevant counterfactual, and the CMA did not receive any evidence supporting a different counterfactual.⁸ Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

BACKGROUND

18. The Parties both supply OHT directly to OEM customers and to the RT channel. OHT are used on a variety of different types of vehicles (for example, tractors,

⁵ Section 33(1)(a) of the Act.

⁶ The Parties do not contest that the share of supply test is likely to be met on this basis. FMN, paragraphs 83–85.

⁷ See [Merger Assessment Guidelines \(CMA129\)](#), March 2021 (**MAGs**), paragraph 3.1.

⁸ FMN, paragraph 98.

combine harvesters and excavators) which are of different sizes, weights, have different purposes, and are used on different types of ground. As such, vehicles each require tyres that can safely deal with their differing requirements. In addition, for the same type of vehicle, different types or sizes of tyres may be used according to the intended use of the vehicle.⁹

19. The tyre manufacturing industry and its various trade bodies use the classification system derived by the European Tyre and Rim Technical Organisation (**ETRTO**) to describe the segmentations in OHT. OHT can be divided by intended end use, ie Traction Drive (**TD**) Agri, Fronts and Implements, Forestry, Construction, Industrial and Material Handling and Earthmoving Off-the-Road (**Earthmoving OTR**).¹⁰ Further segmentations by size,¹¹ tyre composition (solid or pneumatic) and construction pattern (radial or bias) may also be used.
20. OHT may be perceived by customers as Tier 1 (premium), Tier 2 (mid-range) and Tier 3 (budget).¹² The Parties submitted that there are several different factors that influence whether an OHT brand is recognised as being Tier 1, 2, or 3, including price, performance, quality, innovation, production, environmental sustainability and social responsibility, purchase experience and service availability.¹³ One OEM submitted to the CMA that it does not consider there to be any material technical difference between OHT belonging to different industry tiers given that all OHT must comply with rigorous minimum standards and that the positioning of an OHT brand in a particular tier is largely based on customer brand perception.¹⁴
21. A specific brand name may be associated with a particular tier and some suppliers sell a number of brands, eg TWS's premium brand is Trelleborg, and its Mitas brand is considered to be a Tier 2 brand.¹⁵
22. Large OEMs typically purchase tyres for their new vehicles directly from OHT manufacturers such as the Parties.¹⁶ OEMs often have global (or larger than

⁹ Parties' response of CMA's request for information (**RFI**), dated 18 January 2023. Vehicles require tyres with different tyre treads, compounds, carcass construction, load index and speed index depending on their end use.

¹⁰ The Parties termed this level of segmentation Level '1B'. FMN, paragraphs 177–189.

¹¹ The Parties termed this level of segmentation Level '1C'. The relevant dimensions of a tyre are the nominal width, aspect ratio and the Rim diameter, usually listed in that order.

¹² Note of call with a Third Party of 15 November 2022, paragraph 9. Note of a call with Third Party of 12 December 2022.

¹³ FMN, paragraph 147.

¹⁴ Note of call with a Third Party of 15 November 2022, paragraph 9.

¹⁵ However, the CMA notes that the tier perception of a particular brand may be different across end use category, eg internal documents indicate that Alliance is a stronger brand in Construction and Forestry but may be weaker in Agriculture. See Acquirer Internal Document, [X<] of 15 November 2020, Y.00000063, page 5.

¹⁶ Note of call with a Third Party of 15 November 2022. Third Party response to CMA's questionnaire.

national) supply contracts in place with a number of different tyre manufacturers to offer a range of tyres.¹⁷

FRAME OF REFERENCE

23. Market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.¹⁸

Product scope

24. The Parties overlap in the supply of OHT to OEM customers and to the RT channel as regards the following OHT product categories by end use: TD Agri, Fronts and Implements, Forestry, Construction, Industrial and Material handling, Earthmoving OTR (the **overlap product categories**).
25. In line with a previous OFT decision,¹⁹ the CMA considered it appropriate to use a product frame of reference segmented by customer sales channel (ie, direct sales to OEMs or sales made through the RT channel).²⁰
26. The CMA additionally considered segmentation by end use, and whether a narrower frame of reference, eg by size, would be appropriate. The Parties submitted that it is not necessary to reach a view on the segmentation of tyre markets beyond the activity for which the tyre is manufactured (eg construction) because 'both demand and supply side substitutability support market segmentation to each ETRTO '1C level' (or, where appropriate, '1B level')

¹⁷ The CMA notes that some smaller OEMs purchase OHT from dealers and distributors as opposed to directly from tyre manufacturers. The CMA has therefore considered these OEMs as part of the RT channel. These OEMs are sometimes referred to as **OE2s** by the Parties and other market participants. See for example Note of call with a Third Party of 23 November 2022, paragraph 2.

¹⁸ MAGs, paragraph 9.4.

¹⁹ See [OFT decision of 28 January 2011, Trelleborg Holdings UK Ltd / Premia Group Ltd](#), paragraph 24.

²⁰ References in this Decision to sales made to OEMs or supply to OEMs refer to sales made directly by tyre manufacturers to OEMs, rather than sales to OEMs made indirectly through the RT channel. The CMA also notes that OEMs, who procure tyres to fit into their existing vehicle manufacturing processes, tend to have stricter requirements as to delivery times than customers in the RT channel. In the RT channel, wholesalers and dealers purchase high volumes and wide ranges of tyres from a number of tyre manufacturers to satisfy the requirements of end users – whose replacement tyres needs will vary according to preference, age of vehicle etc. Wholesalers and dealers may store tyres in their own warehouses and as such tend to have lower requirements as regards just in time delivery. See Note of Call with a Third Party of 23 November 2022, paragraph 7, Note of a call with a Third Party of 18 January 2023, paragraph 15, and FMN paragraphs 21 and 23. The Parties did not dispute that distinction in the FMN, see paragraphs 11, 14, and 212.

category'.²¹ The Parties submitted that the ETRTO classifications have been developed by the industry to 'align standards and facilitate interchangeability based on a vehicle's intended use'.²²

