

ANTICIPATED ACQUISITION BY GLOBAL BUSINESS TRAVEL GROUP, INC OF CWT HOLDINGS, LLC.

Invitation to Comment on Remedies under Rule 12 of the CMA's rules of procedure for merger, market and special reference groups¹

Introduction

- 1. This consultation seeks the views of interested parties on (i) the remedy proposal submitted by the Parties to address the substantial lessening of competition (SLC) we have provisionally identified (the Parties' Remedy Proposal); and (ii) on prohibition.
- On 12 August 2024, the Competition and Markets Authority (CMA), in exercise of its duty under section 33(1) of the Enterprise Act 2002 (the Act), made a reference to its chair for the constitution of a Group of CMA Panel Members (the Inquiry Group)² regarding the anticipated acquisition by Global Business Travel Group, Inc. (GBT) of CWT Holdings, LLC. (CWT) (the Merger) for further investigation and requiring it to report within a period ending on 26 January 2025.³
- 3. In its interim report on the reference notified to the Parties on 6 November 2024 (the Interim Report), the CMA, among other things, provisionally concluded that the Merger, if implemented, will result in the creation of a relevant merger situation (RMS), and that this situation may be expected to result in a SLC in the global market for the supply of business travel agency (BTA) services to customers with high total travel spend (TTV) and requirements spanning multiple distinct regions of the globe (GMNs or GMN customers).⁴
- 4. The CMA's analysis provisionally indicates that this Merger, by removing the constraint that GBT and CWT exert on each other, would lead to a significant reduction in competition in the supply of BTA services to GMN customers, which in turn would allow the Merged Entity to raise prices and/or degrade

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¹ See CMA Rules of Procedure for Merger, Market and Special Reference Groups (CMA17), 25 April 2024.

² Under Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

³ See: CMA, Decision to refer, 12 August 2024 and CMA, Terms of reference, 2024. GBT and CWT are each a **Party** to the Merger; together they are referred to as the **Parties** and, for statements relating to the future where GBT acquires CWT (if the Merger was to proceed), as the **Merged Entity**.

⁴ CMA, Interim Report, 6 November 2024.

- non-price aspects of its competitive offering to GMN customers, including those who operate in the UK.
- 5. This Invitation to Comment on Remedies sets out and consults on the actions which the CMA might take for the purpose of remedying the SLC and/or any resulting adverse effects provisionally identified in the Interim Report.⁵
- 6. We invite comments from the Parties and third parties on possible remedies by no later than **5pm (UK time) on Monday 2 December 2024**.⁶

CMA criteria for remedies

- 7. In deciding on a remedy, the CMA shall in particular have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to remedy the SLC and any adverse effects resulting from it.⁷
- 8. To this end, the CMA will seek remedies that are effective in addressing the SLC and its resulting adverse effects and will select the least costly and intrusive remedy that it considers to be effective.
- 9. The CMA will seek to ensure that no remedy is disproportionate in relation to the SLC and its adverse effects.⁸

Possible remedies on which views are sought

- 10. At this stage, we have identified the following potential remedies:
 - (a) The remedy proposed by the Parties (**Parties' Remedy Proposal**). The relevant extracts describing the Parties' Remedy Proposal from the Parties' non-confidential summary are set out in the **Annex**.
 - (b) Prohibition of the Merger.
- 11. The CMA will also consider any other practicable remedies whether structural or behavioural in nature that the Parties, or any interested third parties, may propose that would be effective in comprehensively addressing the SLC and any resulting adverse effects we have provisionally identified.
- 12. In determining an appropriate remedy, the CMA will consider the extent to which different remedy options will be effective in remedying, mitigating or

⁵ See Mergers: Guidance on the CMA's jurisdiction and procedure (**CMA2**), 25 April 2024, paragraphs 12.6-12.9. CMA, Interim Report, 6 November 2024.

⁶ See CMA2, 25 April 2024, paragraph 12.6.

⁷ Sections 35(4) and 36(3) of the Act. Merger Remedies (CMA87), December 2018, paragraph 3.3.

⁸ See CMA87, December 2018, paragraphs 3.3 and 3.4.

