

Completed acquisition by HSH Cold Stores Limited of Associated Cold Stores & Transport Limited

Decision on relevant merger situation and substantial lessening of competition

ME/7041/23

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 20 June 2023. Full text of the decision published on 26 July 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. The Competition and Markets Authority (**CMA**) has found that HSH Cold Stores Limited (**HSH**)'s completed acquisition of Associated Cold Stores & Transport Limited (**ACS&T**) (the **Merger** or **Transaction**) does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) within any markets in the UK for goods and services. HSH and ACS&T are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.
2. HSH and ACS&T are both active in the supply of temperature-controlled storage and transportation services in the UK. These services involve storing and transporting food products, including meat, fish, seafood, and vegetables, at chilled or frozen temperatures to preserve their freshness for businesses involved in food supply chains in the UK. Both Parties operate storage facilities in Grimsby. HSH also operates storage facilities in Redditch, and ACS&T in Wolverhampton and Tewkesbury.
3. The CMA focused its investigation on the overlap in the Parties' supply of temperature-controlled storage facilities in the Grimsby area. The CMA based its assessment on a range of evidence, including the Parties' submissions, internal

documents, data on storage capacity from the Parties and their competitors, and third-party views.

4. The CMA found that Grimsby has historically been an important location for the UK fish and seafood supply chain due to its legacy as a large fishing port, its size as a fish and seafood processing hub, its proximity to major ports in Immingham and Hull, and the presence of many large fish and seafood traders and temperature-controlled storage facilities. However, its strength has declined in recent years due to limited investment, technological advances, and larger, more efficient storage facilities being constructed elsewhere in the UK.
5. The evidence the CMA received highlighted the continued importance of a storage facility being located in the Grimsby area, but also that many customers are prepared to use storage facilities that are a significant distance away from their own sites, and that facilities located outside of the Grimsby area constrain the Merged Entity. On a cautious basis, the CMA assessed the impact of the Merger in a geographic market defined as the area of 30 miles surrounding Grimsby (based on drive distances), encompassing rival storage facilities in Scunthorpe and Hull.
6. The CMA found that, taking into account expected future changes in capacity, HSH and ACS&T will be first and fifth largest suppliers of temperature-controlled storage services in this geographic market, and together will be the largest supplier overall, with a combined storage capacity share of 30-40%. The CMA also found that the Parties generally compete closely with each other due to the similarity in their services and proximity of their locations in Grimsby, although ACS&T may exercise a relatively weaker constraint on HSH than vice versa due to the [X] of its storage facilities.
7. At the same time, the CMA found that, post-Merger, there will remain a wide range of alternatives to the Merged Entity. This includes four players within the geographic market (namely, Lineage, DFDS, GXO and Magnavale), three of which have capacity shares between 10% and 30%. The CMA found that these players will each exercise a strong or moderate constraint on the Merged Entity due to their size, location and/or similarity in service offering. The CMA also found that a range of other players both within geographic market (including AJK, Hemswell, and Norfolk Lane) and outside it (including Americold, Newcold, and Reed Boardall) may each present an alternative for at least some customers of the Merged Entity.
8. The CMA believes that these constraints, taken together, are sufficient to ensure that the Merger does not give rise to a realistic prospect of an SLC.
9. The Merger will therefore **not be referred** under section 22(1) of the Act.

ASSESSMENT

PARTIES

HSH

10. HSH is active in the supply of temperature-controlled storage and transportation of food in the UK, alongside some associated value-added services.¹ HSH has temperature-controlled storage facilities in Grimsby and Redditch.²
11. HSH is owned by Constellation Cold Logistics S.à r.l. (**Constellation**), a large temperature-controlled storage and transportation business active across Europe.³ Constellation is controlled by Arcus Infrastructure Partners (**Arcus**), a private equity fund focused on European infrastructure investments.⁴
12. The turnover of HSH in 2021 was £[~~8~~] million, all of which was generated in the UK.⁵

ACS&T

13. ACS&T is also active in the supply of temperature-controlled storage and transportation of food, and associated value-added services, in the UK.⁶ ACS&T has temperature-controlled storage facilities in Grimsby, Wolverhampton and Tewkesbury.⁷
14. Prior to the Merger, ACS&T was owned by Camellia PLC (**Camellia** or the **Seller**), a company listed on the London Stock Exchange with interests in agriculture and other investments.⁸
15. The turnover of ACS&T in 2022 was £[~~8~~] million, all of which was generated in the UK.⁹

¹ Response submitted by Constellation on 27 March 2023 to the section 109 notice issued by the CMA on 7 March 2023 (Response to the Enquiry Letter), paragraph 12.1.

² Response to the Enquiry Letter, paragraph 18.1.

³ HSH was rebranded as Constellation Cold Logistics UK on 5 May 2023 (see Constellation, [Constellation Cold Logistics announces rebranding of HSH Coldstores as Constellation Cold Logistics UK](#), dated 5 May 2023, accessed by the CMA on 9 June 2023).

⁴ Constellation, [‘Our Financial Partner - Constellation Cold Logistics’](#), accessed by the CMA on 9 June 2023.

⁵ Response submitted by HSH to the request for information issued by the CMA’s mergers intelligence committee on 26 January 2023, question 3.

⁶ Response to the Enquiry Letter, paragraph 12.1.

⁷ Response to the Enquiry Letter, paragraph 18.1.

⁸ Response to the Enquiry Letter, paragraph 7.3.

⁹ Response to the Enquiry Letter, paragraph 10.1.

TRANSACTION

16. HSH acquired the entire shareholding of ACS&T from Camellia for approximately £16.5 million¹⁰ pursuant to a sale and purchase agreement dated 16 December 2022. The Transaction completed on 10 January 2023.¹¹
17. HSH/Constellation's rationale for the Transaction was to strengthen HSH's presence in Grimsby and increase HSH's presence in the Midlands.¹² HSH/Constellation's internal documents provided further detail on the Transaction rationale, stating that the Transaction will significantly improve HSH's offering in the Humberside region,¹³ result in synergies across the Parties' Grimsby sites,¹⁴ and provide access to ACS&T land for expansion projects.¹⁵

PROCEDURE

18. The CMA's mergers intelligence function identified the Transaction as warranting an investigation.¹⁶

JURISDICTION

19. A relevant merger situation exists where two or more enterprises have ceased to be distinct, either the turnover or the share of supply test is met, and, in the case of completed mergers, the four-month deadline has not yet expired.¹⁷
20. Each of HSH and ACS&T is an enterprise within the meaning of section 129 of the Act. As a result of the Merger, HSH has acquired the entire shareholding of ACS&T. Accordingly, HSH and ACS&T have ceased to be distinct for the purposes of sections 23(1)(a) and 26 of the Act.
21. The share of supply test is met where the merger results in a combined share of supply or acquisition of goods or services of any description of 25% or more in the UK or a substantial part of it. In this regard, the Parties overlap in the supply of

¹⁰ Response submitted by HSH to the request for information issued by the CMA's mergers intelligence committee on 26 January 2023, question 2.

¹¹ Response to the Enquiry Letter, paragraph 5.1.

¹² Response submitted by HSH to the request for information issued by the CMA's mergers intelligence committee on 26 January 2023, question 2. See also Constellation, '[Constellation Cold Logistics agrees to acquire ACS&T](#)', dated 19 December 2022, accessed by the CMA on 9 June 2023.

¹³ HSH document dated 23 September 2022, Annex A.024 to the Enquiry Letter, 'AEIF2 Budget Approval Request', page 2.

