

Completed Acquisition by Spreadex Limited of the B2C Business of Sporting Index

Decision on relevant merger situation and substantial lessening of competition

ME 7085/23

The Competition and Markets Authority’s decision on relevant merger situation and substantial lessening of competition under section 22 of the Enterprise Act 2002 given on 4 April 2024. Full text of the decision published on 29 April 2024.

The Competition and Markets Authority (**CMA**) has excluded from this published version of the decision information which the CMA considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. Some numbers have been replaced by a range, which are shown in square brackets.

Contents

SUMMARY	3
ASSESSMENT	6
1. PARTIES, MERGER AND MERGER RATIONALE	6
2. PROCEDURE	7
3. JURISDICTION	7
4. COUNTERFACTUAL	8
4.1 Limb 1: Absent the Merger, would Sporting Index have exited?	9
4.2 Limb 2: Absent the Merger, would there have been an alternative, less anti-competitive purchaser to Spreadex for Sporting Index?	10
4.3 CMA’s conclusion on the counterfactual	12
5. COMPETITIVE ASSESSMENT	13
5.1 Background and nature of competition.....	13
5.2 Market definition	14

5.3 Horizontal unilateral effects in the supply of licensed online sports spread betting in the UK 17

5.4 Conclusion on horizontal unilateral effects 24

6. ENTRY AND EXPANSION 25

7. CONCLUSION ON SUBSTANTIAL LESSENING OF COMPETITION 26

DECISION 27

SUMMARY

OVERVIEW OF THE CMA'S DECISION

1. The Competition and Markets Authority (**CMA**) believes that the completed acquisition by Spreadex Limited (**Spreadex**) of the business-to-consumer (**B2C**) business of Sporting Index Limited (**Sporting Index**), gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of licensed online sports spread betting services in the UK.
2. Spreadex agreed to acquire Sporting Index from Sporting Group Holding Limited (**Sporting Group**), a subsidiary of La Française des Jeux (**FDJ**), and the transaction completed on 6 November 2023 (the **Merger**).
3. Spreadex and Sporting Index are together referred to as the **Parties** and, for statements relating to after the Merger, the **Merged Entity**.
4. As the CMA has found that the Merger gives rise to a realistic prospect of an SLC, Spreadex has until 11 April 2024 to offer undertakings in lieu of a reference (**UILs**) to the CMA that will remedy the competition concerns identified. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Enterprise Act 2002 (the **Act**).

Who are the businesses and what products/services do they provide?

5. Spreadex and Sporting Index both provide online sports fixed odds betting services and online sports spread betting services (together, **online sports betting services**), primarily to customers based in the UK. Spreadex is also active in financial spread betting and casino betting.
6. The CMA focused its investigation on the supply of online sports spread betting, given the Parties are the only licensed sports spread betting providers in the UK.

Why did the CMA review this merger?

7. The CMA's primary duty is to seek to promote competition for the benefit of consumers. It has a duty to investigate mergers that could raise competition concerns in the UK, provided it has jurisdiction to do so.
8. In this case, the CMA has concluded it has jurisdiction to review this Merger because a relevant merger situation has been created.
9. A relevant merger situation is created when, as a result of a transaction, two enterprises cease to be distinct and either (a) the target company generates more

than £70 million of turnover in the UK; or (b) the merger results in the merged firm having a share of supply of goods or services of any description in the UK (or substantial part of the UK) of 25% or more, and the merger results in an increment to the share of supply.

10. On 6 November 2023, Spreadex acquired control over Sporting Index. Each of Spreadex and Sporting Index is an enterprise and, as a result of the Merger, these enterprises have ceased to be distinct.
11. The Merged Entity has a share of 100% in the supply of licensed online sports spread betting services in the UK (with the Merger having resulted in an increment).

What evidence has the CMA looked at?

12. In assessing this Merger, the CMA considered a wide range of evidence in the round.
13. The CMA received several submissions and responses to information requests from Spreadex. The CMA examined internal documents and emails to understand Spreadex's rationale for pursuing the Merger and the competitive dynamics of the markets it operates in.
14. The CMA also received information from FDJ and Sporting Group on alternative purchasers for Sporting Index and FDJ's plans for Sporting Index in the event that a suitable purchaser for the business was not found.
15. The CMA also spoke to and gathered evidence from other market participants, including sports fixed odds betting companies and financial spread betting companies, to understand the competitive dynamics under which providers of sports spread betting services operate, including the extent to which other betting companies might themselves start providing these services.

What did the evidence tell the CMA...

...about what would have happened had the Merger not taken place?

16. In order to determine the impact that the Merger could have on competition, the CMA has considered what would have happened had the Merger not taken place. This is known as the counterfactual.
17. The evidence indicates that, alongside Spreadex's bid, FDJ also received bids from two other credible potential purchasers during the process of selling Sporting Index. The CMA considers that either of these alternative bidders would have operated the business in competition with Spreadex and been a less anti-

competitive purchaser than Spreadex which, as a result of the Merger, is now the only licensed sports spread betting provider in the UK.

...about the effects on competition of the Merger?

18. The CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in the supply of licensed online sports spread betting to UK consumers based on the available evidence. In particular:
- (a) the Merger has created a monopoly supplier of licensed online sports spread betting services in the UK, by removing the only other licensed supplier of these services;
 - (b) customers that approached the CMA raising concerns about the Merger considered that the Merger removed Spreadex's only competitor;
 - (c) fixed odds betting providers generally considered that the Parties are each other's closest competitors and that online sports fixed odds betting is not substitutable for online sports spread betting;
 - (d) internal documents indicate that Spreadex viewed Sporting Index as its only competitor in the supply of licensed online sports spread betting;
 - (e) evidence from third parties generally suggests that sports fixed odds and unlicensed sports spread betting providers exercise at most a weak constraint on the Merged Entity's sports spread betting activities; and
 - (f) while one betting company indicated it might be interested in starting to offer sports spread betting services in the UK, it also identified a number of hurdles that would need to be overcome before it could enter the market.
19. The CMA therefore believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC in the provision of licensed online sports spread betting services in the UK.

What happens next?

20. As a result of these concerns, the CMA believes the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of licensed online sports spread betting services in the UK.
21. Spreadex has until 11 April 2024 to offer an undertaking which might be accepted by the CMA to address the SLC. If no such undertaking is offered, or the CMA decides that any undertaking offered is insufficient to remedy its concerns to the phase 1 standard, then the CMA will refer the Merger for an in-depth phase 2 investigation pursuant to sections 22(1) and 34ZA(2) of the Act.