27. Evidence from the Parties and third parties indicated that there is some demand side substitution between different tyre sizes but also that even within the same tyre size there may be different tyre types (eg radial vs bias tyres) that are not substitutable.²³ The CMA has also not received evidence on demand-side substitutability or supply-side substitutability that would justify widening the frame of reference beyond the intended use of the product. This is consistent with a previous OFT decision²⁴ and the submissions made by the Parties.²⁵ On the basis of evidence provided to the CMA on demand and supply side substitution the CMA also considers that it would not be appropriate to adopt a narrower frame of reference in this case.
28. The CMA therefore assessed the effects of the Merger on the basis of end use category (eg Construction, TD Agri, Forestry).
29. The CMA focused its investigation by identifying overlaps that the CMA considered likely to give rise to the realistic prospect of an SLC as a result of horizontal unilateral effects. The CMA did so by taking into account a range of factors including: (i) the Parties' combined share of supply (for each overlap product category overall and also with regard to each of the sales channels); (ii) the increment brought about by the Merger;²⁶ and (iii) any product category-specific concerns raised by third parties during the CMA's merger investigation. The CMA has considered whether the Merger may give rise to horizontal unilateral effects in relation to:
 - (a) the supply of TD Agri tyres to OEMs;
 - (b) the supply of Fronts and Implements tyres to OEMs;
 - (c) the supply of Forestry tyres to OEMs; and

²¹ Parties' response to question 1 of the CMA's RFI dated 20 January 2023, paragraph 2.

²² FMN, paragraph 166 and Parties' response to question 1 of the CMA's RFI dated 20 January 2023.

²³ The CMA also investigated whether the Parties had any overlapping Agricultural tyre sizes for which there might be fewer than three alternatives. The CMA's investigation found that this was not the case.

²⁴ See [OFT decision of 28 January 2011, Trelleborg Holdings UK Ltd / Premia Group Ltd](#), paragraph 24.

²⁵ FMN, paragraphs 217–219.

²⁶ Given the potential inaccuracies in the shares of supply estimates provided by the Parties (and the lack of reliable third party market data), the CMA took a cautious approach and considered conservative thresholds for the Parties' combined shares of supply and the increment brought about by the Merger when considering whether certain overlap product categories should be investigated further insofar as they may constitute areas in which the Merger could give rise to a realistic prospect of an SLC.

(d) the supply of Construction tyres to OEMs.

30. Given the lack of other evidence submitted by the Parties or third parties that pointed to competition concerns in product categories other than those listed above, including in sales to the RT channel, the CMA does not consider that plausible competition concerns on the basis of horizontal unilateral effects arise in any of the other overlap product categories.

Geographic scope

31. The Parties submitted that, in line with OFT and European Commission cases, the appropriate geographic frame of reference for the supply of OHT to OEMs should be at least EEA and UK wide, mainly on the basis that supply contracts are negotiated on an EEA and UK (or global) basis and producers are often located outside the EEA.²⁷
32. Third party evidence indicates that supply agreements between OHT suppliers and OEM customers are usually concluded on a wider than national basis²⁸ and therefore the CMA considers that the appropriate geographic frame of reference is at least EEA and UK wide.

Conclusion on frame of reference

33. 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 TD Agri tyres to OEMs in the EEA and UK;
 - (b) the supply of Fronts and Implements tyres to OEMs in the EEA and UK;
 - (c) the supply of Forestry tyres to OEMs in the EEA and UK; and
 - (d) the supply of Construction tyres to OEMs in the EEA and UK.

COMPETITIVE ASSESSMENT

Horizontal unilateral effects

34. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm

²⁷ FMN, paragraph 225–229.

²⁸ Third Party responses to CMA's questionnaire.

profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.²⁹ Horizontal unilateral effects are more likely when the merging firms are close competitors. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in relation to horizontal unilateral effects in any of the frames of reference set out in paragraph 33 above.

TD Agri

Shares of supply

35. The Parties provided estimates of their shares of supply of TD Agri tyres to OEMs in the EEA and UK which, when only sales made directly to OEMs were included, represented a share of supply for the Merged Entity of [40-50]% in 2021, with an increment of [0-5]%.³⁰ These estimates are broadly in line with estimates calculated by the CMA, which are shown in Table 1 below.³¹

²⁹ MAGs, paragraph 4.1.

³⁰ Parties' estimates originally provided in FMN, paragraph 241 and Table 10. Adjustment made by the CMA on the basis of information submitted by the Parties in Annex 008 to the FMN, 'TWINS – Market Shares OE.xlsx' and the data pack 'ME.7014.22 Market Shares Input, Tab4b'. This adjustment was also made in respect of shares of supply in each of the frames of reference discussed below; Fronts and Implements, Forestry and Construction.

³¹ Estimates calculated by the CMA are based on sales volume data submitted to the CMA by the Parties and third parties.

Table 1: CMA estimates of Shares of Supply of TD Agri tyres sold directly to OEM customers in EEA and UK (2021)

<i>Supplier</i>	<i>Share of Supply</i>
TWS	[40-50]%
YRC	[0-5]%
Merged Entity	[40-50]%
Michelin	[20-30]%
BKT	[10-20]%
Bridgestone	[10-20]%
TVS Srichakra	[0-5]%
Continental	[0-5]%
Vredestein	[0-5]%
CEAT	[0-5]%
Nokian	[0-5]%
Total	100%

Source: CMA Analysis

36. Whilst the Merger would increase the share of supply of the largest supplier in this segment, the CMA considers that the increment in share of supply brought about by the Merger is modest at less than 5%.

Closeness of competition

The Parties' distribution models

37. The Parties submitted that they are not close competitors because of their different distribution models.³² YRC employs a 'container model' to supply Europe, which allows it to supply cheaper tyres but YRC's longer supply chain means that customers cannot rely on YRC for just in time delivery or high levels of service.³³ By contrast, TWS predominantly serves customers with EEA-based manufacturing sites, and it has an established local (ie EEA) presence, enabling it to charge higher prices with a higher quality of service.³⁴
38. The Parties also submitted that TWS focuses more on OEMs, whilst YRC is more focused on RT customers.³⁵
39. Whilst some OEM customers indicated that they were able to source OHT from YRC in time for their requirements, the CMA also received evidence from other

³² FMN, paragraphs 20–21.