¹⁴ HSH document dated 5 December 2022, Annex A.102 to the Enquiry Letter, 'Management Presentation', page 42.

¹⁵ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 6; and, HSH document dated 5 December 2022, Annex A.102 to the Enquiry Letter, 'Management Presentation', page 42.

¹⁶ See [Mergers: Guidance on the CMA's jurisdiction and procedure \(CMA2revised\)](#), December 2020 (**Guidance on the CMA's jurisdiction and procedure**), paragraphs 6.4-6.6.

¹⁷ See [Guidance on the CMA's Jurisdiction and Procedure](#), chapter 4; Section 23 of the Act.

temperature-controlled storage services in the area of 30 miles surrounding Grimsby, with a combined share of supply of [20-30]% and an increment of approximately [5-10]% brought about by the Merger, based on the number of pallets that can currently be stored at each site as of May 2023 (see Table 1).¹⁸ In addition, the area of 30 miles surrounding Grimsby has a population well above 100,000. Consistent with the approach taken in previous CMA merger decisions,¹⁹ the CMA considers that this area constitutes a substantial part of the UK.²⁰ The CMA therefore believes that the share of supply test in section 23(2)(a) of the Act is met.

22. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
23. Completion of the Merger occurred and was made public on 10 January 2023.²¹ The four-month deadline for a decision under section 24 of the Act is 1 July 2023, following extensions under sections 25(1)²² and 25(2)²³ of the Act.
24. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 28 April 2023 and the statutory 40 working day deadline for a decision is therefore 27 June 2023.

COUNTERFACTUAL

25. 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 the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. 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.²⁴

¹⁸ Based on the CMA's own market size and share of supply estimates. Based on the estimates provided by the Parties, they have a combined share of capacity of approximately [20-30]% in the supply of temperature-controlled storage services in the area of 50 miles surrounding Grimsby, with an increment of approximately [5-10]% brought about by the Merger.

¹⁹ For example, see [IVC/Multiple](#), paragraph 53.

²⁰ The CMA estimated the population in the relevant local area for the Merger based on 2021 census data published by the Office of National Statistics.

²¹ Response to the Enquiry Letter, paragraph 7.3. See also Camellia, [Completion of Disposal of ACS&T](#), dated 10 January 2023, accessed by the CMA on 9 June 2023; and London South East, [Camellia completes GBP16.5 million sale of food storage unit](#), dated 10 January 2023, accessed by the CMA on 9 June 2023.

²² Email from authorised representatives for ACS&T, HSH, Constellation and Arcus to the CMA, of 9 March 2023 at 12:13, agreeing to a 20-working day extension to the four-month clock.

²³ Constellation failed to comply with the requirements of the notice under section 109 of the Act of 7 March 2023 (with or without a reasonable excuse), resulting in the extension of the four-month clock by 23 calendar days.

²⁴ [Merger Assessment Guidelines \(CMA129\)](#), March 2021 (**Merger Assessment Guidelines**), from paragraphs 3.1-3.12.

26. The CMA will generally conclude on the counterfactual conditions of competition broadly – that is, conditions of stronger competition or conditions of weaker competition. In its assessment, the CMA seeks to avoid predicting the precise details or circumstances that would have arisen absent the merger, and it will generally focus only on potential changes to the pre-merger conditions of competition where there are reasons to believe that those changes would make a material difference to its competitive assessment, with any detailed description of competitive conditions better considered in the competitive assessment.²⁵

Parties' submissions

27. The Parties submitted that, absent the Merger, ACS&T would either have been acquired (likely by another competitor), or ACS&T's operations would have further declined due to lack of capital investment and expiration of leases covering a number of its facilities in Grimsby.²⁶
28. According to the Parties, ACS&T had been up for sale for a number of years, and prior to the Seller entering into exclusivity with HSH, HSH learned that it was in competition with [X], a competing supplier of temperature-controlled storage and transportation services.²⁷
29. The Parties also submitted that prior to the Merger, ACS&T was in a challenging financial position. ACS&T had suffered under-investment due to the Seller prioritising investment in its core agricultural assets rather than ACS&T. In addition, [X] of ACS&T's storage capacity in Grimsby is on leasehold land with facilities [X]. The leases will expire in [X] and [X], depending on the type of facilities, [X].²⁸

CMA's assessment

ACS&T would have been acquired by an alternative purchaser absent the Merger

30. The CMA received evidence from the Seller indicating that, absent the Merger, ACS&T would have been subject to a re-marketing process in order to sell ACS&T to an alternative purchaser.²⁹ The CMA also understands from the Seller that, prior to entering into exclusivity with HSH/Constellation, the Seller had received interest in ACS&T from a number of potential buyers, including trade and non-trade buyers.³⁰
31. The CMA therefore considers it is realistic that, absent the Merger, ACS&T would have been sold to an alternative purchaser and that this could have been either to a

²⁵ [Merger Assessment Guidelines](#), paragraph 3.8-3.11.

²⁶ Response to the Enquiry Letter, question 19.

²⁷ Response to the Enquiry Letter, paragraph 19.3.

²⁸ Response to the Enquiry Letter, question 19.

²⁹ [X]. Note of call with [X], paragraph 5.

³⁰ Note of call with [X], paragraph 5.

trade or non-trade buyer. Given that the sale of the ACS&T business to a non-trade buyer is the scenario where HSH and ACS&T exert the strongest competitive constraint on each other, the CMA believes that this scenario represents the most competitive realistic counterfactual.³¹ As this scenario is broadly equivalent to the pre-Merger conditions of competition, the CMA does not consider that it necessitates departing from pre-Merger conditions as the relevant counterfactual.

ACS&T's operations would have further declined absent the Merger

32. The CMA received evidence from third parties consistent with the Parties' submissions that ACS&T's operations have been in decline. The Seller submitted that ACS&T was subject to historical under-investment because ACS&T did not align with the Seller's strategic priorities. Two third parties submitted that some of ACS&T's [redacted].³² Furthermore, an ACS&T strategy document dated January 2021 (the **2021 Strategy Document**) shows that the capacity of its storage facilities in Grimsby would reduce due to the expiration of leases in [redacted] and [redacted].³³
33. The CMA does not, however, consider that there is sufficient evidence to support a departure from pre-Merger conditions as the relevant counterfactual. First, the CMA has received no evidence, and therefore it does not consider it likely, that ACS&T would exit the market absent the Merger. Second, as noted above, the CMA considers it is realistic that ACS&T would have been sold to an alternative purchaser absent the Merger. The CMA therefore considers it is more appropriate to take into account any further decline in ACS&T, in particular with respect to the reduction in its capacity in Grimsby following the expiration of its leases, where relevant in the competitive assessment.

HSH's construction of a new temperature-controlled storage facility in Grimsby

34. The CMA understands that HSH had pre-Merger plans to build a new temperature-controlled storage facility in Grimsby. HSH received Government funding to support this project in November 2022,³⁴ and expected to complete the construction by early 2024.³⁵ The CMA also understands that part of HSH's rationale for the Merger

³¹ The CMA is also mindful that the sale of ACS&T to a trade buyer with overlapping activities could rise to a risk of referral to an in-depth CMA investigation. As set out in the CMA's [Merger Assessment Guidelines](#) (paragraph 3.11) the CMA will not have as its counterfactual the sale of the target firm to a purchaser that is likely to result in a referral for an in-depth investigation, given the uncertainty over whether such an acquisition would, ultimately, be cleared or subject to subsequent remedial action. In this scenario, the counterfactual will often be the prevailing or pre-merger conditions of competition.