ASSESSMENT

1. PARTIES, MERGER AND MERGER RATIONALE

22. Spreadex provides online sports betting services, primarily to customers based in the UK. Spreadex offers both fixed odds and spread betting services, covering a range of sports including football, F1 motor racing, rugby, rowing, golf and greyhound racing. It also provides financial spread betting and casino betting services. The turnover of Spreadex in FY2022 was approximately £71 million worldwide, almost all of which (over £70 million) was earned in the UK.¹ In 2023, Spreadex earned around £[§<] million turnover from the sports spread betting part of its business and almost £[§<] million from the fixed-odds betting part of its business.
23. Sporting Index² provides online sports betting services primarily in the UK, with minimal sales to customers in Ireland and Gibraltar. Sporting Index offers both spread and fixed odds betting services. The turnover of Sporting Index in FY2022 was around £9.7 million worldwide, almost all of which was earned in the UK.³ In 2023, Sporting Index had around £[§<] million turnover from the spread betting part of its business and almost £[§<] million from the fixed-odds betting part of its business.
24. Spreadex acquired Sporting Index from Sporting Group, a subsidiary of FDJ, on 6 November 2023. The Merger did not include the purchase of the business-to-business (**B2B**) activities of Sporting Index Limited (**Sporting Solutions**), which were retained by FDJ following a corporate restructure implemented in advance of the Merger.⁴
25. Spreadex's internal documents suggest that the strategic rationale for the Merger was access to Sporting Index's client base, historical data and dormant accounts, as well as to remove the competitive threat of another firm buying the business.⁵

¹ Briefing Paper concerning the anticipated acquisition of Sporting Index Limited by Spreadex Limited (**Briefing Paper**), 13 July 2023, paragraphs 2.4 and 4.1.

² Referred to in some internal documents as 'SPIN'.

³ Briefing Paper, paragraphs 2.1-2.2 and 4.1.

⁴ Spreadex gained control over Sporting Index Limited which, following the corporate restructure, owned the Sporting Index Brand, IP, domain names, regulatory licences, customer lists, deferred tax losses, trade debtors and trade creditors/approvals and six employees. The assets, technology and employees comprising Sporting Solutions were carved out and moved to Sporting Solutions Limited.

⁵ Spreadex Emails 0128 and 0103 submitted in response to Question 22 of the Enquiry Letter.

2. PROCEDURE

26. The CMA's mergers intelligence function identified the Merger as warranting an investigation.⁶
27. The CMA commenced its phase 1 investigation on 6 February 2024. As part of its phase 1 investigation, the CMA gathered a range of evidence, including internal documents and emails, from Spreadex. The CMA also sought information and documents from FDJ on its plans for Sporting Index absent the Merger. Spreadex also had opportunities to make submissions and comment on the CMA's emerging thinking throughout the phase 1 investigation. In March 2024 the CMA invited Spreadex to attend an Issues Meeting, and Spreadex submitted its views in writing.
28. The CMA also gathered evidence from other market participants, including fixed odds betting companies, financial spread betting companies, and other participants in the bid process for Sporting Index. Given the Parties are the only UK licensed sports spread betting providers, evidence from these other providers helped the CMA understand the competitive dynamics under which the Parties operated including whether third parties may start providing sports spread betting services.
29. Where necessary, this evidence has been referred to within this Decision.
30. The Merger was considered at a Case Review Meeting.⁷

3. JURISDICTION

31. The CMA believes that each of Spreadex and Sporting Index is an enterprise within the meaning of section 129 of the Act.
32. As set out in paragraph 24 above, Spreadex acquired control of the B2C business of Sporting Index through the acquisition of the legal entity Sporting Index Limited, from which Sporting Solutions (the B2B business) had already been carved-out. The assets that were transferred to Spreadex enabled Spreadex to continue the B2C business of supplying sports betting products in the UK carried on by Sporting Index prior to the Merger.⁸ As a result of the Merger, Spreadex and Sporting Index have ceased to be distinct.
33. The Parties overlap in the supply of licensed online sports spread betting services in the UK, and had a combined share of supply by revenue of 100% in 2022 (with

⁶ [Mergers: Guidance on the CMA's jurisdiction and procedure \(CMA2\)](#), January 2021 (as amended on 4 January 2022), paragraphs 6.4–6.6.

⁷ [CMA2](#), from page 65.

⁸ [CMA2](#), paragraphs 4.8-4.12.

an increment of [20-30]% as a result of the Merger). The CMA therefore considers that the share of supply test in section 23 of the Act is met.

34. The Merger completed on 6 November 2023. The deadline for a decision under section 24 of the Act is 5 April 2024, following extension under section 25(1) of the Act.
35. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
36. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 7 February 2024 and the statutory 40 working day deadline for a decision is therefore 4 April 2024.

4. COUNTERFACTUAL

37. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).⁹
38. In completed mergers, the counterfactual may consist of the pre-merger conditions of competition, or conditions of competition that involve stronger or weaker competition between the parties to a merger than under the pre-merger conditions of competition.¹⁰ In determining the appropriate counterfactual, the CMA will generally focus only on 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.¹¹
39. As a part of its counterfactual assessment, the CMA may consider whether, absent the merger, one of the merger firms is likely to have exited the market. This may include exit for strategic or financial reasons. For the CMA to accept at phase 1 that a merger firm would have exited the market absent the merger, it must believe, based on compelling evidence, that it is inevitable that:
 - (a) the merger firm would have exited the market (through failure or otherwise) (**Limb 1**); and
 - (b) there would not have been an alternative, less anti-competitive purchaser for the merger firm or its assets to the acquirer in question (**Limb 2**).¹² Limb 2 will not be met where there is an alternative less anti-competitive purchaser willing to acquire the firm at any price above liquidation value.¹³

⁹ [Merger Assessment Guidelines \(CMA129\)](#), March 2021, paragraph 3.1.

¹⁰ [CMA129](#), paragraph 3.2.

¹¹ [CMA129](#), paragraph 3.9.

¹² [CMA129](#), paragraphs 3.21, 3.23.

¹³ [CMA129](#), paragraph 3.30.

40. In assessing the relevant counterfactual in this case, the CMA has considered whether there is compelling evidence that it is inevitable that, absent the Merger (1) Sporting Index would have exited the markets in which it is active and (2) there would not have been an alternative, less anti-competitive, purchaser for Sporting Index.

4.1 Limb 1: Absent the Merger, would Sporting Index have exited?

4.1.1 Spreadex submissions

41. In the Issues Letter Response, Spreadex submitted that absent the Merger, Sporting Index would have exited the UK sports spread betting market.¹⁴ In particular:

- (a) Sporting Index had reported increasing year-on-year losses since its acquisition by FDJ, and these had increased to 84% of revenue in 2022.¹⁵
- (b) During a shareholder meeting in February 2023, FDJ's CFO stated that Sporting Index did not align with FDJ's wider strategy, and that it had therefore launched a process to divest the business.¹⁶ FDJ's 2022 financial statements had reclassified Sporting Index as 'assets held for disposal'.¹⁷
- (c) An increasingly rigorous regulatory environment in the UK would have limited Sporting Index's ability to improve its profitability.¹⁸

4.1.2 CMA assessment

42. Sporting Index has been loss-making since 2019.¹⁹ However, being loss-making is not sufficient in itself to demonstrate that exit of a firm is inevitable or likely.²⁰ Market participants (including alternative bidders for Sporting Index) told the CMA that they believed Sporting Index could be restructured to be profitable.²¹

43. Notwithstanding this, the CMA has considered the evidence on the likelihood of strategic exit by Sporting Index. During the shareholders' meeting in February 2023 announcing its FY2022 results referred to above, FDJ told shareholders that

¹⁴ Response to Question 19 of the Enquiry Letter, 21 December 2023; Spreadex response to the Issues Letter, 12 March 2024 (**Issues Letter Response**), slide 6.