- preventing the SLC or any resulting adverse effects that have been provisionally identified.
- 13. The CMA will also consider whether a combination of measures is required to achieve a comprehensive solution for example whether any behavioural remedies would be required in a supporting role to safeguard the effectiveness of any structural remedies. The CMA will evaluate the impact of any such combination of measures on the provisional SLC or any resulting adverse effects.

Parties' Remedy Proposal

- 14. The Parties have proposed a remedy to address the SLC provisionally identified in our Interim Report without prejudice to any representations the Parties may make on the CMA's provisional findings as set out in the Interim Report (see **Annex**).
- 15. The Parties proposal comprises of:
 - (a) opening up CWT's travel partner network which have been previously exclusive to CWT for a limited time:
 - (b) commitments on price and service offerings to all existing and renewing CWT's and GBT's GMN customers and on continued investment for a two-year period; and
 - (c) If considered necessary and proportionate by the CMA, a divestment to another travel management company (**TMC**) of certain CWT GMN customer contracts with a substantial UK nexus.
- 16. We have not yet reached any view on the effectiveness of the Parties' Remedy Proposal in addressing the provisional SLC and resulting adverse effects.

Prohibition of the Merger

17. As noted in CMA2, the specification of remedies other than prohibition or the divestiture of a standalone business often requires detailed knowledge of the operation of the relevant business, and it is unlikely the CMA could assess the effectiveness of such a remedy without significant input from the merger parties. In the present case, based on the information gathered about the Parties' businesses in the course of our investigation to date, we are not aware of a standalone business that could be divested to address the SLC we have provisionally identified. Similarly, based on the information gathered

⁹ See CMA2, 25 April 2024, paragraph 12.8.

about the Parties' businesses in the course of our investigation to date, we are not in a position independently to identify any other viable remedy, although we are considering the Parties' Remedy Proposal described in Annex.

18. Prohibition of the Merger would prevent the provisional SLC from arising. We therefore take the initial view that full prohibition of the Merger would represent a comprehensive solution to all aspects of the provisional SLC we have provisionally found (and consequently any resulting adverse effects) and that the risks in terms of its effectiveness are very low.

Consultation on possible remedies

- 19. We invite views on whether: (i) the Parties' Remedy Proposal (as described by the Parties in more detail in the **Annex**); or (ii) a prohibition of the Merger (as described in paragraph 18) will be effective in addressing the SLC provisionally identified in the Interim Report.
- 20. In relation to the Parties' Remedy Proposal, we invite views on:
 - (a) whether it fully addresses the SLC and resulting adverse effects we have provisionally identified; and if not, the extent to which it should be modified to ensure that it effectively addresses the SLC and resulting adverse effects we have provisionally identified; and
 - (b) any significant risks associated with the Parties' Remedy Proposal that could undermine its effectiveness in addressing the SLC and resulting adverse effects we have provisionally identified, and how these risks can be effectively mitigated.

Cost of remedies and proportionality

- 21. In order to be reasonable and proportionate, the CMA will seek to select the least costly remedy, or package of remedies, that it considers will be effective. The CMA will also seek to ensure that no remedy is disproportionate in relation to the SLC and its adverse effects. Between two remedies that the CMA considers equally effective, it will choose that which imposes the least cost or restriction.¹⁰
- 22. We invite views on what costs are likely to arise in implementing each remedy option.

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¹⁰ See CMA87, December 2018, paragraphs 3.8 and 3.9.

Relevant customer benefits

- 23. In deciding the question of remedies, the CMA may have regard to the effects of any remedial action on any relevant customer benefits (**RCBs**) in relation to the creation of the relevant merger situation.¹¹
- 24. RCBs are limited by the Act to benefits to customers¹² in the form of:¹³
 - (a) 'lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom ... or
 - (b) greater innovation in relation to such goods or services'.
- 25. The Act provides that a benefit is only an RCB if:14
 - (a) it accrues or may be expected to accrue to relevant customers within the UK within a reasonable period as a result of the creation of that situation;
 and
 - (b) it was, or is, unlikely to accrue without the creation of that situation or a similar lessening of competition.
- 26. Prior to the Interim Report, the Parties have not made any submissions on RCBs, and we have not identified any RCBs from the other evidence we have received.
- 27. We welcome views on the nature of any RCBs and on the scale and likelihood of such benefits and the extent (if any) to which these are affected by the different remedy options we are considering.