³² See notes of calls with [redacted], paragraph 3, and [redacted], paragraph 10.

³³ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 24.

³⁴ HSH received a conditional grant from the Seafood Infrastructure Fund operated by the Department for Environment, Food & Rural Affairs (**Defra**) of £5 million for the construction of a new £33 million temperature-controlled storage facility in Grimsby (see Defra, '[UKSF Infrastructure Scheme projects: grants awarded in round 1 of the scheme](#)', dated 1 February 2023, accessed by the CMA on 9 June 2023).

³⁵ HSH IEO derogation requests, submitted to the CMA on 5 May 2023, paragraph 4.6.

included the ability to build the new facility on an ACS&T site instead of a third-party site and that this remains HSH's intention.³⁶

35. HSH has confirmed to the CMA that, absent the Merger, it would still have proceeded to build the new facility at a third-party site.³⁷ In light of this, and consistent with the approach taken to the [§<], the CMA will take into account the construction of the new facility absent the Merger in the competitive assessment.

Conclusion

36. For the reasons set out above, the CMA therefore believes the pre-Merger conditions of competition to be the relevant counterfactual, but the CMA will take into account the [§<] of ACS&T facilities in Grimsby and HSH's construction of a new facility in Grimsby in the competitive assessment.

BACKGROUND

37. The UK cold chain is a network of specialised facilities and vehicles which store and transport perishable products in a temperature-controlled environment, which can be chilled or frozen.³⁸ Companies, such as the Parties, supply such temperature-controlled storage and transportation services for food (generally frozen, at -18°C).³⁹
38. A wide range of customers use these services to store food products. This includes customers that: (i) import, grow or produce food products and transport it into storage, and/or (ii) take food products out of storage for distribution and ultimately for purchase by end consumers. While individual requirements and preferences may vary considerably across customers, the CMA found that price, available capacity, and location of storage facilities are often the most important factors when deciding where to store products, and which suppliers to use.⁴⁰ Many customers procure both temperature-controlled storage and transportation services from the same supplier, though a significant proportion procure storage services separately.⁴¹ Some customers also self-supply their own storage.⁴²

³⁶ Constellation document dated 13 December 2023, Management Presentation, slide 32. HSH response to the CMA's RFI of 16 March 2023, questions 9 and 10.

³⁷ HSH IEO derogation requests, submitted to the CMA on 5 May 2023, paragraphs 4.5 and 4.7.2. This was confirmed by Defra [§<].

³⁸ Note of call with [§<], paragraph 8.

³⁹ Response to the Enquiry Letter, question 12.

⁴⁰ Third-party responses to the CMA's customer questionnaire, question 4.

⁴¹ Response submitted by Constellation Cold Logistics on 19 April 2023 to the section 109 notice issued by the CMA on 11 April 2023 (**Constellation Cold Logistics response to the section 109 notice of 11 April 2023**), question 5. Response submitted by ACS&T on 19 April 2023 to the section 109 notice issued by the CMA on 11 April 2023 (**ACS&T response to the section 109 notice of 11 April 2023**), question 5. Third-party responses to the CMA's customer questionnaire, question 10, and competitor questionnaire, question 16.

⁴² Response to the Enquiry Letter, question 29. See, for example, note of call with [§<], paragraph 13.

39. Temperature-controlled storage facilities are located across the UK. Storage can generally be used for a range of different foods (such as meat, fish, seafood, and vegetables). While frozen food can be transported long distances,⁴³ individual locations may act as focal points for specific types of food, such as fish and seafood, making them important to the UK cold chain.⁴⁴
40. The Parties each have storage facilities located in Grimsby, a port town in North East Lincolnshire.⁴⁵ Historically, the Grimsby region has been an important location in the UK fish and seafood supply chain due to several reasons, including its legacy as a large fishing port, its size as a fish and seafood processing hub, its proximity to major ports in Immingham and Hull, and the presence of many large fish and seafood traders and temperature-controlled storage facilities.⁴⁶ Fish and seafood account for a high proportion of the products stored in the Parties' Grimsby facilities, though other products (such as meat and vegetables) still account for a significant proportion of both Parties' storage.⁴⁷ Grimsby's strength has, however, declined in recent years due to ageing facilities, lack of meaningful investment, technological advances, and larger, more efficient storage facilities being constructed elsewhere in the UK.⁴⁸
41. Several locations close to Grimsby, including Scunthorpe and Hull, are also home to numerous suppliers of temperature-controlled storage facilities that store fish, seafood and other products.⁴⁹

FRAME OF REFERENCE

42. 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.⁵⁰
43. The Parties overlap in the supply of temperature-controlled storage and transportation services. For the purposes of its investigation, the CMA has focused

⁴³ Response to the Enquiry Letter, question 29.

⁴⁴ Note of call with [redacted], paragraph 14. Response to the Enquiry Letter, paragraph 18.3.

⁴⁵ Response to the Enquiry Letter, paragraph 18.1.

⁴⁶ HSH Internal Document, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', 18 October 2022, slide 56.

⁴⁷ Constellation Cold Logistics response to the section 109 notice of 11 April 2023, question 7. ACS&T response to the section 109 notice of 11 April 2023, question 7.

⁴⁸ Note of call with [redacted], paragraph 17. [redacted], question 4. HSH Internal Document, Annex A.032 to the Enquiry Letter, 'Frozen Cold Storage in Grimsby.pdf', 03 December 2021, page 29.

⁴⁹ Note of call with [redacted], paragraph 14. Third-party responses to the CMA's competitor questionnaire, question 3.

⁵⁰ [Merger Assessment Guidelines](#), paragraph 9.4.

its assessment on the Parties' overlap in the supply of temperature-controlled storage services⁵¹ in the Grimsby area.⁵²

Product scope

44. The Parties submitted that 'temperature-controlled contract logistics services' (or **TC-CLS**), encompassing both storage and transportation services, constitutes a single product frame of reference, without meriting further segmentation by type of service, customer type or product type.⁵³
45. The CMA considered whether it would be appropriate to distinguish a narrower product frame of reference based on the following two segmentations:
 - (a) supply of temperature-controlled storage services, separate to transportation services; and
 - (b) supply of temperature-controlled storage services for fish and seafood products, separate to other products.

Supply of temperature-controlled storage services vs transportation services

Parties' submissions

46. The Parties submitted that the frame of reference should not be segmented by type of service because customers generally contract the services jointly, as part of the same agreement.⁵⁴

CMA's assessment

47. The CMA found that slightly more than half of the customers which responded to the CMA's customer questionnaire have a preference to contract storage and transportation services together from the same supplier. These customers noted that this creates a seamless supply chain which is cheaper, easier, and more efficient. The minority of customers that did not express this preference generally

⁵¹As explained further below at paragraphs 43 to 49.

⁵² The CMA did not consider it necessary to assess the geographic areas associated with the Parties' non-Grimsby based facilities further, given the Parties' low combined shares, the distance between their sites and the presence of larger competitors around these sites (Response to the Enquiry Letter, paragraphs 31.14 – 31.18 and Response to the CMA's RFI of 14 April, question 1). The CMA also did not consider it necessary to assess the supply of temperature-controlled storage services on any national geographic frame of reference, as the Merger does not give rise to concerns on this basis given the Parties' low shares of supply based on capacity of around [5-10]% with a [0-5]% increment at a national level (Response submitted by HSH to the request for information issued by the CMA's mergers intelligence committee on 26 January 2023, question 5).