¹⁵ Issues Letter Response, slides 5 and 6.

¹⁶ Issues Letter Response, slide 7; ['Webcast of FDJ Annual Results 2022'](#), dated 16 February 2023, accessed 27 March 2024.

¹⁷ Issues Letter Response, slide 6.

¹⁸ Issues Letter Response, slide 6.

¹⁹ ['Sporting Index Limited Annual report and financial statements for the year ended 31 December 2022'](#), dated 11 May 2023, accessed 3 April 2024; ['Sporting Index Limited Annual report and financial statements for the year ended 31 December 2021'](#), dated 15 June 2022, accessed 3 April 2024; ['Sporting Index Limited Annual report and financial statements for the year ended 31 December 2020'](#), dated 27 July 2021, accessed 3 April 2024.

²⁰ [CMA129](#), paragraphs 3.27 and 3.28

²¹ Note of a call with third party, February 2024; Note of a call with third party, February 2024.

it planned to divest Sporting Index given that it was loss-making and did not align with FDJ's wider strategy (as spread betting was a 'niche' type of sports betting that attracted high value customers and was not the rationale for FDJ's acquisition of Sporting Group a few years earlier).²² FDJ undertook a sales process and invited bidders for the business. The CMA requested production of FDJ and Sporting Group internal documents which discussed future plans for Sporting Index. [redacted].²³

44. Based on the available evidence, the CMA considers that FDJ may have chosen to wind down Sporting Index's activities had it not found a suitable buyer for the business. However, the CMA does not consider that the evidence it has seen is compelling in showing that exit was inevitable. The CMA therefore considers that there is a realistic prospect that exit would not have occurred, and the phase 1 standard – that exit is inevitable – is not met.

4.2 Limb 2: Absent the Merger, would there have been an alternative, less anti-competitive purchaser to Spreadex for Sporting Index?

4.2.1 Spreadex submissions

45. In the Issues Letter Response, Spreadex submitted that it was not aware of the existence of any alternative bidder with the ability to continue operating Sporting Index as a business.²⁴ It submitted that the target assets were not capable of being operated as a standalone business.²⁵ Absent a comprehensive transitional services agreement (**TSA**), any alternative purchaser would need FCA-approved staff and appropriate technological infrastructure, regulatory controls, systems and financial resources to operate Sporting Index.²⁶
46. Spreadex submitted that [redacted] providing a TSA [redacted]²⁷ [redacted] was £[redacted] million per year, at a time when Sporting Index's revenue was £[redacted] million (and likely to fall further), making the business loss-making on the TSA alone.²⁸
47. Therefore, Spreadex's view was that even if there were other bidders for the assets or Sporting Index business, those bidders would not have been able to run

²² See '[Webcast of FDJ Annual Results 2022](#)'.

²³ Appendices 1-5 to Third-party response to RF13, 1 February 2024.

²⁴ Issues Letter Response, slide 13.

²⁵ Issues Letter Response, slide 17. These assets comprised the Sporting Index brand; IP and domain names; regulatory licences with the Financial Conduct Authority (**FCA**) and UK Gambling Commission (**UKGC**); customer lists (including all trading history); unrecognised deferred tax losses; trade debtors and trade creditors / accruals and six employees. As noted in paragraph 31, the CMA has found that the assets in combination constitute an enterprise for the purpose of s.129 of the Act.

²⁶ Issues Letter Response, slide 13.

²⁷ Issues Letter Response, slides 14 and 15. Spreadex submitted that [redacted].

²⁸ Issues Letter Response, slide 16.

the business to compete against Spreadex and therefore the Merger makes little difference compared to the counterfactual.

4.2.2 CMA assessment

48. There were two alternative purchasers for Sporting Index that participated in the bidding process.²⁹ Both bidders have experience providing betting services in the UK:

- (a) One bidder would have been able to draw upon prior experience of running an FCA-regulated betting business and is currently active in the B2B market.³⁰
- (b) The other bidder offers fixed odds betting services in the UK, and is an overseas provider of sports spread betting services.³¹

49. Either bidder would have been a less anti-competitive purchaser than Spreadex, the only other licensed sport spread betting provider in the UK. The CMA requested production of FDJ's internal documents assessing these alternative bids. These documents show [redacted], although FDJ ultimately selected Spreadex as the preferred bidder.³²

50. The CMA has considered Spreadex's submissions that alternative bidders would not have been able to operate Sporting Index as an effective competitor to Spreadex had they been successful. In this regard, the CMA notes:

- (a) Both alternative bidders told the CMA that they would have needed a TSA had their bids had been successful, although the scope of the support each bidder required differed. [redacted]³³ [redacted].³⁴ Because negotiations were never progressed with the alternative bidders, the scope of what might have been agreed is uncertain. However, the CMA has not seen evidence demonstrating that alternative bidders would not have been able to secure the assets and/or transitional support from FDJ to be able to run Sporting Index as an effective competitor. The CMA also notes that Spreadex's submissions suggest that certain services that a bidder might have required could be sourced from third parties.³⁵

²⁹ Note of a call with a third party, February 2024; Note of a call with a third party, February 2024; Email from a third party to the CMA, 6 March 2024; Email from a third party to the CMA, 6 March 2024; Third-party response to Question 2 of RFI3.

³⁰ Note of a call with a third party, February 2024.

³¹ Note of a call with a third party, February 2024.

³² Third-party response to Question 4 of RFI3, 1 February 2024; Appendix 4 to Third-party response to RFI3, 1 February 2024; Email from a third party to the CMA, 6 March 2024.

³³ Email from third party to the CMA, 15 March 2024.

³⁴ [redacted].

³⁵ Issues Letter Response, slides 53 and 54.

- (b) In relation to Spreadex's submissions regarding the difficulties other bidders might have faced generating a return from the Sporting Index business given it was loss-making and the price of the TSA, alternative bidders told the CMA that they believed Sporting Index could be returned to profitability and the final price of a TSA would have been subject to negotiation.³⁶ In any event, buyers may be willing to accept losses over the short/mid-term to generate returns in the longer term.
- (c) Finally, the Merger creates a monopoly in the supply of licensed sports spread betting in the UK and therefore even if in a hypothetical scenario where an alternative purchaser may have been a weaker competitor than Sporting Index pre-Merger (for example, because it may not have been able to offer the same range of services), this would still be a more competitive situation than that which exists with the Merger.