³³ FMN, paragraph 21(b) and 261(a)(i).

³⁴ FMN, paragraph 21 and 261(a)(ii).

³⁵ FMN, paragraph 21 and 261 (a)(i) and (ii).

customers indicating that the differences in the Parties' distribution model do result in differences in the speed and quality of service they provide.³⁶ Additionally, the CMA considers that the higher proportion of sales made to OEMs of TWS as compared to YRC is reflective of the Parties' differing distribution models.

Internal documents

40. Internal documents show that the Parties benchmark their OHT against each other and against competing brands across the industry tiers and monitor competitors regardless of the tier position their brand occupies.³⁷ The CMA further considers that the Parties' internal documents illustrate that, in relation to TD Agri tyres, they monitor and benchmark against competitors including each other.³⁸ While each Party may view other competitors as closer competitors than the other Party, the CMA considers that the Parties' internal documents indicate that they view each other as competitive constraints.³⁹

Tiers

41. The Parties submitted that their tyre brands, in particular Alliance (YRC) and Mitas (TWS), occupy different tiers (with Alliance being Tier 3 and Mitas being Tier 2), such that there is a lack of closeness of competition between their OHT offering.⁴⁰
42. In line with the Parties' submissions, the CMA considers that some internal documents show that YRC views Alliance as a [redacted] brand.⁴¹ Internal documents also show [redacted], such that the existing relative positions of Mitas and Alliance might

³⁶ Note of a call with a Third Party of 15 November 2022. Note of a call with a Third Party of 18 January 2023, paragraph 4.

³⁷ For example, a TWS internal document evaluates [redacted] TWS' [redacted] against Alliance, among others (Target Internal Document, [redacted] of 1 February 2021, YOT-000000400/T.035, pages 5 and 24.). Another YRC internal document notes that 'BKT/ATG are benchmarking Trelleborg tires (not Mitas)'. (Acquirer Internal Document, [redacted] of 10 February 2022, Y.00000012, page 21.) Other YRC internal documents show closeness of competition between Alliance (or more generally ATG) and TWS brands through competitor monitoring and benchmarking. (Acquirer Internal Document, [redacted] of 22 November 2021, Y.00000009, page 13 and 17; Acquirer Internal Document, 'Acquirer Internal Document, [redacted] of 1 February 2022, Y.00000066, pages 6, 8, 23 and 24.)

³⁸ Competition between the Parties and alternative suppliers is addressed in paragraphs 51-66 below.

³⁹ For example, Target Internal Document, [redacted] of 1 February 2021, YOT-000000400/T.035, page 5; Acquirer Internal Document, [redacted] of 10 February 2022, Y.00000012, page 21; Acquirer Internal Document, [redacted] of 22 November 2021, Y.00000009, page 17; Target Internal Document, [redacted] of 21 September 2021, Y.00000021, page 43; Acquirer Internal Document, [redacted] of 8 December 2022, Y.00000031, page 7 and Acquirer Internal Document, [redacted] of 10 November 2020, Y.00000032, page 7. Some internal documents benchmark and monitor competitors in the context of both the OEM and RT channels, and sometimes each channel separately. The CMA considers that competitor benchmarking and monitoring in the context of one channel may be informative as to closeness of competition in the other channel to some extent. The same applies to the CMA's consideration of internal documents referring to other competitors and relating to other frames of reference.

⁴⁰ FMN, paragraph 261.

⁴¹ FMN, paragraph 261 (e)(iii).

not be representative of the competitive constraints they would exert on one another absent the Merger.⁴²

43. Further, even if the Parties' brands were positioned in different tiers, the CMA considers, based on evidence from third parties and the Parties' internal documents, that positioning of brands in different tiers does not equate to them being distant competitors and that the allocation of each individual brand to the different tiers is subjective and may vary across market participants, across segments or over time.⁴³

Pricing of the Parties' tyres

44. The Parties submitted analyses of the relative pricing of their OHT, both sold directly to OEMs and in the RT channel.⁴⁴ The Parties submitted that these analyses showed that for comparable tyres, the average prices of TWS tyre brands were materially higher than the average prices of YRC brands.
45. The CMA considers that a difference in pricing between the Parties' OHT is consistent with other (internal document and third party) evidence received by the CMA.⁴⁵ The CMA considers that the differences in pricing between the Parties' products are consistent with the Parties competing with each other less closely than they each do with other rivals. However, the CMA does not consider that this equates to there being no competitive interaction between the Parties.

The appearance of the Parties' tyres as specified tyres on OEM vehicles according to the JATO data submitted by the Parties

46. The Parties submitted that data relating to tractor models in the JATO data set⁴⁶ shows that their brands are limited substitutes for OEMs.⁴⁷ Specifically, the Parties

⁴² For example, Acquirer Internal Document, [REDACTED] of 25 September 2020, Y.00000030, page 10; Acquirer Internal Document, [REDACTED] of 22 November 2021, Y.0000009, pages 2 and 17.

⁴³ For example, some market participants told the CMA that the technical quality of tyres does not vary materially between brands, since all tyres on the market must meet minimum robust safety standards meaning that all brands are of a high technical quality and third parties have explained to the CMA that differences in the tier position of tyres largely result from brand reputation, rather than technical quality. See Note of a call with a Third Party of 15 November 2022, paragraph 9 and Note of call with a Third Party of 18 January 2023, paragraph 4.

⁴⁴ FMN, paragraphs 334–362; Annex 010A to the FMN, [REDACTED], Annex 010 to the FMN, [REDACTED]; [REDACTED] Response to the Issues Letter (07.03.2023) – CONFIDENTIAL – FINAL.pdf, received 8/03/2023; underlying dataset provided by the Parties ([REDACTED]) and Annex 23 Parties response to RFI 3 of 24 Jan 2023.