Next steps

28. Interested parties are requested to provide any views in writing, including any practical alternative remedies they wish the CMA to consider, by **5pm (UK time) on Monday 2 December 2024** (see Note (i)). Comments should be provided by email to gbt.cwt@cma.gov.uk.

¹¹ Section 36(4) of the Act, see also CMA87, December 2018, paragraphs 3.15 and 3.16.

¹² For these purposes, relevant customers are direct and indirect customers (including future customers) of the merger parties at any point in the chain of production and distribution; they are therefore not limited to final consumers (section 30(4) of the Act; see also CMA87, December 2018, paragraph 3.18.

¹³ Section 30(1)(a) of the Act, see also CMA87, December 2018, paragraph 3.17.

¹⁴ Section 30(3) of the Act, see also CMA87, December 2018, paragraph 3.19.

29. A copy of this Invitation to Comment on Remedies will be posted on the CMA case page.

Martin Coleman Group Chairman 25 November 2024

Note

(i) This Invitation to Comment on Remedies to remedy, mitigate or prevent the provisional SLC or any resulting adverse effects is made having regard to the Interim Report announced on 6 November 2024. The deadline for interested parties to submit comments on the the Interim Report is 5pm (UK time) on Wednesday 27 November 2024. The CMA's findings may alter in response to comments it receives on its Interim Report, in which case the CMA may consider other possible remedies, if appropriate.

ANNEX: Non-confidential summary of the Parties' Remedy Proposal

In the event that the CMA's Final Report confirms the preliminary concerns identified in the Interim Report, GBT proposes a Remedy Package comprising a number of elements designed to fully address the CMA's preliminary concerns. The package comprises the following components, but the appropriate scope will depend on the extent to which the preliminary concerns are upheld – if at all – in the Final Report:

- Global Reach Remedy a structural remedy to open up CWT's entire travel partner network post-Transaction. This would enhance the ability of other TMCs to compete effectively for GMN customers by ensuring they have a strong global presence with consistent global service levels.
 Specifically, the Global Reach Remedy would give competing TMCs access to tenured and proven local TMCs in over 90 countries to partner with upon completion of the Transaction, which have previously been exclusive to CWT. The Global Reach Remedy would immediately provide competing TMCs with an enhanced capability to exert an even stronger competitive constraint on the merged entity;
- Customer Commitments (i) pricing, (ii) service and (iii) investment commitments from GBT for a two-year period from completion of the Transaction. The Customer Commitments will be clearly specified and easy for a Monitoring Trustee to monitor compliance. The GMN customers that would benefit from the Customer Commitments are also some of the largest companies in the world with considerable resources and bargaining power, who will easily be able to monitor and demand compliance. The Customer Commitments comprise:
 - For all existing and renewing CWT and GBT GMN customers, a price cap on current product and service fees at the prices set out in existing customer contracts, provided there is no material change to the scope of products and services requested by such customers (the Price Commitment);
 - For existing and renewing CWT and GBT GMN customers, a commitment not to decrease current contractual service level obligations from those set out in existing contracts, provided there is no material change to the scope of products and services requested by such customers (the Service Commitment); and
 - A commitment to continue to invest annual capex into developing and improving the merged entity's business travel offering at levels

no less than GBT's pre-Transaction capex spend (the Investment Commitment).

If the CMA considers it is necessary and proportionate, GMN Customer
 Divestment – a structural divestment to another TMC of certain CWT GMN customer contracts with a substantial UK nexus. This would provide immediate scale to a competing TMC. As is usual practice when customers move TMCs, to the extent required by the purchaser, the merged entity would be willing to provide ancillary and support services (including UK based services) to facilitate the transfer under a transitional services agreement (TSA) and transfer relevant records and certain staff with the customer contracts.

The Remedy Package would not be subject to any regulatory approvals or thirdparty consents (other than customer consents for the GMN Customer Divestment).