51. Moreover, had negotiations with the two alternative bidders fallen through, the CMA considers that FDJ might have continued funding Sporting Index until it found an alternative buyer. The CMA notes in this respect that:

- (a) In February 2024, FDJ initiated a sale process for Sporting Solutions (the B2B arm that had been retained by Sporting Group).³⁷ A fixed odds provider told the CMA that it may consider entering the sports spread betting market via an acquisition if there were an attached B2B opportunity.³⁸
- (b) More generally, FDJ told the CMA that, absent a sale from the initial sales process, it would have started discussions with alternative purchasers.³⁹

52. As explained above, in order to accept an exiting firm counterfactual at phase 1, the CMA must see compelling evidence that it is inevitable that there would not have been a less anti-competitive purchaser for the existing firm or its assets.

53. For the reasons set out above, the CMA does not consider that there is compelling evidence that it is inevitable that absent the Merger there would not have been an alternative, less anti-competitive purchaser to Spreadex for Sporting Index.

4.3 CMA's conclusion on the counterfactual

54. For the reasons set out above, the CMA believes the relevant counterfactual is conditions of competition comparable to the pre-Merger situation, with Sporting

³⁶ Note of a call with a third party, February 2024; Note of a call with a third party, February 2024.

³⁷ '[FDJ to sell Sporting Solutions as future lies in B2C growth \(sbcnews.co.uk\)](https://www.sbcnews.co.uk)', dated 19 February 2024, accessed 27 March 2024.

³⁸ Third-party response to the CMA questionnaire, question 6.

³⁹ Email from FDJ submitted to the CMA, 15 March 2024.

Index operating as an independent competitor to Spreadex either under existing ownership or under the ownership of an alternative purchaser.

5. COMPETITIVE ASSESSMENT

5.1 Background and nature of competition

55. The Parties supply online sports betting services and are active in both fixed odds betting and spread betting.
56. Sports betting involves a customer staking an amount of money (ie the initial stake) on the outcome of a sports event, or on the likelihood of an event occurring or not occurring.⁴⁰ A customer's 'payoff' is the amount they stand to win if their bet is successful, and the 'losses' are the amount they stand to lose. Online betting involves customers using websites and apps to place their bets.
57. In fixed odds betting, the payoff is determined based on odds set in advance. The losses are capped based on the amount of the initial stake. Within fixed odds, odds can be determined by the bookmaker (sportsbook betting) or through a betting exchange, where customers set their own odds and bet against each other (exchange betting). In this Decision, references to 'fixed odds' exclude exchange betting.
58. In spread betting, the provider offers a spread (or range) of outcomes and allows customers to 'buy' (predict higher than the spread) or 'sell' (predict lower than the spread). Customers choosing to buy will win if the outcome is higher than the predicted level and lose if it is lower. Customers choosing to sell will win if the outcome is lower than the predicted spread and lose if it is higher.⁴¹ The payoff is determined based on 'how right' the customer is and the losses can be far higher than the initial amount staked. There is a variety of different outcomes that customers can choose to bet on. By way of example, customers can bet on how many goals will be scored in a football match or the total minutes of all goals scored by headers in a football match, how many sixes will be hit in a cricket match, or how many runs a team or individual player will score in a cricket match.
59. The UKGC regulates all gambling in Great Britain, apart from spread betting which is regulated by the FCA.

⁴⁰ Under the Gambling Act 2005, betting is defined as 'making or accepting a bet on: (a) the outcome of a race, competition or other event or process; (b) the likelihood of anything occurring or not occurring; or (c) whether anything is or is not true' (section 9(1)).

⁴¹ Response to Question 26 of the Enquiry Letter, 21 December 2023.

5.2 Market definition

60. Where the CMA makes an SLC finding, this must be ‘within any market or markets in the United Kingdom for goods or services’. An SLC can affect the whole or part of a market or markets. Within that context, the assessment of the relevant market(s) is an analytical tool that forms part of the analysis of the competitive effects of the merger and should not be viewed as a separate exercise.⁴²
61. Market definition involves identifying the most significant competitive alternatives available to customers of the merger parties and includes the sources of competition to the merger parties that are the immediate determinants of the effects of the merger.
62. While market definition can be an important part of the overall merger assessment process, the CMA’s experience is that in most mergers, the evidence gathered as part of the competitive assessment, which will assess the potentially significant constraints on the merger parties’ behaviour, captures the competitive dynamics more fully than formal market definition.⁴³

5.2.1 Product market

63. The Parties overlap in the supply of sports fixed odds betting and sports spread betting. This CMA’s investigation focused on sports spread betting.^{44, 45}
64. Spreadex submitted that the relevant product market for the assessment of the Merger is online sportsbook betting, which includes both fixed odds and sports spread betting. Spreadex submitted that:
- (a) a wide product market is consistent with the CMA’s previous decision in relation to the acquisition of Star Group by Flutter Entertainment;⁴⁶
 - (b) customers can use sports spread betting and fixed odds betting to achieve the same outcomes, and these products are used interchangeably;⁴⁷ and
 - (c) the risk profile for spread and fixed odds betting products are similar.⁴⁸

⁴² [CMA129](#), paragraph 9.1.

⁴³ [CMA129](#), paragraph 9.2.

⁴⁴ The Parties are the only two licensed providers that offer sports spread betting services in the UK.

⁴⁵ The CMA considers that the Merger does not give rise to competition concerns in relation to sports fixed odds betting. The CMA considers that the Parties are small providers in the supply of sports fixed odds betting in the UK, with a combined share of around [0-5]% in 2022, and that the Parties would continue to face strong competitive constraints from a number of large fixed odds providers.

⁴⁶ [Anticipated merger of Flutter Entertainment plc and The Stars Group Inc., decision on relevant merger situation and substantial lessening of competition](#) (**Flutter / Stars**), paragraphs 53-57.

⁴⁷ Issues Letter Response, slides 25, 79, and 80.

⁴⁸ Issues Letter Response, slides 75 and 76. Spreadex submitted an analysis which found that on average the ‘amount risked’ per bet (ie the maximum amount a customer could lose in a bet) and average losses for its customers were broadly similar for spread and fixed odds bets in 2022.

65. The relevant product market is identified primarily by reference to demand-side substitution although the CMA may also consider supply-side substitution.⁴⁹

5.2.1.1 *Fixed odds vs spread betting*

66. The CMA has not previously considered sports spread betting or whether it should be part of a wider sports betting market. Recent cases, including *Flutter / Stars*, considered transactions where the merging parties were only active in the supply of fixed odds sportsbook betting and exchange betting.