⁵³ Response to the Enquiry Letter, paragraphs 12.4 and 29.1 – 29.21. The Parties also included within this definition ancillary value-added services, such as blast freezing for ACS&T and a groupage service for HSH (Response to the Enquiry Letter, paragraph 12.1). The CMA has taken ancillary value-added services into account where relevant in the competitive assessment. However, given their ancillary nature, the CMA has not treated them as belonging to a separate frame of reference.

⁵⁴ Response to the Enquiry Letter, paragraph 29.3.

did not indicate a strong preference for contracting the two services separately, except for one customer who needed to transport a variety of products, including products not in temperature-controlled storage, and as a result preferred to contract from a dedicated transport supplier.⁵⁵

48. The CMA also found that most competitors who offered temperature-controlled storage also offered a transport service. One competitor explained that offering the two services together was a better business model as it enabled it to generate revenue from the customers' end-to-end process.⁵⁶
49. In addition, most of HSH's customers and revenues derived from customers contracting both services together. In relation to HSH's temperature-controlled storage facilities in the Grimsby area (within the geographic frame of reference defined below), [X]% of HSH's customers in 2022 contracted storage and transport together, accounting for [X]% of revenues in Grimsby. In the case of ACS&T's Grimsby facilities, however, these proportions were smaller, with only [X]% of customers contracting for both services together, representing [X]% of ACS&T revenues in Grimsby.⁵⁷

Conclusion

50. Overall, several sources of evidence point to temperature-controlled storage and transportation services belonging to a single product frame of reference. However, on a cautious basis, the CMA has focused its competition assessment only on temperature-controlled storage services. As no competition concerns were identified on this narrower basis as set out in the competitive assessment below, and the CMA, at a preliminary stage in its investigation, identified no competition concerns in relation to temperature-controlled transportation services on a standalone basis,⁵⁸ the CMA has not considered it necessary to assess a wider frame of reference encompassing both services.

Supply of temperature-controlled storage services for fish and seafood products vs other food products

Parties' submissions

51. The Parties submitted that the market should not be segmented by type of product because the service they provide concerns generic temperature-controlled storage

⁵⁵ Third-party responses to the CMA's customer questionnaire, question 10.

⁵⁶ Note of call with [X], paragraph 9.

⁵⁷ Constellation Cold Logistics response to the section 109 notice of 11 April 2023, paragraph 5.1 and ACS&T response to the section 109 notice of 11 April 2023, paragraph 5.1.

⁵⁸ Third-party responses to the CMA's investigation identified a large number of alternatives to the Parties for the supply of temperature-controlled transport, in addition to those who also provide storage services. Examples include Langdons, Hedges, Evans and Steve Wright Haulage. The CMA has not therefore further considered a separate product frame of reference for temperature-controlled transportation services in this Decision.

capacity, which can be used for a wide variety of product types.⁵⁹ In support of this, the Parties submitted that prices and contract terms are generally consistent across products, and that no specialised assets are required to store particular types of products.

CMA's assessment

52. The CMA's investigation found that the Parties and their competitors store multiple types of products in their temperature-controlled storage facilities. In relation to the Grimsby area specifically, where the Parties' activities overlap, the majority of the Parties' revenues are derived from the storage of fish and seafood. Nevertheless, a significant proportion of each of the Parties' revenues at their Grimsby facilities also derive from other products ([redacted]% for HSH and [redacted]% for ACS&T in 2022).⁶⁰ There is also evidence that this mix changes overtime, which suggests that different products are stored using the same physical assets.⁶¹ The CMA also understands that most competitors that store fish and seafood in the Grimsby area also store, or can store, other products and vice-versa.
53. While there are some competitors who do not currently store fish and seafood products, the majority of these competitors indicated that this was due to a present lack of demand from their customers rather than because they do not have the ability to do so. Around half of these competitors recognised a difference between the storage of fish and seafood and other products, noting that fish has a strong odour which can taint other foodstuffs.⁶² However, the CMA understands that this concern may be more relevant for the process of blast freezing, and in any event can be mitigated in most cases by segregating the different products within a temperature-controlled storage facility.
54. Furthermore, the Parties' internal documents do not generally consider fish and seafood distinct from other products, either in terms of separating capacity, revenues, or competitors by fish and seafood versus other products.
55. Finally, data provided by the Parties indicates that the average storage rate per pallet per week for fish and non-fish customers are very similar.⁶³ One competitor also indicated that prices do not vary significantly by type of product.⁶⁴ This suggests that temperature-controlled storage suppliers may generally be agnostic to the product they store and that competitive conditions across product types are generally similar.

⁵⁹ Response to the Enquiry Letter, paragraph 29.12.

⁶⁰ Constellation Cold Logistics response to the section 109 notice of 11 April 2023, paragraph 3.1 and ACS&T response to the section 109 notice of 11 April 2023, paragraph 3.1.

⁶¹ Response to the Enquiry Letter, paragraph 29.15.

⁶² Third-party responses to the CMA's customer questionnaire, question 9.

⁶³ Constellation Cold Logistics response to the section 109 notice of 11 April 2023, paragraph 12.2.

⁶⁴ Note of call with [redacted], paragraph 22.

Conclusion

56. Overall, while fish and seafood are important products in the Grimsby area, the available evidence does not support defining temperature-controlled storage services for fish and seafood products as a separate product frame of reference. In any case, the CMA has taken into account any relevant differences relating to product type in the competitive assessment.

Conclusion on product scope

57. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of temperature-controlled storage services.

Geographic scope

Parties' submissions

58. The Parties submitted that the relevant geographic market is no wider than national. Although HSH is part of a wider European network, the services provided by the Parties are mostly domestic in nature.⁶⁵ The Parties acknowledged that one driver of the competitiveness of a site is its location relative to a customer's needs, which may take into account the location of its production facility (or point of import) and/or the destination of the goods. But the Parties submitted that many customers are not tied to a specific location for temperature-controlled storage, and are willing to use facilities a long distance away from their own sites.
59. In support of this, the Parties estimated catchment areas based on the 80th percentile catchment areas of customer revenue, using driving distances from the customer location to the storage facility. According to the Parties, the average 80th percentile catchment areas for the HSH and ACS&T facilities in Grimsby were [X] and [X] miles respectively.⁶⁶

CMA assessment

60. In the assessment of mergers in local geographic markets, the CMA's practice has typically been to identify the catchment area within which the majority of the customers of each of the merging Parties' sites are located, with the majority usually being defined as 80% of customers.⁶⁷
61. As noted above, the catchment area analysis submitted by the Parties indicates that the catchments for their storage facilities in Grimsby are relatively large, at [X] miles or more in size. This suggests that customers have a wide area in which to

⁶⁵ Response to the Enquiry Letter, paragraph 18.1-18.9.

⁶⁶ Response to the Enquiry Letter, question 18.8.

⁶⁷ See, for example, ME/7017/22, [Portman Healthcare / Dentex Healthcare](#), paragraphs 91 to 93, and ME/6990/22, [Riviera / Dental Partners](#), paragraphs 87 to 89.

store their products, including storage facilities in locations such as Wakefield (around 70 miles away), York (around 90 miles away), and Peterborough (around 110 miles away), amongst others.