⁴⁵ The CMA notes that the data set for the analysis relating to OEM sales is small and as such may not be representative and therefore reliable as a standalone piece of evidence.

⁴⁶ JATO is a market research company that collects public information on vehicles, such as model, version, list price, and characteristics including the specification of standard and optional tyres.

⁴⁷ FMN, paragraphs 294 to 333. Also Annex 10A to the FMN, [REDACTED]; Annex 012 to the FMN, [REDACTED] and Annex 012A to the FMN, [REDACTED] and dataset within data pack [REDACTED].

submitted that OEMs rarely specify YRC's brands as standard or optional tyres and that TWS brands are specified far more frequently.

47. However, the Parties acknowledge 'that information on the standard tyre brand used in each model is only provided for a small proportion of the vehicles for which standard tyres are offered'.⁴⁸ The CMA considers that the JATO data may not be wholly reliable or verifiable as the Parties submitted that they themselves do not always know which of their own tyres are specified as standard or optional tyres on a tractor model.⁴⁹ The Parties also note that 'the subset of tractors for which tyre brand is specified and the subset for which tyre brand is unspecified or do not exist have material differences, especially with respect to the relevant price ranges'.⁵⁰ Accordingly, the CMA places limited weight upon the JATO analysis.

Third party views on closeness of competition between the Parties

48. The CMA asked OEM customers and competitors⁵¹ to score how closely the Parties brands compete with each other and other competitors in the supply of TD Agri tyres on a scale of 1 to 5, with a score of 0 assigned where the supplier is not active.⁵²
49. Most competitors who responded to the CMA's questionnaire submitted that the Parties compete closely or very closely with each other. Of the customers who responded, around half indicated that the Parties compete very closely and around half that the Parties compete only very occasionally or occasionally.

Conclusion on closeness of competition between the Parties

50. Overall, the CMA considers that the Parties impose a competitive constraint on one another in the supply of TD Agri tyres to OEMs in the EEA and UK.

⁴⁸ Annex 012 to the FMN, [3<], paragraph A.7.

⁴⁹ Parties' oral submissions at the Issues Meeting.

⁵⁰ Annex 012 to the FMN, [3<], paragraph A9

⁵¹ Competitors were asked to consider competition for sales to OEM customers only.

⁵² Where 0 = not present, 1 = do not compete, 2 = only very occasionally, 3 = occasionally compete, 4 = compete closely, 5 = compete very closely. Competitors and customers were also asked the same question in relation to Fronts and Implements, Forestry and Construction tyres. The results for each segment are presented below in the relevant section of this Decision.

Competitive constraint imposed by alternative suppliers

51. The Parties submitted that the Merged Entity would be constrained by Michelin, Bridgestone, BKT and Continental,⁵³ as well as Vredestein, Nokian and 'other European' manufacturers as smaller competitors.⁵⁴
52. The CMA notes that YRC's share is small and that each of Michelin, BKT and Bridgestone have a larger share of supply than YRC prior to the Merger. This indicates that these three firms are likely to have imposed a greater constraint on TWS than YRC prior to the Merger.

Michelin

53. The CMA estimates that Michelin has a share of supply of [20-30]% (see Table 1). Internal documents show that both Parties typically monitor and benchmark against Michelin in TD Agri.⁵⁵
54. All competitors and customers who responded to the CMA's questionnaire indicated that Michelin competes closely or very closely with TWS in the supply of TD Agri tyres to OEMs. Most competitors who responded and one customer submitted that Michelin also competes closely or very closely with YRC.
55. Overall, the CMA considers that Michelin would exercise a material constraint on the Merged Entity post-Merger.

BKT

56. The CMA estimates that BKT has a share of supply of [10-20]% (see Table 1). Internal documents show that both Parties, but especially YRC, typically monitor and benchmark against BKT in TD Agri.⁵⁶
57. All customers and all but one competitor submitted that BKT competes closely or very closely with YRC. Around half of customers and all but one competitor submitted that BKT competes closely or very closely with TWS.

⁵³ FMN, paragraph 441.

⁵⁴ FMN, Table 25.

⁵⁵ For example, Acquirer Internal Document, [redacted] of 2 November 2021, Y.00000035, page 8; Acquirer Internal Document, [redacted] of 17 February 2022, Y.0000191, pages 1 and 3; Target Internal Document, [redacted] of 12 July 2021, YOT-00000426/T.062, page 63.

⁵⁶ See for example, Acquirer Internal Document, [redacted] of 27 January 2021, Y.0000352, page 1; Acquirer Internal Document, [redacted] of 8 November 2021, Y.0000429, pages 9 and 12; Target Internal Document, [redacted] of 1 February 2021, YOT-00000400/T.035, page 5, Acquirer Internal Document, [redacted] of 21 October 2022, Y.00000047, page 5.

58. The CMA considers that BKT would exercise a material constraint on the Merged Entity post-Merger.

Bridgestone

59. The CMA estimates that Bridgestone has a share of supply of [10-20]% (see Table 1). Internal documents show that the Parties monitor and benchmark against Bridgestone to some extent.⁵⁷
60. The majority of competitors who responded indicated that Bridgestone competes closely or very closely with TWS, and three competitors submitted that Bridgestone competes closely with YRC. One customer also scored Bridgestone as competing very closely with TWS.
61. The CMA considers that Bridgestone would exercise a material constraint on the Merged Entity post-Merger.

Others

62. The CMA also notes that TVS, Continental, Vredestein, CEAT and Nokian have a similar share of supply to YRC prior to the Merger, which indicates that one or all of these competitors will continue to impose a similar constraint post-Merger. Internal documents show that the Parties monitor and benchmark against these smaller players to some extent.⁵⁸
63. The majority of third party respondents indicated that both Parties compete to some extent with Continental and Nokian. Third parties indicated that YRC competes with each of CEAT and TVS. The CMA received no specific third party views on the closeness of competition between the Parties and Vredestein.
64. The CMA notes that it received some evidence that suggests that vehicles intended for Construction use can also be used in Agricultural applications. Accordingly, the CMA considers that there may be some constraint from OHT in this other end use category.⁵⁹

⁵⁷ For example, Target Internal Document, [redacted] of 23 November 2021, YOT-000000391/T.026, page 27; Acquirer Internal Document, [redacted] of 2 November 2021, Y.00000035, page 8.