67. The evidence available from third parties generally indicates that fixed odds betting products are not demand-side substitutes for spread betting products. A third party told the CMA that sports spread betting was riskier as, unlike fixed odds betting, customers could lose more than their initial stakes. This third party noted that spread betting customers were rewarded for 'how right' they are and that this feature could not be easily replicated using fixed odds products. It said that customer needs are different for the two types of products and 'customers' approach to risk is different'.⁵⁰ Another third party noted that the complex nature of spread betting meant it attracted more sophisticated customers with a larger risk appetite.⁵¹ Another said that customers bet on spread betting markets because 'of the inherent volatile nature of the product'.⁵² Several third parties considered sports spread betting was a 'niche' market in comparison to fixed odds betting.⁵³

68. While some third-party responses indicated that there may be some instances where customers could substitute between spread and fixed odds betting products,⁵⁴ most considered that customers viewed these as two separate products.⁵⁵

69. In addition, in contrast to its submissions, Spreadex's website has a 'Risk Warning Notice' that states that spread bets 'carry a high risk' and that they 'differ markedly from the more common form of fixed odds betting'.⁵⁶

70. When considering whether spread betting and fixed odds products are in the same market, the question is whether sufficient numbers of customers would switch to fixed odds betting as a result of a small but significant worsening of terms of spread betting products.⁵⁷ The evidence the CMA has seen indicates that this may

⁴⁹ [CMA129](#), paragraph 9.7.

⁵⁰ Note of a call with a third party, January 2024; Third-party responses to the CMA questionnaire.

⁵¹ Note of a call with a third party, January 2024.

⁵² Third-party responses to the CMA questionnaire.

⁵³ Third-party responses to the CMA questionnaire.

⁵⁴ Note of a call with a third party, January 2024; Note of a call with a third party, January 2024; Third-party responses to the CMA questionnaire.

⁵⁵ Notes of calls with third parties, January and February 2024; Third-party responses to the CMA questionnaire, question 6.

⁵⁶ '[Risk Warning Notice | Terms & Agreements | Spreadex](#)', accessed 27 March 2024.

⁵⁷ See [CMA129](#), paragraph 9.7.

be unlikely, given the extent of the differences between these products. For example, while Spreadex has submitted that customers could theoretically achieve the same outcomes with both products, the CMA notes that a fixed odds customer would need to place a higher initial stake or place multiple bets to achieve the same payout as a sports spread customer.⁵⁸ Moreover, there are some sports spread products for which there are no fixed odds alternatives.⁵⁹

71. From a supply-side perspective, the evidence from fixed odds providers indicates that they would not be able to move easily into providing sports spread betting products, as these products require different technology, skills, and compliance with different regulatory requirements.⁶⁰ The CMA did not identify any fixed odds providers that would be willing to start supplying sports spread betting services in response to a small but significant worsening of the terms of spread betting products.⁶¹

5.2.1.2 *Licensed vs unlicensed*

72. Spreadex submitted that there were at least two unlicensed overseas providers that offer sports spread betting in the UK.⁶² Third-party feedback indicated that unlicensed providers are not alternatives to licensed providers (ie, the Parties), as they do not provide the same level of protection.⁶³ FCA regulations also prohibit unlicensed providers from actively soliciting customers in the UK.⁶⁴ Other third parties have referred to the Merger resulting in just one sports spread betting provider in the UK⁶⁵ indicating that they do not view overseas providers as being a relevant competitive constraint.

5.2.1.3 *CMA's conclusion on the relevant product market*

73. For the reasons set out above, based on the available evidence, the CMA has concluded that the relevant product market is the supply of licensed online sports spread betting. The CMA has assessed the extent to which fixed odds providers and unlicensed providers exert out of market constraints in the competitive assessment below.

⁵⁸ Spreadex Response to Question 3 of RF11, 15 January 2024. The CMA also understands that the ease with which customers are able to replicate outcomes will also depend on the type of sports spread betting and fixed odds betting products available.

⁵⁹ For example, the CMA notes that there is no fixed odds equivalent for the 'Shirt Numbers' spread product (where customers bet on the total shirt numbers of all goal scorers in a football match).

⁶⁰ Notes of calls with third parties, January and February 2024.

⁶¹ Third-party responses to the CMA questionnaire, question 8.

⁶² Response to Question 11 of the Enquiry Letter, 21 December 2023.

⁶³ Email from an affected individual, 18 January 2024; and Email from an affected individual, 20 February 2024.

⁶⁴ See sections 19 and 21, Financial Services and Markets Act 2000 (**FSMA**). A third party explained that UK customers can legally use the services of an unlicensed provider if they were overseas tax residents in certain jurisdictions (Note of a call with a third party, February 2024).

⁶⁵ Third-party response to the CMA questionnaire, question 10; Email from an affected individual, 26 January 2024; Email from an affected individual, 20 February 2024.

5.2.2 Geographic market

74. Spreadex submitted that the narrowest relevant geographic market is the UK, noting that suppliers of online gambling within the UK are subject to regulation at the national level by the UKGC and/or the FCA, and this is consistent with previous CMA decisions.⁶⁶ Spreadex also submitted that the market may be wider since the Parties have international customers, where the regulatory regimes of those countries allow (eg Denmark and Ireland).⁶⁷ However, the majority of the Parties' customers are located in the UK⁶⁸ and the regulation of sports spread betting differs across jurisdictions.
75. The CMA has previously considered that the relevant geographic market in relation to various segments within online gambling is the UK, given that providers need to hold a UKGC licence to serve customers in the UK.⁶⁹ There are similar national regulations in relation to sports spread betting, which requires a licence from the FCA to serve customers in the UK.
76. On the basis of the evidence gathered, the CMA has concluded that the relevant geographic market is the UK.

5.2.3 Conclusion on market definition

77. For the reasons set out above, the CMA has concluded that the relevant market is the supply of licensed online sports spread betting in the UK.

5.3 Horizontal unilateral effects in the supply of licensed online sports spread betting in the UK

78. The CMA assesses the potential competitive effects of mergers by reference to theories of harm. Theories of harm provide a framework for assessing the effects of a merger and whether or not it could lead to an SLC relative to the counterfactual.⁷⁰
79. The CMA has considered one theory of harm: horizontal unilateral effects in the supply of licensed online sports spread betting in the UK. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged entity profitably to raise prices or to degrade quality on its own and without needing to coordinate with its rivals.⁷¹

⁶⁶ Briefing paper, paragraph 3.4 and Response to Question 18 of the Enquiry Letter.

⁶⁷ Spreadex Response to Question 1 of RF11, 15 January 2024.

⁶⁸ Briefing paper, paragraphs 2.1 and 2.4.

⁶⁹ [Flutter / Stars](#), paragraph 72; [Stars / SkyBet](#), paragraph 41; [GVC / Ladbrokes Coral](#), paragraph 56; [Paddy Power / Betfair](#), paragraph 44.

⁷⁰ [CMA129](#), paragraph 2.11.

⁷¹ [CMA129](#), paragraph 4.1.

Horizontal unilateral effects are more likely when the parties to a merger are close competitors.⁷²

80. The concern under this theory of harm is that the removal of one party as a competitor could allow the Merged Entity to increase prices (for example, in terms of the size of the spread and/or promotions), lower quality and/or dampen the incentive to innovate (for example, by reducing the range of sports or bets available). It may be less costly for the Merged Entity to raise prices (or lower quality) because it would recoup the profit on recaptured sales from those customers who would have switched to the offer of the other merging company absent the Merger.
81. In order to assess the likelihood of the Merger resulting in horizontal unilateral effects, the CMA considered:
- (a) shares of supply;
 - (b) closeness of competition; and
 - (c) alternative constraints.