62. However, other sources of evidence indicate that it may not be appropriate in this case to define the geographic frame of reference by reference to 80th percentile customer revenue catchment areas.
63. First, the Parties' internal documents and business strategies highlight the importance of proximity to Grimsby and its surrounding area. For example:
- (a) A Constellation document dated October 2022 prepared by strategy consultants, OC&C (the '**2022 OC&C Document**'), states that Grimsby is a key location in the UK fish and seafood supply chain due to its legacy as a large fishing port, its size as a fish and seafood processing hub, its proximity to major ports in Immingham and Hull, and the presence of many large fish and seafood traders and temperature-controlled storage facilities.⁶⁸
 - (b) At the same time, another HSH document dated December 2021 notes that Grimsby's importance as a key location has declined in recent years due to ageing facilities, lack of meaningful investment, technological advances, and larger, more efficient storage facilities being constructed elsewhere in the UK.⁶⁹ However, other Constellation/HSH documents indicate that Grimsby continues to be important as a location for temperature-controlled storage facilities. For example:
 - (i) The 2022 OC&C Document noted above, in discussing the rationale for the Merger, noted that it would afford Constellation a very strong position in Grimsby, as well as land available to facilitate future expansions.⁷⁰ HSH has since confirmed to the CMA that it intends to build the new facility on an ACS&T site in Grimsby.⁷¹
 - (ii) A HSH internal document dated October 2022 presents storage capacity of competitors in Grimsby and states that stores in Grimsby receive high use and demand from local processors.⁷²

⁶⁸ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 56.

⁶⁹ HSH document dated 3 December 2021, Annex A.032 to the Enquiry Letter, 'Frozen Cold Storage in Grimsby', page 29.

⁷⁰ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 6.

⁷¹ HSH IEO derogation requests, submitted to the CMA on 5 May 2023, paragraph 4.3.

⁷² HSH document dated October 2022, Annex A.025 to the Enquiry Letter, 'Project Coin – Internal Catch-up', page 2.

- (iii) A Constellation document dated June 2022 discusses the combination of the Parties' facilities in Grimsby in the context of competitors located in Grimsby, while storage facilities further away are not referred to.⁷³

64. Second, most customers responding to the CMA's investigation submitted that location is a 'very important' or 'important' factor when choosing a storage facility,⁷⁴ and that the most important alternative locations to Grimsby for storage were all relatively nearby, including Scunthorpe and Hull (both around 30 miles away).⁷⁵ Around one-third of customers considered locations further away, such as Wakefield (around 70 miles away), York (around 90 miles away), Peterborough (around 110 miles away), and Liverpool (around 150 miles away), to be alternatives to Grimsby.⁷⁶ Some customers also indicated that they require storage facilities only a few miles from where their products are imported or processed in Grimsby, though slightly more than half of customers indicated they transport their products significant distances of 100 miles or more into storage.⁷⁷

Conclusion on geographic scope

65. Overall, the CMA does not consider that 80th percentile customer revenue catchment areas are the appropriate basis for defining the geographic frame of reference in this case. Other sources of evidence highlight the importance of proximity to Grimsby irrespective of a customer's location.
66. While the boundaries of the geographic frame of reference are not clear cut, the CMA considers, on a cautious basis, that the appropriate geographic frame of reference should extend to encompass rival facilities in Scunthorpe and Hull, but not those further afield. The CMA has defined this as the area of 30 miles surrounding Grimsby based on drive distance.⁷⁸ Any constraints existing outside of this area have been considered as an out-of-market constraint to the extent relevant in the competitive assessment.⁷⁹

⁷³ HSH document dated June 2022, Annex A.027 to the Enquiry Letter, 'Project Coin - Internal Catch-up' slide 34.

⁷⁴ Third-party responses to the CMA's customer questionnaire, question 4.

⁷⁵ Third-party responses to the CMA's customer questionnaire, question 6.

⁷⁶ Third-party responses to the CMA's customer questionnaire, question 6. These locations are all more than 50 miles driving distance away from Grimsby.

⁷⁷ Note of calls with [§<], paragraph 14 and 15; and, [§<], paragraph 12. Third-party responses to the CMA's customer questionnaire, question 11.

⁷⁸ The CMA has used as the focal point for this drive distance area ACS&T's storage facility at DN1 2TG, in line with the Parties' own approach. For completeness, the CMA notes that widening the geographic frame of reference to 50 miles around the Parties' facilities in Grimsby would not impact the CMA's competitive assessment, as there are no rival temperature-controlled storage facilities between 30 and 50 miles of the Parties' facilities in Grimsby. There is one store between 30 and 50 miles which the Parties flagged as being owned by ABP, but the CMA understands that this does not offer public temperature-controlled storage, and so it has not been included in the CMA's assessment.

⁷⁹ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 9.4 to 9.5.

Conclusion on frame of reference

67. For the reasons set out above, the CMA has considered the impact of the Merger in the supply of temperature-controlled storage services in the area of 30 miles surrounding Grimsby.

COMPETITIVE ASSESSMENT

Horizontal unilateral effects

68. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm to raise prices or degrade non-price aspects of its competitive offering (such as quality, range, service and innovation) on its own and without needing to coordinate with its rivals.⁸⁰ The CMA's main consideration is whether there are sufficient remaining good alternatives to constrain the merged entity post-merger.⁸¹ Horizontal unilateral effects are more likely when the merging parties are close competitors.⁸²
69. The concern under this theory of harm is that the removal of one Party as a competitor may reduce competition between suppliers of temperature-controlled storage services in the area of 30 miles surrounding Grimsby. The CMA considers that this may result in higher prices and/or worse quality of the services provided to customers of temperature-controlled storage services (such as for importers, processers and wholesalers).
70. In its assessment, the CMA has considered:
- (a) shares of supply;
 - (b) closeness of competition between the Parties; and
 - (c) constraints from alternative suppliers.

Shares of supply

71. The Parties provided shares of supply estimates for temperature-controlled storage services based on capacity, in terms of the number of pallets that can be stored at a site. The Parties based these shares on internal data for their own sites and best estimates based on public information for competitor sites.⁸³
72. The CMA considered that basing share of supply estimates on capacity is appropriate in this case, given the relatively homogenous nature of pallet space for

⁸⁰ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 4.1.

⁸¹ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 4.3.

⁸² [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 4.8.

⁸³ Response to the Enquiry Letter, paragraph 31.6 and footnote 16.

temperature-controlled storage. To test the Parties' estimates, the CMA produced its own estimates obtaining capacity information directly from competitors.⁸⁴ The CMA's estimates of the Parties' combined shares for temperature-controlled storage services within 30 miles of Grimsby are set out in Table 1.

Table 1: Capacity shares of supply of temperature-controlled storage suppliers within 30 miles of Grimsby

	<i>Current capacity (# pallets)</i>	<i>% - Currently</i>	<i>% - Adjusting for new HSH site⁸⁵</i>	<i>% - Adjusting for new HSH site and [X]⁸⁶</i>
HSH	[X]	[10-20]	[20-30]	[20-30]
ACS&T	[X]	[5-10]	[5-10]	[5-10]
Combined	[X]	[20-30]	[30-40]	[30-40]
GXO Logistics	[X]	[20-30]	[20-30]	[20-30]
Magnavale	[X]	[20-30]	[10-20]	[10-20]
Lineage Logistics	[X]	[10-20]	[10-20]	[10-20]
DFDS	[X]	[0-5]	[0-5]	[0-5]
AJK	[X]	[0-5]	[0-5]	[0-5]
Hemswell	[X]	[0-5]	[0-5]	[0-5]
Norfolk Lane	[X]	[0-5]	[0-5]	[0-5]
NH Case	[X]	[0-5]	[0-5]	[0-5]
Riby	[X]	[0-5]	[0-5]	[0-5]
Arctic Breeze	[X]	[0-5]	[0-5]	[0-5]

Source: CMA analysis of third-party responses to the CMA questionnaire and Parties' estimates.