⁵⁸ For example, Target Internal Document, [redacted] of 8 July 2022 YOT-000000418/T.054, page 22; Target Internal Document, [redacted] of 17 February 2022, YOT-000000403/T.038, pages 4 and 22; Target Internal Document, [redacted] undated, YOT-000000437/T.073, page 1; Acquirer Internal Document, [redacted] of 31 May 2022, Y.0000243, page 3; Acquirer Internal Document, [redacted] of 2 November 2021, Y.00000037, page 23; Acquirer Internal Document, [redacted] of 30 June 2022, Y.0000246, page 17.

⁵⁹ Third Party response to CMA's questionnaire.

65. The CMA considers that the Merged Entity would face some constraint from other smaller suppliers, including TVS, Continental, Vredestein, CEAT and Nokian.

Conclusion on constraint imposed by alternative suppliers

66. The CMA therefore considers that the Merged Entity will be constrained by sufficient alternative suppliers of TD Agri tyres.

Conclusion on TD Agri

67. For the reasons set out above, the CMA believes that the Parties impose some competitive constraint on one another but considers that the Merged Entity will face material competitive constraints from multiple alternative suppliers. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of TD Agri tyres to OEMs in the EEA and UK.

Fronts and Implements

Shares of supply

68. The Parties provided estimates of their shares of supply of Fronts and Implements tyres to OEMs in the EEA and UK which, when only sales made directly to OEMs were included, represented a share of supply for the Merged Entity of [20-30]% with an increment of [0-5]%.⁶⁰ These estimates are broadly in line with estimates calculated by the CMA, which are shown in Table 2 below.⁶¹

⁶⁰ Parties' estimates originally provided in FMN, paragraph 241 and Table 10.

⁶¹ Estimates calculated by the CMA are based on sales volume data submitted to the CMA by the Parties and third parties.

Table 2: CMA estimates of Shares of Supply of Fronts and Implements tyres sold directly to OEM customers in EEA and UK (2021)

<i>Supplier</i>	<i>Share of Supply</i>
TWS	[20-30]%
YRC	[0-5]%
Merged Entity	[20-30]%
BKT	[50-60]%
Vredestein	[5-10]%
TVS Srichakra	[5-10]%
CEAT	[0-5]%
Nokian	[0-5]%
Michelin	[0-5]%
Total	100%

Source: CMA analysis

69. While the Merger would strengthen the position of the second largest player in this segment, the CMA considers that the increment brought about by the Merger is very small.

Closeness of competition

The Parties' distribution models and brand positioning across the industry tier classification

70. The Parties referred to their general arguments relating to all OHT, ie that they operate different distribution models.⁶² The CMA considers that its analysis of the Parties' distribution models, and the Parties' brand positioning across the industry tier classification, as explained above in relation to TD Agri (see paragraphs 37 to 43), applies equally to Fronts and Implements.

Internal documents

71. As noted in paragraph 40 above, the Parties' internal documents illustrate that they benchmark their products against competitors including each other, viewing each other as competitive constraints in general. In relation to Fronts and Implements, the CMA considers that some of YRC's internal documents show that it monitors and benchmarks against TWS to some extent,⁶³ but has not seen TWS internal documents that benchmark against competitors (YRC or others) in this segment. However, [redacted] TWS document identifies the introduction of a new OHT product as an opportunity [redacted],⁶⁴ suggesting that TWS' offering in the sub-

⁶² FMN, paragraph 527 in conjunction with Chapter 4C (paragraph 253 sets out the main four arguments).

⁶³ For example Acquirer Internal Document, [redacted] of 1 July 2021, Y.0000380, pages 6, 8, 10 and 13. The CMA notes the document refers to trailers and makes comparisons in respect of tyre dimensions that are listed in the Parties' sales data as Fronts and Implements.

⁶⁴ Target Internal Document, [redacted] of 23 November 2021, YOT-000000391/T.026, page 29.

segments of Agricultural tyres may be connected. The CMA therefore considers that its conclusion in respect of TWS' benchmarking and monitoring of YRC brands in relation to TD Agri and the Agricultural segment in general, as in paragraph 40 above, is likely to apply to Fronts and Implements as well.

Third party views on closeness of competition between the Parties

72. Most competitors who responded indicated that the Parties compete closely or very closely with each other. Two customers stated YRC competes closely or very closely with TWS, and one customer stated that TWS competes very closely with YRC.

Conclusion on closeness of competition between the Parties

73. Overall, the CMA considers that the Parties impose a competitive constraint on one another in the supply of Fronts and Implements tyres to OEMs in the EEA and UK.

Competitive constraint imposed by alternative suppliers

BKT

74. The CMA estimates that BKT has a share of supply of [50-60]% (see Table 2) and is therefore the largest player in this segment, with a share of supply significantly larger than that of the Merged Entity. The CMA considers that internal documents show that YRC in particular monitors and benchmarks against BKT in Fronts and Implements, which suggests that BKT is regarded by YRC as a competitive constraint in this segment.⁶⁵ This is consistent with the Parties' submissions that BKT is a particularly close competitor to YRC.⁶⁶
75. All customers who responded submitted that BKT competes closely or very closely with YRC and one customer indicated that BKT competes very closely with TWS. All competitors submitted that BKT competes either closely or very closely with the Parties.
76. The CMA considers that BKT would exercise a material constraint on the Merged Entity post-Merger.

⁶⁵ For example, Acquirer Internal Document, [redacted] of 1 July 2021, Y.0000380, pages 6, 8, 10, 11 and 13; Acquirer Internal Document, [redacted] of 4 May 2022, Y.0000513, pages 31–40.