5.3.1 Shares of online sports spread betting

82. Spreadex submitted that the Parties have around a 95% share in the supply of online sports spread betting in the UK.⁷³ This estimate was based on conversations with some of its 'longer standing and more material customers' who noted that they also used the services of Star Spreads and Sports Spread (two unlicensed overseas providers).⁷⁴
83. Table 1 below reports the CMA's estimated shares based on the Parties' revenues.⁷⁵ This does not include unlicensed providers given that the CMA considers that these are outside the relevant market.

Table 1: Estimated shares of licensed online sports spread betting in the UK by revenue

Provider	Revenues (£m in 2022)	Online sports spread betting share (2022)
Spreadex	[X]	[70-80]%
Sporting Index	[X]	[20-30]%
Merged entity	[X]	100%
Total	[X]	100%

Source: CMA estimates based on the Parties' revenues.

84. The Parties are the only licensed providers of online sports spread betting in the UK. The Merger has resulted in a monopoly since the Merged Entity has a 100%

⁷² [CMA129](#), paragraph 4.8.

⁷³ Spreadex Response to Question 1(b) of S109 Notice, 17 January 2024.

⁷⁴ Spreadex Response to Question 2 of S109 Notice, 17 January 2024.

⁷⁵ Spreadex Response to Question 5 of RFI2, 2 February 2024.

share of supply in online licensed sports spread betting with a large increment of [20-30]% resulting from the Merger.

85. Spreadex submitted that it has taken ‘significant market share’ from Sporting Index on an annual basis (which the CMA considers is itself strong evidence of close competition).⁷⁶ The CMA’s analysis shows that Sporting Index’s estimated shares of supply fell from [30-40]% in 2020 to [20-30]% in 2022. However, the CMA considers that [20-30]% still represents a significant increment and a significant loss of competition, in particular given there are no other suppliers of licensed sports spread betting services in the UK.
86. The CMA notes that the inclusion of unlicensed providers would not have a material impact on the figures in Table 1. Even if the shares included Star Spreads and Sports Spread’s UK business, based on their estimated revenues⁷⁷ Star Spreads and Sports Spread would have substantially lower shares and in combination, would have no more than a 5% share. The Parties would still have supplied almost the entirety of online sports spread betting services in the UK. The CMA considers that the Parties’ combined share of online sports spread betting in the UK raises competition concerns.

5.3.2 Closeness of competition

87. The fact that the Parties are the only two licensed providers of online sports spread betting in the UK indicates that they are close competitors. The CMA has also examined other evidence relevant to the closeness of competition between the Parties, including:
- (a) Spreadex’s submissions;
 - (b) internal documents; and
 - (c) third-party views.

5.3.2.1 Spreadex submissions

88. Spreadex acknowledged that the Parties were the only two licensed sports spread bet providers in the UK⁷⁸ and that they ‘may be considered close competitors (given their focus on spread betting)’.⁷⁹ However, Spreadex also submitted that Sporting Index offered fewer sports spread betting products (eg Spreadex traded three times the number of football events and five times the number of horse racing events⁸⁰), had invested less in innovation and technological development

⁷⁶ Issues Letter Response, slide 35.

⁷⁷ Spreadex Response to Questions 1 and 2 of S109 Notice, 17 January 2024.

⁷⁸ Response to Question 11 of the Enquiry Letter.

⁷⁹ Briefing paper, paragraph 1.5.

⁸⁰ Issues Letter Response, slide 43.

and that its promotions were less tailored to the needs of its customers. Spreadex submitted that these were, in addition to price, the relevant parameters of competition.⁸¹

5.3.2.2 *Internal documents*

89. Spreadex's internal documents show that it viewed Sporting Index as its only competitor in online sports spread betting. One Spreadex document noted that it was Sporting Index's 'main rival'.⁸² One internal email chain from Spreadex about its proposed initial bid for Sporting Index noted that the Merger would result in only one sports spreading betting supplier. As discussed in paragraph 25 above, this document also noted that a benefit of the Merger was to remove the competitive threat of another firm buying the business. In particular, the document indicated that Spreadex 'would not have the pressure or worry to start cutting spreads should an aggressive competitor emerge or the worry of them taking back some of the market share by running a better company'.⁸³

5.3.2.3 *Third-party views*

90. When the CMA's investigation became public, affected individuals (including customers of Spreadex and/or Sporting Index) told the CMA that the Merger would create a monopoly supplier as it would remove Spreadex's only competitor.⁸⁴ They were concerned that the removal of pricing pressure between the Parties would lead to no pricing variation between the sports spread betting providers and would reduce the scope for innovation.⁸⁵

91. Some fixed odds and financial spread providers that spoke to the CMA said that the Merger would eliminate competition within the UK sports spread betting market as Spreadex and Sporting Index are each other's only competitors.⁸⁶ On the other hand, one third party considered that the Merged Entity would not have an incentive to engage in anticompetitive practices as it would drive switching to other products and that sports spread betting was a declining market which may only support one provider.⁸⁷

⁸¹ Spreadex Response to Question 9(b) of RF11, 15 January 2024; Issues Letter Response, slide 35.

⁸² Annex 29 of response to the Enquiry Letter, page 3.

⁸³ Attachment to Spreadex Email 0103 submitted in response to Question 22 of the Enquiry Letter.

⁸⁴ Email from an affected individual, 18 January 2024; Email from an affected individual, 26 January 2024; Email from an affected individual, 20 February 2024; Email from an affected individual, 17 January 2024; Email from an affected individual, 19 January 2024.

⁸⁵ Email from an affected individual, 18 January 2024; Email from an affected individual, 26 January 2024; Email from an affected individual, 17 January 2024; Email from an affected individual, 19 January 2024; Email from an affected individual, 20 February 2024.

⁸⁶ Note of a call with a third party, February 2024; Third-party responses to the CMA questionnaire, question 10.

⁸⁷ Note of a call with a third party, January 2024; Third-party response to the CMA questionnaire, question 10.

92. Overall, the evidence available from customers and third parties indicates that (i) the Parties are each other's closest competitors, and (ii) the Merger would remove Spreadex's only competitor in the supply of licensed online sports spread betting.

5.3.2.4 *The Parties' offerings*

93. While Spreadex's submissions show that Sporting Index's offering may have been less extensive than Spreadex's, the CMA considers that the Parties do not need to have identical offerings or undertake the same innovations in order to be considered close competitors. This is particularly relevant in a market with only two suppliers. In any case, the CMA's assessment takes into account the competitive constraint Spreadex placed on Sporting Index, and not just the constraint from Sporting Index on Spreadex.

5.3.2.5 *Conclusion on the closeness of competition*

94. Based on the evidence above, the CMA considers that the Parties are each other's closest competitors, in particular given that they are the only licensed providers of online sports spread betting in the UK.

5.3.3 **Alternative constraints**

95. When considering horizontal unilateral effects, the CMA's main consideration is whether there are sufficient remaining good alternatives to constrain the merged entity post-merger.⁸⁸ Horizontal unilateral effects are more likely when customers have little choice of alternative supplier.