73. The shares of supply in the second column of Table 1 represent the current situation, where the Parties have a combined capacity share of [20-30]% with an increment of [5-10]%.

74. In the third and fourth columns, the CMA has accounted for two future changes in the Parties' operations.

(a) First, the CMA has adjusted for HSH's new planned facility in Grimsby, which is expected to open from early 2024.⁸⁷ The new facility will add 32,700 pallets

⁸⁴ Where data from third-party competitors was not available, the CMA used the Parties' estimates.

⁸⁵ This adjustment results in an increased capacity for HSH of [X] pallets, and so a joint capacity of [X] pallets.

⁸⁶ In addition to footnote 85, this adjustment results in a reduced capacity for ACS&T of [X] pallets, and so a joint capacity of [X] pallets.

⁸⁷ [X].

of capacity,⁸⁸ which would increase the Merged Entity's share of supply to [30-40]%, with an increment of [5-10]%.

- (b) Second, as referred to in paragraph 32, the leases on two of ACS&T's storage facilities are due to expire in [X].⁸⁹ [X] would reduce ACS&T's capacity by [X] pallets,⁹⁰ reducing the Merged Entity's combined share of supply to [30-40]%, with an increment of [5-10]%.

75. The CMA considers that the [X] is less certain than HSH's planned new facility. In particular, while ACS&T pre-Merger plans envisaged [X], it is unclear under the relevant counterfactual (the sale of ACS&T to an alternative purchaser, as discussed at paragraphs 30 to 33 above) whether any alternative purchaser would have adopted the same strategy.
76. Nevertheless, whether or not these [X] are taken into account does not significantly impact the Merged Entity's share of supply. On either basis, the Merged Entity will have a moderately high share of supply, exceeding 30%, and will combine the first and fifth largest suppliers of temperature-controlled storage services within 30 miles of Grimsby. This will make the Merged Entity the largest supplier in this area, followed by three other suppliers with shares exceeding 10% (GXO Logistics, Magnavale and Lineage Logistics) and four suppliers (DFDS, AJK, Hemswell, and Norfolk Lane) with shares exceeding [0-5]%.
77. As noted in paragraph 65 above, the boundaries of this market are not however clear cut, and therefore it is important to consider share of supply data alongside other evidence, including on closeness of competition and alternative competitive constraints, as set out below.

Closeness of competition

Parties' submissions

78. The Parties submitted that they do not compete closely in any market.⁹¹ They noted that they differ in their main customer type, with ACS&T focused on customers who need to store products pre-processing, while HSH is focused on customers whose products do not require further processing (ie finished products).⁹²

⁸⁸ See Defra, '[UKSF Infrastructure Scheme projects: grants awarded in round 1 of the scheme](#),' dated 1 February 2023, accessed by the CMA on 9 June 2023.

⁸⁹ The CMA has not accounted for the expiry of the ACS&T lease due to occur in [X] given this is much further into the future and so subject to much greater uncertainty as to whether the site [X].

⁹⁰ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 24.

⁹¹ Response to the Enquiry Letter, paragraph 29.21.

⁹² Response to the Enquiry Letter, paragraph 29.10. [X]% of HSH's fish and seafood in Grimsby is finished product, compared to a maximum of [X]% for ACS&T in Grimsby (Constellation Cold Logistics response to the section 109 notice of 11 April 2023, paragraph 8.15 and ACS&T response to the section 109 notice of 11 April 2023, paragraph 8.1).

79. The Parties also stated that other competitors generally exert a stronger competitive constraint on HSH than ACS&T due to ACS&T's facilities having suffered from a lack of investment, impacting its service quality.⁹³

CMA's assessment

80. The CMA has assessed closeness of competition between the Parties with reference to third-party views and the Parties' internal documents.

81. Slightly more than half of both customers and competitors responding to the CMA's investigation considered HSH a 'strong' alternative to ACS&T, noting that they have similar locations and services, and are direct competitors.

82. However, fewer customers and competitors considered ACS&T to be a 'strong' alternative to HSH. Customers who rated ACS&T as a less strong constraint said that they lack flexibility and have worse procedures, while competitors said that ACS&T is not as viable as HSH, especially in the seafood sector.

83. In addition, some third parties noted having [redacted] ACS&T. For example, one third party told the CMA that 'ACS&T is [redacted]',⁹⁴ while another stated it had 'not received good customer service from ACS&T in the past and some of its facilities are outdated and need upgrading'.⁹⁵

84. A number of the Parties' internal documents suggest that they compete closely with each other. For example:

- (a) An HSH document dated May 2022 notes that ACS&T has 'a very similar profile to HSH in terms of locations, product and service mix, and customer base', and that they 'overlap in certain key customers' in the fish and seafood segment.⁹⁶
- (b) Another HSH document dated September 2022 notes that ACS&T revenues are split in a similar way to HSH's, with [redacted]% from storage and [redacted]% from transport.⁹⁷
- (c) ACS&T's 2021 Strategy Document noted that ACS&T has a 'new customer centric and flexible focus' which leaves them 'well placed to attract customers from HSH'.⁹⁸

⁹³ Response to the Enquiry Letter, paragraph 31.19.

⁹⁴ Note of call with [redacted], page 1.

⁹⁵ Note of call with [redacted], page 3.

⁹⁶ HSH document dated 27 May 2022, Annex A.022 to the Enquiry Letter, 'Project Coin – Heads up Arcus IC Memo', page 1.

⁹⁷ HSH document dated 23 September 2022, Annex A.024 to the Enquiry Letter, 'AEIF2 Budget Approval Request', page 2.

⁹⁸ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 24.

(d) The Information Memorandum dated February 2022 prepared by Camellia for potential purchasers of ACS&T (the '**2022 Information Memorandum**') also puts HSH and ACS&T in the same service category of 'Flexible Added Value Specialists'.⁹⁹

85. However, some of the Parties' internal documents suggest that they are not particularly close competitors, focusing on differences in the quality of their offerings. For example:

(a) ACS&T's 2021 Strategy Document refers to HSH as having a 'weaker' market perception, with a 'focus on seafood, low price but weak systems infrastructure'.¹⁰⁰

(b) The 2022 OC&C Document states that ACS&T's '[<]'.¹⁰¹

86. There are also some differences in the ancillary services that each Party offers at their Grimsby sites, with ACS&T (but not HSH) offering specialised blast freezing services.¹⁰²

Conclusion on closeness of competition

87. Overall, the evidence above indicates that the Parties generally compete closely with each other, although ACS&T is a relatively weaker constraint on HSH than vice-versa.

Competitive constraints from other suppliers

Parties' submissions

88. The Parties submitted that there is a long list of strong competitors that will constrain the Parties post-Merger, including companies within 30 miles of Grimsby (most significantly Lineage Logistics, DFDS, Magnavale and GXO Logistics), and also large suppliers further afield, such as Newcold, Americold and Reed Boardall.¹⁰³

89. The Parties also submitted that customers providing their own in-house storage act as a direct alternative to the Parties' facilities and so should also be considered as a constraint on the Parties.¹⁰⁴

⁹⁹ ACS&T document dated 7 February 2022, Annex A.030 to the Enquiry Letter, 'Project Coin Information Memorandum', slide 17.

¹⁰⁰ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 13.

¹⁰¹ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 6.

¹⁰² Response to the Enquiry Letter, paragraph 12.1.

¹⁰³ Response to the Enquiry Letter, paragraph 31.19.