⁶⁶ FMN, paragraphs 528 and 529.

Vredestein

77. The CMA estimates that Vredestein has a share of supply of [5-10]% (see Table 2), which is greater than YRC's share of supply. Vredestein is the third largest player in the segment both before and after the Merger. Internal documents show that YRC monitors and benchmarks against Vredestein in Fronts and Implements to some extent.⁶⁷
78. The CMA received no specific third party views on the closeness of competition between the Parties and Vredestein.
79. The CMA considers that Vredestein exercises some constraint at least on YRC prior to the Merger and would exercise some constraint on the Merged Entity post-Merger.

TVS

80. The CMA estimates that TVS has a share of supply of [5-10]% (see Table 2) which is greater than YRC's share of supply. Internal documents show that YRC monitors and benchmarks to some extent against TVS in Fronts and Implements.⁶⁸
81. One competitor scored TVS as competing very closely with YRC and occasionally with TWS.
82. The CMA considers that TVS exercises some constraint at least on YRC prior to the Merger and would exercise some constraint on the Merged Entity.

Others

83. The CMA also notes that CEAT and Nokian have similar shares of supply to YRC prior to the Merger. Internal documents show that YRC monitors and benchmarks against CEAT in Fronts and Implements to some extent.⁶⁹
84. One customer scored CEAT as competing closely with YRC and one competitor indicated that CEAT competes very closely with the Parties.

⁶⁷ For example Acquirer Internal Document, [redacted] of 4 May 2022, Y.0000513, page 31. Internal documents also show some general monitoring of Vredestein by TWS, for example Target Internal Document, [redacted] of 5 July 2021, YOT-000000402/T.037, page 6.

⁶⁸ For example Acquirer Internal Document, [redacted] of 4 May 2022, Y.0000513, pages 32–35 and 39–40.

⁶⁹ For example Acquirer Internal Document, [redacted] of 13 October 2022, Y.0000319, page 18.

85. Most competitors who responded submitted that Nokian competes occasionally or closely with one or both of the Parties.
86. The CMA considers that the Merged Entity would face some constraint from suppliers such as CEAT and Nokian.

Conclusion on constraint imposed by alternative suppliers

87. The CMA therefore considers that the Merged Entity will be constrained by sufficient alternative suppliers of Fronts and Implements tyres.

Conclusion on Fronts and Implements

88. For the reasons set out above, the CMA believes that the Merged Entity will face material competitive constraints from alternative suppliers. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of Fronts and Implements tyres to OEMs in the EEA and UK.

Forestry

Shares of supply

89. The Parties provided estimates of their shares of supply of Forestry tyres to OEMs in the EEA and UK which, when only sales made directly to OEMs were included, represented a share of supply for the Merged Entity of [10-20]%, with an increment of [5-10]%.⁷⁰
90. The CMA also produced its own estimates of the share of supply of Forestry tyres. As set out in Table 3 below, the CMA estimates that TWS and YRC's shares of supply prior to the Merger are [0-5]% and [0-5]% respectively.

⁷⁰ Parties' estimates originally provided in FMN, paragraph 241 and Table 10.

Table 3: CMA estimates of Shares of Supply of Forestry tyres sold directly to OEM customers in EEA and UK (2021)

<i>Supplier</i>	<i>Share of Supply</i>
TWS	[0-5]%
YRC	[0-5]%
Merged Entity	[5-10]%
Nokian	[60-70]%
BKT	[20-30]%
Total	100%

Source: CMA analysis

91. The CMA considers that the Merged Entity’s share of supply is modest and notes that the Merged Entity would be the smallest player by a significant margin. The Merged Entity would be less than half the size of the second largest supplier and more than seven times smaller than the largest supplier.

Closeness of competition

The Parties’ distribution models and brand positioning across the industry tier classification

92. The Parties referred to their general arguments relating to all OHT, ie that they operate different distribution models.⁷¹ The CMA considers that its analysis of the Parties’ distribution models, and the Parties’ brand positioning across the industry tier classification, as explained above in relation to TD Agri, applies to a large extent to Forestry.⁷²

Internal documents

93. As noted in paragraph 40 above, the Parties’ internal documents illustrate that they benchmark their products against competitors including each other, viewing each other as competitive constraints in general. In relation to Forestry, the CMA considers that some of YRC’s internal documents show that it monitors and benchmarks against TWS to some extent,⁷³ but has not seen TWS internal documents that benchmark against YRC in this segment.

⁷¹ FMN paragraph 527 in conjunction with Chapter 4C (paragraph 253 sets out the main four arguments).

⁷² The CMA received some evidence indicating that the industry tier classification is less relevant in Forestry, with little differentiation between different tiers. Third Party Response to the CMA’s questionnaire.

⁷³ For example, Acquirer Internal Document, [3<] of 22 June 2022, Y.0000530, page 16.

Third party views on closeness of competition between the Parties

94. One customer who responded to the CMA submitted that the Parties did not compete⁷⁴ and another that they competed occasionally with each other. The majority of competitors indicated that the Parties compete closely or very closely with each other in the sales of Forestry tyres to OEMs.⁷⁵

Conclusion on closeness of competition between the Parties

95. Overall, the CMA considers that the Parties impose a competitive constraint on one another in the supply of Forestry tyres to OEMs in the EEA and UK.

Competitive constraint imposed by alternative suppliers

Nokian

96. The CMA estimates that Nokian has a share of supply of [60-70]% (see Table 3). Internal documents of both Parties describe Nokian, in line with its share of supply, as the strongest player in Forestry and show both Parties monitor and benchmark against Nokian in Forestry.⁷⁶
97. All competitors who responded submitted that Nokian competes very closely with YRC and the majority indicated that Nokian competes very closely with TWS. One customer also scored Nokian as competing very closely with TWS.
98. The CMA considers that Nokian would exercise a material constraint on the Merged Entity.