5.3.3.1 *Spreadex submissions*

96. Spreadex submitted that the Parties faced competitive constraints from unlicensed providers (Sports Spread and Star Spreads) and from fixed odds providers including bet365, Entain, Flutter, 888 Holdings, and Kindred.^{89,90}
97. With respect to the constraints from fixed odds providers, Spreadex submitted eight internal documents to support its view that it monitored fixed odds providers, and that its offerings were comparable to fixed odds providers.⁹¹ Spreadex also submitted that customers could easily switch between providers of spread betting

⁸⁸ [CMA129](#), paragraph 4.3.

⁸⁹ Briefing paper, paragraph 5.3. Response to Question 11 of the Enquiry Letter, 21 December 2023; Spreadex Response to Question 2 of RF11, 15 January 2024.

⁹⁰ Spreadex response to Questions 9(b) of RF11, 15 January 2024; Annexes 1-8 to Spreadex Product and Pricing Submission, 30 January 2024.

⁹¹ Spreadex response to Questions 9(b) of RF11, 15 January 2024; Annexes 1-8 to Spreadex Product and Pricing Submission, 30 January 2024.

and providers of fixed odds betting, and that customers usually had multiple accounts.⁹²

98. In the Issues Letter Response, Spreadex submitted that competitive constraints from fixed odds providers had led to innovation, improvements in user experience and the service on its overall platform (ie on its website and apps).⁹³ Moreover, it also submitted that spread betting pricing was driven by the fixed odds market.⁹⁴
99. Spreadex also submitted that FCA regulation would constrain the Merged Entity's ability to increase the size of the spread, since regulations require that the 'price of products represents a fair value for retail customers'.⁹⁵

5.3.3.2 *Unlicensed sports spread betting providers*

100. Under current FCA regulation, unlicensed providers are not allowed to solicit UK customers, which limits their ability to win sales in the UK.⁹⁶ Customers told the CMA that unlicensed sports spread betting providers are not close alternatives to the Parties for this reason and because they offer only a limited range of spread betting products.^{97,98} In addition, as noted in paragraph 85, even if unlicensed providers were included in the CMA's assessment, they would account for no more than 5% of online sports spread betting in the UK. Based on this evidence, the CMA considers that unlicensed sports spread providers exert at most a weak competitive constraint on the Parties.

5.3.3.3 *Fixed odds providers*

101. In response to the CMA's investigation, most fixed odds providers said they did not compete at all, or only competed 'weakly' with the Parties (and generally only in relation to the Parties' fixed odds products not their spread betting products).⁹⁹ One fixed odds provider told the CMA that fixed odds and spreads were both determined using probabilities and providers may use similar market information to

⁹² Spreadex response to Questions 9(a) and (b) of RFI1, 15 January 2024. Issues Letter Response, slide 79 and 80. Spreadex submitted that 90% of its sports spread betting customers also used fixed odds betting, and Spreadex provided examples of two instances where it considered that customers had switched between spread and fixed odds betting in response to promotional offers. Spreadex considered that the vast majority of its sportsbook customers have at least another account with a third-party sportsbook provider and that customers can switch easily and at no cost. It also referred to *Flutter / Stars* where the CMA has noted that online betting customers tend to have accounts with multiple operators, that the market is characterised by relatively high levels of churn/.

⁹³ Issues Letter Response, slide 46.

⁹⁴ Issues Letter Response, slides 65-67. Spreadex provided an example to show that it monitors the fixed odds set by competitors like Pinnacle and Betfair, uses this to update its underlying pricing model which leads to automatic updates of pricing for both fixed odds and sports spread products.

⁹⁵ Spreadex Product and Pricing Submission, page 6, 30 January 2024.

⁹⁶ See sections 19 and 21, FSMA.

⁹⁷ Email from an affected individual, 18 January 2024.

⁹⁸ Email from an affected individual, 20 February 2024.

⁹⁹ Note of a call with a third party, January 2024; Note of a call with a third party, February 2024; and Third-party responses to the CMA questionnaire, question 5. Fixed odds providers were asked whether prior to the Merger they competed with Spreadex and/or Sporting Index; to rate how closely they competed with them (weakly, moderately, closely) and to give an explanation for their answer.

calculate these probabilities. However, the provider also stated that the way in which these probabilities are expressed differs between the two products.¹⁰⁰ Another provider told the CMA that customers of online sports spread betting use it because of the inherent volatile nature of the product that was not matched by fixed odds betting.¹⁰¹ Another considered that whilst there may be some limited overlap between the product offerings of fixed odds and spread betting, the products are sufficiently different such that it did not consider sports spread betting as a competing product.¹⁰²

102. The CMA has considered the extent to which fixed odds betting determines spread betting prices. Third parties – fixed odds and unlicensed spread betting providers – indicated that there is some correlation between the spread and fixed odds set, as both are determined using similar information.¹⁰³ The CMA’s analysis of Spreadex’s submissions suggests that Spreadex uses the same model to calculate its spread and fixed odds prices, and that there may be some degree of correlation between the spread and fixed odds that are set. However, the CMA does not consider that this correlation is evidence that spread betting prices respond competitively to changes in the fixed odds market.¹⁰⁴ Spreadex did not provide the CMA with evidence on how fixed odds pricing by its competitors can have a direct, if any, impact on the spreads it sets (including the limits of the spread).¹⁰⁵
103. The CMA has also considered Spreadex’s submissions on customer switching between spread and fixed odds betting, and multihoming across platforms.¹⁰⁶ Spreadex’s switching analysis was based on examples of only two customers that appeared to have switched in response to promotional offers. However, the CMA considers that evidence on switching patterns from two customers is not representative of switching patterns across all spread betting customers, and therefore has placed limited evidentiary weight on this analysis. While customers may multi-home between fixed odds and spread betting products, Spreadex has not provided evidence to show that these customers are using spread and fixed odds betting as substitutes (rather than complements).

¹⁰⁰ Note of a call with a third party, January 2024.

¹⁰¹ Third-party response to the CMA questionnaire, question 6.

¹⁰² Third-party response to the CMA questionnaire, question 5.

¹⁰³ Note of a call with a third party, January 2024; Submission to the CMA from a third party, February 2024.

¹⁰⁴ Both fixed odds providers and spread betting providers are trying to predict an outcome of an event. The CMA considers that, if both categories of businesses develop similar or indeed the same likelihood that a particular team, individual or horse will win an event or that so many goals will be scored in a football match, this is not, of itself, evidence of competition (but rather it is more likely that these businesses are examining similar data in developing their predictions).

¹⁰⁵ Issues Letter Response, slide 66. In the example provided by Spreadex, it shows that it calculates some spread betting prices alongside its fixed odds pricing for match odds and corners scored in a football match. However, it was unclear to the CMA how these fixed odds affected the spreads set for ‘shirt numbers’.