¹⁰⁴ Response to the Enquiry Letter, paragraph 29.18.

CMA's assessment

90. The CMA has examined the constraint posed by alternative suppliers with reference to shares of supply, third-party views¹⁰⁵ and the Parties' internal documents. The CMA considers in turn below: (i) large competitors within Grimsby (Lineage and DFDS), (ii) other large competitors within the wider geographic frame of reference (Magnavale and GXO Logistics), and (iii) other constraints on the Merged Entity within and outside the geographic frame of reference.
91. At the outset, the CMA notes that a few customers and one competitor raised high-level concerns regarding the Merger reducing the number of alternative suppliers available to customers in the Grimsby.¹⁰⁶ However, the majority of both customers and competitors were either not concerned about the Merger or expressed positive views about it. Furthermore, as explained below, the CMA considers there will remain a sufficient number of alternative suppliers to constrain the Merged Entity post-Merger.
- Lineage Logistics
92. Lineage is a global logistics supplier and is the largest supplier of temperature-controlled storage and transportation services in the UK, operating 14 facilities in total.¹⁰⁷ Lineage's facility in Grimsby has a capacity of [§<] pallets, resulting in Lineage having approximately a [10-20]% share of supply and making it the fourth largest player post-Merger. In contrast to the Parties, Lineage's Grimsby facility is an automated facility.¹⁰⁸
93. The majority of customers responding to the CMA's investigation considered Lineage to be either a 'strong' or 'moderate' alternative to the Parties.¹⁰⁹ These customers noted that Lineage has a similar offering to the Parties and is easy to use, with some already using it for storage requirements, although two customers noted that Lineage often prioritises its largest customer, which can make getting availability difficult.
94. Nearly half of competitors responding to the CMA's investigation mentioned Lineage as an alternative to the Parties, rating it either as 'strong' or 'moderate'. The reasons provided for rating Lineage as 'strong' included that it is a key supplier in Grimsby, the biggest global storage supplier, and a direct competitor to the Parties.

¹⁰⁵ This includes asking customers to rate given alternative suppliers as 'strong', 'moderate', 'weak' or 'not at all' alternatives to the Parties for temperature-controlled storage and asking competitors to provide alternatives themselves and then rating them on this same scale. Some third parties also gave views in calls.

¹⁰⁶ Third-party responses to the CMA's customer questionnaire, question 12, and competitor questionnaire, question 17.

¹⁰⁷ Response to the Enquiry Letter, paragraph 31.21.

¹⁰⁸ See Lineage, [Lineage Logistics | Grimsby](#), dated 2022, accessed by the CMA on 9 June 2023.

¹⁰⁹ Note that fewer rated Lineage's operations outside of Grimsby well.

95. Lineage is also mentioned consistently as a competitor in both Parties' internal documents. For example:
- (a) ACS&T's 2021 Strategy Document refers to Lineage as the largest competitor in the temperature-controlled storage market in the UK.¹¹⁰ The same document refers to Lineage as a competitor specifically in relation to Grimsby, alongside HSH and DFDS, although indicates that ACS&T is best placed to attract '[X]'.¹¹⁰
 - (b) ACS&T's 2022 Information Memorandum also identifies Lineage as a competitor. While it refers to Lineage as operating large automated high-bay storage facilities, and both ACS&T and HSH as focusing on flexible added value services, the Parties are still described as competing in the same overall market as Lineage.¹¹¹
 - (c) Constellation's 2022 OC&C Document refers to Lineage as the second largest competitor in Grimsby, with HSH the largest and ACS&T the third largest.¹¹²
96. Overall, while Lineage is to some extent differentiated from the Parties by operating an automated high-bay storage facility in Grimsby, on balance, the CMA considers it is a strong alternative to the Merged Entity.
- DFDS
97. DFDS is a logistics group operating across Europe. In the UK, DFDS operates three temperature-controlled storage facilities (as well as temperature-controlled transportation services), one of which is in Grimsby.¹¹³ Post-Merger, DFDS will be the fifth largest competitor to the Parties, with a capacity of [X] pallets and a [0-5]% share of supply.
98. The majority of customer responses to the CMA's merger investigation rated DFDS as either a 'strong' or 'moderate' alternative to the Parties. The reasons provided included that DFDS has a similar offering to the Parties, with strong haulage links. One of HSH's customers that ran a tender in 2022 noted that DFDS was included as one of the alternatives in the tender.¹¹⁴ A minority of customers however said that DFDS could not offer the same quality of service or flexibility with respect to changing storage needs as the Parties.

¹¹⁰ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 13.

¹¹¹ ACS&T document dated 7 February 2022, Annex A.030 to the Enquiry Letter, 'Project Coin Information Memorandum', slide 17.

¹¹² HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 67. See also HSH document dated June 2022, Annex A.027 to the Enquiry Letter, 'Project Coin - Internal Catch-up' slide 34.

¹¹³ [X]. Its other two facilities are located in Liverpool.

¹¹⁴ This tender also included Lineage, and the customer reached out to Magnavale and XPO but they did not participate.

99. Nearly half of competitors responding to the CMA's investigation mentioned DFDS as a 'strong' or 'moderate' alternative to the Parties. Reasons provided included that DFDS is a well-established business with a focus on seafood.
100. While DFDS rated itself as a relatively [redacted] alternative to the Parties, noting that it has 'less capacity in terms of storage space', it noted it is similar to the Parties in also operating a manual facility with mobile racking.¹¹⁵
101. DFDS is also mentioned consistently as a competitor in both Parties' internal documents. For example:
- (a) ACS&T's 2021 Strategy Document identifies DFDS as a competitor in relation to its Grimsby facilities. While the document describes DFDS as an 'all rounder', whereas each of the Parties are described as 'value add',¹¹⁶ the 2022 Information Memorandum instead categorises DFDS as a '[redacted]' alongside each of the Parties.¹¹⁷
 - (b) Constellation's 2022 OC&C Document identifies DFDS as the fourth largest competitor in Grimsby, behind HSH, Lineage, and ACS&T.¹¹⁸
102. Overall, based on the evidence above, the CMA considers that DFDS is a moderate to strong alternative to the Merged Entity.
- Magnavale
103. Magnavale is a specialist supplier of temperature-controlled storage in the UK focusing on the food industry. In contrast to the Parties, it does not offer temperature-controlled transportation services. Magnavale has four temperature-controlled storage facilities in the UK, including a site within the relevant market in Scunthorpe (28 miles away from Grimsby). This store has a capacity of around [redacted] pallets, giving Magnavale a share of supply of around [10-20]%, making it the third largest in the relevant market. The CMA also understands that Magnavale is developing a new automated high-bay facility in Easton, Grantham (79 miles from Grimsby), which will have a capacity of 101,000 pallets.¹¹⁹
104. Slightly more than half of customers stated that Magnavale was not an alternative to the Parties. The most common reason provided was that its facility was located too

¹¹⁵ [redacted], question 4.

¹¹⁶ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 13.

¹¹⁷ ACS&T Internal Document dated 7 February 2022, Annex A.030 to the Enquiry Letter, 'Project Coin Information Memorandum', slide 17.

¹¹⁸ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 67. See also Constellation document dated June 2022, Annex A.027 to the Enquiry Letter, 'Project Coin - Internal Catch-up (June 2022)' slide 34.