BKT

99. The CMA estimates that BKT has a share of supply of [20-30]% (see Table 3). Internal documents show that YRC monitors and benchmarks against BKT in Forestry to some extent.⁷⁷

⁷⁴ The CMA notes that the customer scored every competitor as not competing with either YRC or TWS.

⁷⁵ The CMA also notes that one third party submitted that while the Trelleborg brand is perceived as tier 1, it still competes closely with Alliance in the Forestry segment, due to lack of differentiation between the industry tiers in this segment. Third Party Response to the CMA's questionnaire.

⁷⁶ For example Acquirer Internal Document, [redacted] of 1 January 2022, Y.00000038, page 24, Acquirer Internal Document, [redacted] of 22 June 2022, Y.0000530, pages 2, 9, and 16; Target Internal Document, [redacted] of 23 November 2021, YOT-000000391/T.026, page 27.

⁷⁷ Acquirer Internal Document, [redacted] of 19 January 2021, Y00000040, page 6, and Acquirer Internal Document, [redacted] of 26 July 2022, Y.00000037, page 47.

100. Most competitors who responded submitted that BKT competes closely or very closely with YRC, and half indicated that BKT competes closely with TWS.
101. The CMA considers that BKT would exercise a material constraint on the Merged Entity.

Others

102. The CMA notes that during the course of its investigation neither the Parties nor third parties identified direct sales of Forestry tyres to OEMs in the EEA and UK by competitors other than those set out in Table 3 above. However, the CMA notes that one YRC internal document⁷⁸ suggests that Tianli may be a potential entrant in the Forestry segment. The CMA also notes that, as submitted by the Parties, publicly available information suggests that Tianli has a supply relationship with a Forestry OEM, though this relationship appears to be limited to the supply of only one type of tyre.⁷⁹
103. The CMA received no specific third party views on the closeness of competition between the Parties and Tianli.
104. The CMA notes that it received some evidence that suggests that vehicles intended for Construction use can also be used in Forestry applications.⁸⁰ Accordingly the CMA considers that there may be some constraint from OHT in this other end use category, and considers that the Merged Entity could face some constraint from suppliers other than Nokian and BKT in the near future.

Conclusion on constraint imposed by alternative suppliers

105. The CMA considers that while the market is very concentrated, the Merged Entity as the smallest player will be constrained by the remaining alternative suppliers of Forestry tyres.

Conclusion on Forestry

106. For the reasons set out above, the CMA believes that the Parties impose some constraint on each other. However, the Merged Entity will face material competitive constraints from alternative suppliers who are significantly larger than the Merged Entity. Accordingly, the CMA found that the Merger does not give rise

⁷⁸ Acquirer Internal Document, [redacted] of 19 January 2021, Y00000040, page 6.

⁷⁹ Ponsse Service Catalogue 2023, [19301692.pdf \(ponsse.com\)](#).

⁸⁰ Third Party response to CMA's questionnaire.

to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of Forestry tyres to OEMs in the EEA and UK.

Construction

Shares of supply

107. The Parties provided estimates of their shares of supply of Construction tyres to OEMs in the EEA and UK which, when only sales made directly to OEMs were included, represented a share of supply for the Merged Entity of [30-40]% with an increment of [10-20]%.⁸¹
108. The CMA also produced its own estimates of the share of supply of Construction tyres. As set out in Table 4 below, the CMA estimates that TWS and YRC's shares of supply prior to the Merger are [10-20]% and [5-10]% respectively.

Table 4: CMA estimates of Shares of Supply of Construction tyres sold directly to OEM customers in EEA and UK (2021)

<i>Supplier</i>	<i>Share of Supply</i>
TWS	[10-20]%
YRC	[5-10]%
Merged Entity	[20-30]%
Michelin	[40-50]%
BKT	[10-20]%
Bridgestone	[5-10]%
CEAT	[0-5]%
TVS	[0-5]%
Continental	[0-5]%
Total	100%

Source: CMA analysis

109. The Merger would result in the Parties becoming the second largest player, with a share around half that of the market leader.

⁸¹ Parties' estimates originally provided in FMN, paragraph 241 and Table 10.

Closeness of competition

The Parties' distribution models and brand positioning across the industry tier classification

110. The Parties referred to their arguments relating to their lack of closeness of competition in general.⁸² The CMA considers that its analysis of the Parties' distribution models, and the Parties' brand positioning across the industry tier classification, as explained above in relation to TD Agri, applies equally to Construction.

Internal documents

111. As noted in paragraph 40 above, the Parties' internal documents illustrate that they benchmark their products against competitors including each other, viewing each other as competitive constraints in general. In relation to Construction, the CMA considers that YRC's internal documents show monitoring of TWS as a competitor in the Construction segment.⁸³
112. Further, the CMA considers that the Parties' internal documents indicate that both TWS and YRC are strong players in at least some parts of the Construction segment, and that TWS has some plans to grow its offering of Construction tyres.⁸⁴

Third party views on closeness of competition between the Parties

113. The majority of competitors who responded submitted that the Parties competed closely or very closely with each other, and most customers indicated that they compete closely or occasionally with each other.

Conclusion on closeness of competition between the Parties

114. Overall, the CMA considers that the Parties impose a competitive constraint on one another in the supply of Construction tyres to OEMs in the EEA and UK.

⁸² FMN, paragraph 564 in conjunction with Chapter 4C (paragraph 253 sets out the main four arguments).

⁸³ For example, Acquirer Internal Document, [redacted] of 27 July 2021, Y.0000157, pages 9, 14 and 27; Acquirer Internal Document, [redacted] of 16 August 2022, Y.0000399, page 7.

⁸⁴ For example, Target Internal Document, [redacted] of 1 February 2021, YOT-000000400/T.035, page 5 refers to growth in sales of TWS' brawler tyre, Target Internal Document, [redacted] of 24 October 2022, YOT-000000374/T.010, page 30 refers to TWS' planned growth in Construction and Target Internal Document, [redacted] of 24 October 2022, YOT-000000374/T.010, page 50 refers to TWS having a leading position in Europe in tyres for excavator vehicles. See also Acquirer Internal Document, [redacted], Y.0000129, page 2 and Acquirer Internal Document, [redacted] of 15 November 2020, Y.00000063, page 5.