¹⁰⁶ Issues Letter Response, slides 79 and 80. Spreadex Response to Question 1 of RF11, 15 January 2024.

104. In terms of the internal documents submitted by Spreadex, the CMA considers that the comparisons with fixed odds providers were likely made in relation to Spreadex's fixed odds business, rather than its spread betting business.¹⁰⁷
105. The CMA notes that some of these internal documents show Spreadex considered the improvements and innovations being made by fixed odds providers (eg payment methods on their websites and apps) and considered making improvements to its wider platform as a result. To the extent that these improvements were made as a result of the constraint from fixed odds providers, the CMA considers that they were likely driven by Spreadex's fixed odds activities, rather than its spread betting activities.¹⁰⁸
106. Based on the evidence above, the CMA considers that fixed odds do not directly influence the setting of spreads and that fixed odds betting providers exert at most a weak competitive constraint on the Parties.

5.3.3.4 FCA regulation

107. The CMA recognises the significance of the FCA and its role in this market to provide appropriate and effective protections for customers of online sports spread betting. However, whilst FCA oversight may provide some protection to consumers, the CMA does not consider this would replace the constraint eliminated by the Merger. Regulations only set a minimum standard and require close monitoring.

5.3.3.5 Conclusion on alternative competitive constraints

108. The CMA considers that the constraint posed on the Merged Entity by the unlicensed sports spread and fixed odds providers is at most weak, and together with regulation from the FCA, is insufficient to offset the loss of competition between the Parties.

5.4 Conclusion on horizontal unilateral effects

109. For the reasons set out above, based on the evidence gathered, the CMA believes that the Merger raises significant competition concerns in the supply of licensed online sports spread betting in the UK.
110. Spreadex and Sporting Index are the only providers of licensed online sports spread betting in the UK, and, as such, are each other's closest competitor. The

¹⁰⁷ Annexes 1-8 to Spreadex Product and Pricing Submission, 30 January 2024. Annexes 1, 3, 4 and 6 were titled in relation to 'fixed odds operators', Annexes 2, 5 and 8 assessed 'sports competitor analysis' for fixed odds products; and Annex 7 considered 'Oddschecker' which is a brand that allows users to compare odds offered by different fixed odds providers.

¹⁰⁸ Annexes 1-8 to Spreadex Product and Pricing Submission, 30 January 2024; Annex 29 and 30 to Spreadex's response to the Enquiry Letter, 21 December 2023.

CMA considers the constraints from unlicensed and fixed odds providers would not be sufficient to constrain the Merged Entity. The CMA notes that several customers and third parties have expressed concerns in relation to the impact of the Merger.

6. ENTRY AND EXPANSION

111. 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. The CMA will consider entry and/or expansion plans of rivals who do so in direct response to the merger as a countervailing measure that could prevent an SLC. Entry or expansion by rivals that occurs irrespective of whether the merger proceeds may be considered in the competitive assessment when appropriate.¹⁰⁹ In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.¹¹⁰
112. Spreadex submitted that while there are technical and regulatory barriers to entry and expansion in the supply of UK online sports spread betting,¹¹¹ financial spread providers with an FCA spread bet licence could easily start supplying sports betting products and could outsource the relevant technology.¹¹² Similarly, Spreadex submitted that fixed odds providers could acquire an FCA spread licence in 6-12 months with minimal costs, and their pricing models for fixed odds could be extended to offer spread pricing.¹¹³
113. In response to the CMA's third party questionnaire, 10 out of 11 respondents (which included a mix of sports fixed odds and financial spread betting providers) said that they had no plans to enter the online sports spread betting market¹¹⁴ with some noting that acquiring the relevant technology was the biggest barrier to entering the market.¹¹⁵ No financial spread betting provider said it was interested in entering into sports spread betting.¹¹⁶
114. One third party told the CMA that it is considering offering sports spread betting products in the UK. However, this provider identified a number of hurdles that it would need to overcome before it was able to do so.¹¹⁷
115. Moreover, even if this third party were to enter, the combination of Spreadex and Sporting Index would still represent a reduction in competition. In this scenario, the

¹⁰⁹ [CMA129](#), paragraph 8.28.

¹¹⁰ [CMA129](#), from paragraph 8.40.

¹¹¹ Response to Questions 11 and 32 of the Enquiry Letter, 21 December 2023.

¹¹² Response to Question 32 of the Enquiry Letter, 21 December 2023.

¹¹³ Issues Letter Response, slide 53.

¹¹⁴ Third-party responses to the CMA questionnaire.

¹¹⁵ Notes of calls with a third party, January and February 2024.

¹¹⁶ Third-party responses to the CMA questionnaire.

¹¹⁷ Note of a call with a third party, February 2024.

Merger would reduce the number of competitors in the market from three (Spreadex, Sporting Index, and the new entrant) to two (the Merged Entity and the new entrant). The CMA also considers that it is likely that any growth by the new entrant would be gradual as it would need to build its customer base from scratch and would not have the benefit of an established brand. Entry would also take some time, and so there would be a period of time before entry takes place where the Merged Entity would be the only supplier of licensed spread betting services.

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

7. CONCLUSION ON SUBSTANTIAL LESSENING OF COMPETITION

117. Based on the evidence set out above, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in an SLC as a result of horizontal unilateral effects in relation to the supply of licensed online sports spread betting services in the UK.

DECISION

118. Consequently, the CMA believes that it is or may be the case that (i) a relevant merger situation has been created; and (iii) the creation of that situation has resulted, or may be expected to result, in an SLC within a market or markets in the United Kingdom.
119. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.¹¹⁸ Spreadex has until 11 April 2024¹¹⁹ to offer an undertaking to the CMA.¹²⁰ The CMA will refer the Merger for a phase 2 investigation¹²¹ if Spreadex does not offer an undertaking by this date; if Spreadex indicates before this date that it does not wish to offer an undertaking; or if the CMA decides¹²² by 18 April 2024 that there are no reasonable grounds for believing that it might accept the undertaking offered by Spreadex, or a modified version of it.
120. The statutory four-month period mentioned in section 24 of the Act in which the CMA must reach a decision on reference in this case expires on 5 April 2024. For the avoidance of doubt, the CMA hereby gives Spreadex notice pursuant to section 25(4) of the Act that it is extending the four-month period mentioned in section 24 of the Act. This extension comes into force on the date of receipt of this notice by Spreadex and will end with the earliest of the following events: the giving of the undertakings concerned; the expiry of the period of 10 working days beginning with the first day after the receipt by the CMA of a notice from Spreadex stating that it does not intend to give the undertakings; or the cancellation by the CMA of the extension.

Naomi Burgoyne
Senior Director, Mergers
Competition and Markets Authority
4 April 2024

¹¹⁸ Section [22\(3\)\(b\)](#) of the Act.

¹¹⁹ Section [73A\(1\)](#) of the Act.

¹²⁰ Section [73\(2\)](#) of the Act.

¹²¹ Sections [22\(1\)](#) and [34ZA\(2\)](#) of the Act.

¹²² Section [73A\(2\)](#) of the Act.