¹¹⁹ See Magnavale, [Introducing Our New 44,000 Pallet Cold Storage Facility Based in Easton, Grantham - Magnavale](#), dated 5 September 2022, accessed by the CMA on 15 June 2023.

far away.¹²⁰ However, around a quarter of customers rated Magnavale as a ‘strong’ or ‘moderate’ alternative to the Parties. The reasons provided for this included that Magnavale offers a similar service to HSH and is in a good location. A few competitors also mentioned Magnavale as an alternative to the Parties, with one stating that they were one of the main temperature-controlled storage facilities outside of Grimsby with which they competed.

105. Magnavale itself submitted that it does not typically store fish and seafood products (the predominant products stored in Grimsby-based facilities) due to its location outside of Grimsby making it uncompetitive, which suggests it is not a close competitor to the Parties.¹²¹ That said, Magnavale's website refers to its Scunthorpe site as being ‘ideally located for imports and exports from Grimsby and Hull’, which suggests that it does seek to attract fish and seafood customers.¹²²
106. While Magnavale is not cited as a competitor in the Constellation/HSH internal documents reviewed by the CMA, Magnavale is mentioned as a competitor in several ACS&T internal documents. For example:
 - (a) An ACS&T document prepared by financial advisors, Breeze Corporate Finance, for Constellation dated September 2022 identifies Magnavale as a competitor, although notes its lack of an integrated transport service.¹²³
 - (b) ACS&T's 2021 Strategy Document identifies Rick Bestwick (as Magnavale was previously called) as having a stronger market perception than ACS&T due to being ‘[redacted]’.¹²⁴
 - (c) ACS&T's 2022 Information Memorandum refers to Magnavale developing an automated high-bay store in Grantham. In light of this the document refers to Magnavale as being a ‘flexible added value specialist’ like the Parties but also an ‘automated high-bay’ player.¹²⁵
107. In view of the above, while Magnavale may not typically store fish and seafood (the predominant product types stored by suppliers based in Grimsby) and does not have an integrated transport offering, the CMA considers it may still present a good alternative for at least some customers, and overall exercise a moderate constraint on the Parties.

¹²⁰ Third-party responses to the CMA's customer questionnaire, question 7.

¹²¹ [redacted], question 10.

¹²² See Magnavale, [Magnavale Scunthorpe - Cold Storage for the Food Sector](#), accessed by the CMA on 15 June 2023.

¹²³ ACS&T document, Annex A.087 to the Enquiry Letter, Project Coin: Northern Transport Hub - Overview, page 1.

¹²⁴ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 13.

¹²⁵ ACS&T Internal Document dated 7 February 2022, Annex A.030 to the Enquiry Letter, 'Project Coin Information Memorandum', slide 17.

- GXO Logistics

108. GXO is a global logistics supplier offering temperature-controlled storage and transportation services. It has many temperature-controlled storage facilities across the UK, including a large facility in Hull (29 miles away from Grimsby). GXO's facility in Hull gives it a market share of around [20-30]% in the relevant market, making it the second largest player post-Merger.
109. The majority of customers stated that GXO is an alternative to the Parties, with slightly less than half indicating that GXO is a 'strong' or 'moderate' alternative. The reasons for this included positive experiences using GXO's services in the past. However, nearly half of customers submitted that GXO is not an alternative to the Parties at all, the main reasons including its location and traffic problems with respect to Hull.
110. A minority of competitors mentioned GXO as an alternative to the parties, with one competitor noting them as a 'moderate' alternative and another stating that they compete with GXO 'to some extent'.¹²⁶
111. GXO is not cited as a competitor in the Constellation/HSN internal documents reviewed by the CMA, but it is cited in one ACS&T document: the 2021 Strategy Document, where it is identified as the fourth largest competitor in the UK ahead of each of the Parties.¹²⁷
112. Overall, given GXO's size and that a significant number of customers view GXO as a strong or moderate alternative, the CMA considers on balance that it may exercise a moderate constraint on the Parties.

- Other constraints

113. In addition to the competitors discussed above, the CMA found that there are several constraints that the Parties will continue to face to varying degrees post-Merger. These include:
 - (a) Several smaller competitors with storage facilities in Grimsby, namely Riby, NH Case (previously called Levington), Norfolk Lane (previously called M.S.R Coldstore), and Arctic Breeze. As set out in Table 1, these competitors each have a lower share of supply than the Parties, at [0-5]%, [0-5]%, [0-5]% and [0-5]%, respectively. However, Riby and NH Case were each considered as at least a 'moderate' alternative in nearly a third of customer responses. In

¹²⁶ Note of call with [redacted], paragraph 26; [redacted] response to the CMA's competitor questionnaire.

¹²⁷ ACS&T document dated 15 January 2021, Annex A.081 to the Enquiry Letter, 'The Next Five Years: Strategy Document 2021', page 13.

addition, each of these suppliers were identified as competitors in Constellation's 2022 OC&C Document.¹²⁸

- (b) Other suppliers within the relevant market but outside of Grimsby, namely AJK in Hull and Hemswell in Gainsborough, which have shares of supply of around [0-5]% and [0-5]%, respectively. One customer identified AJK as a 'weak' alternative, and both were mentioned by a competitor as a 'moderate' alternative, to the Parties.
- (c) Large national competitors with storage facilities outside the relevant market, such as Reed Boardall, NewCold, and Americold. Several customers said that each of these competitors were 'moderate' alternatives to the Parties. Each of these competitors were identified as competitors in ACS&T's 2022 Information Memorandum, where Reed Boardall and Americold were said to provide significant storage capacity, while offering flexible added-value services like the Parties. In addition, the Parties indicated that Reed Boardall previously won a seafood customer from the Parties in 2018.¹²⁹

114. In view of the above, the CMA believes that there are several additional suppliers in and outside the relevant market that may present an alternative option for at least some customers and exercise a constraint on the Merged Entity. Furthermore, amongst these, smaller suppliers within the relevant market are likely to represent a stronger alternative for smaller customers, while larger customers are more likely to consider large operations outside of the relevant market as alternatives.

Conclusion on competitive constraints

115. The CMA believes that there are a wide range of alternative suppliers that will constrain the Merged Entity post-Merger, including: (i) two moderate-to-strong alternatives to the Parties within Grimsby, Lineage and DFDS; (ii) two large alternatives within the relevant market that are moderate constraints on the Parties, GXO and Magnavale; and (iii) other suppliers, both within and outside the relevant market that may present an alternative for at least some customers.

Conclusion on horizontal unilateral effects

116. For the reasons set out above, the CMA believes that while the Merged Entity will be the largest player in the relevant market, combining two relatively close competitors, there will remain a sufficient number of alternative suppliers to constrain the Merged Entity (including amongst these, four players capable of exerting a strong or moderate constraint). Accordingly, the CMA found that the

¹²⁸ HSH document dated 18 October 2022, Annex A.028 to the Enquiry Letter, 'Project Coin - CDD final report', slide 67. Constellation document dated June 2022, Annex A.027 to the Enquiry Letter, 'Project Coin - Internal Catch-up (June 2022)' slide 34.

¹²⁹ Response to the Enquiry Letter, paragraph 31.19.

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 temperature-controlled storage services in the area of 30 miles surrounding Grimsby.

BARRIERS TO ENTRY AND EXPANSION

117. 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.¹³⁰
118. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

THIRD-PARTY VIEWS

119. The CMA contacted customers and competitors of the Parties as part of the investigation. Their views have been taken into account where appropriate in the competitive assessment above.

¹³⁰ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, from paragraph 8.40.

DECISION

120. Consequently, the CMA does not believe that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
121. The Merger will therefore not be referred under section 22(1) of the Act.

Kasia Bojarojc
Director
Competition and Markets Authority
20 June 2023