Competitive constraint imposed by alternative suppliers

Michelin

115. The CMA estimates that Michelin is the largest supplier in construction tyres, and has a share of supply of [40-50]% (see Table 4) which is around twice the share of the Merged Entity. Internal documents show that the Parties monitor and benchmark against Michelin in Construction.⁸⁵
116. Most competitors who responded submitted that Michelin competes closely or very closely with TWS and most that Michelin competes closely or very closely with YRC. Half of customers indicated that Michelin competes closely or very closely with TWS and two customers scored Michelin as competing closely or very closely with YRC.
117. The CMA considers that Michelin would exercise a material constraint on the Merged Entity post-Merger.

BKT

118. The CMA estimates that BKT has a share of supply of [10-20]% (see Table 4). Internal documents show that YRC monitors and benchmarks against BKT in Construction.⁸⁶
119. The majority of competitors who responded said that BKT competes very closely with YRC, and half said that BKT competes closely or very closely with TWS. Most customers said that BKT competes closely with YRC and two customers that BKT competes closely with TWS.
120. The CMA considers that BKT would exercise a material constraint on the Merged Entity.

⁸⁵ For example, Acquirer Internal Document, [redacted] of 16 August 2021, Y.0000399, page 10; Target Internal Document, [redacted] of 1 February 2021, YOT-000000400/T.035, page 6; Target Internal Document, [redacted] of 11 May 2021, YOT-000000401/T.036, page 5 and 6; Target Internal Document, [redacted] of 15 October 2020, YOT-000000416/T.052, page 21.

⁸⁶ For example, Acquirer Internal Document, [redacted] of 16 August 2021, Y.0000399, page 10. The CMA also notes that internal documents indicate that YRC monitors BKT in general.

Bridgestone

121. The CMA estimates that Bridgestone has a market share of [5-10]% (see Table 4). Internal documents show that the Parties monitor and benchmark against Bridgestone in Construction.⁸⁷
122. Half of competitors who responded submitted that Bridgestone competes with closely or very closely YRC and one competitor indicated Bridgestone competes very closely with TWS. One customer scored Bridgestone as competing very closely with YRC and TWS.
123. The CMA considers that Bridgestone would exercise a material constraint on the Merged Entity.

Others

124. The CMA notes that each of the remaining competitors active in this segment has a share of supply of less than 5% (see Table 4). Internal documents show that YRC monitors and benchmarks to some extent against other competitors such as Continental and TVS in Construction.⁸⁸
125. The majority of customers who responded submitted that Continental competes at least occasionally with both TWS and YRC. Half of competitors submitted that Continental competes at least occasionally with YRC, and half that Continental competes at least occasionally with TWS.
126. The CMA considers that the Merged Entity would face some constraint from other suppliers such as Continental and TVS.

Conclusion on constraint imposed by alternative suppliers

127. The CMA therefore considers that the Merged Entity will be constrained by sufficient alternative suppliers of Construction tyres.

Conclusion on Construction

128. For the reasons set out above, the CMA believes that the Parties impose some competitive constraint on one another, but notes that the Merged Entity will face material competitive constraint by multiple alternative suppliers. Accordingly, the

⁸⁷ For example, Target Internal Document, [redacted] of 23 November 2021, YOT-000000391/T.026, page 27; Target Internal Document, [redacted] of 11 May 2021, YOT-000000401/T.036, page 6; Acquirer Internal Document, [redacted] of 6 July 2022, Y.0000517, pages 7 and 9.

⁸⁸ For example, Acquirer Internal Document, [redacted] of 12 May 2022, Y.0000240, page 1; Acquirer Internal Document, [redacted], Y.0000241, page 1. Acquirer Internal Document, [redacted] of 19 July 2022, Y.0000285, page 33.

CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of Construction tyres to OEMs in the EEA and UK.

Non-horizontal effects

129. Prompted by concerns raised by third parties, the CMA considered whether other theories of harm could arise as a result of the Merger, including conglomerate effects in the supply of OHT.⁸⁹ The CMA considered whether the Merged Entity would have the ability and incentive to leverage its position in certain OHT product categories to foreclose rival manufacturers by either requiring customers to exclusively purchase from the Merged Entity or bundling OHT from different product categories together. However, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of such conglomerate effects, primarily due to the lack of ability to implement such strategies. This is based on feedback from the vast majority of customers that they multi-source, would not single-source in the future, and that bundling and tying is not a feature of the industry, in addition to evidence that other competitors of the Merged Entity also offer a large range of OHT.⁹⁰

BARRIERS TO ENTRY AND EXPANSION

130. 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.⁹¹
131. Where necessary, the CMA has considered the importance of any barriers to entry and expansion in its competitive assessment above. However, the CMA has not had to conclude on entry or expansion triggered by the Merger, as the Merger does not give rise to a realistic prospect of competition concerns on any basis.

⁸⁹ The CMA also considered whether the Merged Entity would have the ability and incentive to foreclose rivals either by supplying exclusively through TWS' integrated distribution function or by leveraging its position in contract manufacturing services. However, based on evidence provided to the CMA, the CMA believes that the Merger does not give rise to a realistic prospect of an SLC as a result of such vertical effects, due to lack of merger-specific effect and lack of ability to implement such strategies.

⁹⁰ Third Party responses to the CMA's questionnaire.

⁹¹ MAGs, from paragraph 8.28.

THIRD PARTY VIEWS

132. The CMA contacted customers and competitors of the Parties. A few customers raised concerns regarding reduction of competitors and potential increase in prices as a result of the Merger. The majority of customers either had no view or a positive view of the Merger. No other third parties raised concerns about the Merger.
133. Third party comments have been taken into account where appropriate in the competitive assessment above.

DECISION

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

David Stewart
Executive Director, Markets and Mergers
Competition and Markets Authority
28 March 2023