

# Completed acquisition by GXO Logistics, Inc. of Wincanton plc

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

**ME/7099/24**

The Competition and Markets Authority’s decision on relevant merger situation and substantial lessening of competition under section 22(1) of the Enterprise Act 2002 given on 1 November 2024.

The Competition and Markets Authority (**CMA**) has excluded from this 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 Some numbers have been replaced by a range, which are shown in square brackets.

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# SUMMARY

## OVERVIEW OF THE CMA'S DECISION

1. The Competition and Markets Authority (**CMA**) has found that the acquisition by GXO Logistics, Inc. (**GXO**) of Wincanton plc (**Wincanton**) gives rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal unilateral effects in the supply of mainstream contract logistics services (**CLS**) in the UK.
2. On 29 April 2024, GXO acquired Wincanton. The CMA refers to this acquisition as the **Merger**. GXO and Wincanton are together referred to as the **Parties** and, for statements relating to the future, the **Merged Entity**.
3. As the CMA has found that the Merger gives rise to a realistic prospect of an SLC, the Parties have until 8 November 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, 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 Enterprise Act 2002 (the **Act**).

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

4. GXO and Wincanton both provide CLS including distribution and transport, warehousing, order fulfilment and other supply chain services to various types of customers.
5. The services that the CMA looked at in detail were the supply of mainstream CLS in the UK, comprising CLS to retail customers (eg fashion or groceries) and non-retail customers (eg public or chemicals) as this is the main overlap between the Parties' CLS activities.

### Why did the CMA review this merger?

6. 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. In this case, the CMA has concluded that the CMA has jurisdiction to review this Merger because GXO and Wincanton are each enterprises that have ceased to be distinct as a result of the Merger, and because the turnover test is met.

## **What evidence has the CMA looked at?**

7. In assessing this Merger, the CMA considered a wide range of evidence in the round.
8. The CMA received several submissions and responses to information requests from the Parties. This included information about the nature of the Parties' businesses, their win/loss and bidding data and the constraint from other suppliers and from self-supply.
9. The CMA also examined the Parties' own internal documents, which show how they run their business and how they view their rivals in the ordinary course of business.
10. The CMA spoke to and gathered evidence (such as tender data) from other companies and organisations such as competitors and customers to understand better the competitive landscape and to get their views on the impact of the Merger.

## **What did the evidence tell the CMA...**

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

11. The CMA believes that the Merger raises significant competition concerns as a result of horizontal unilateral effects in the supply of mainstream CLS. In particular:
  - (a) the Merger would materially increase the level of concentration in the market, with the Merged Entity and its two largest rivals accounting for a significant proportion of supply. The Merged Entity would become the largest mainstream CLS provider with a share of supply of [20-30]%, followed by DHL ([10-20]%), Culina ([10-20]%) and a tail of much smaller providers (all <5%).
  - (b) The Parties (along with DHL, and to a lesser extent, Culina) compete closely in the supply of mainstream CLS, particularly for larger retail customers with complex requirements (such as omni-channel retailers and those active in the groceries and fast-moving consumer goods sectors). A range of evidence, including tender data, customer evidence and internal documents suggests that these customers may have limited credible options and that both Parties are currently strong alternatives.
  - (c) Although there is a long tail of other mainstream CLS suppliers, many of these are very small, or specialise in supplying particular types of logistics service (eg transport) or particular industries (eg fashion and apparel). While the CMA has seen evidence that some of these suppliers constrain the

Parties for particular types of opportunity, the evidence reviewed by the CMA at phase 1 does not suggest that individually or cumulatively they exert a sufficient constraint across the mainstream CLS market to prevent competition concerns from arising.

- (d) While a significant proportion of logistics are done by customers themselves (self-supply) the ability of customers to self-supply would impose only a weak competitive constraint on the Merged Entity as self-supply is not viable for a significant set of customers.

## **What happens next?**

12. As a result of these concerns, 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 in the supply of mainstream CLS in the UK. GXO has until 8 November 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

## PARTIES, MERGER AND MERGER RATIONALE

1. GXO is a global CLS supplier,<sup>1</sup> which provides various CLS including distribution and transport, warehousing, order fulfilment, reverse logistics and other supply chain services.<sup>2</sup> The turnover of GXO for the financial year ending 31 December 2023 was approximately £7,684 million worldwide and approximately £2,947 million in the UK.<sup>3</sup>
2. Wincanton is a British CLS supplier, supplying a range of CLS including storage, handling and distribution, eFulfilment, fleet and transport management, network optimisation and other supply chain services.<sup>4</sup> The turnover of Wincanton for the financial year ending 31 March 2023 was approximately £1,462 million worldwide and approximately £1,445 million in the UK.
3. The acquisition of Wincanton by GXO was implemented by way of a scheme sanctioned by the Court on 25 April 2024 and completed on 29 April 2024.<sup>5</sup> Pursuant to the GXO offer terms, each Wincanton shareholder received 605 pence in cash for each Wincanton share, valuing Wincanton's existing issued and to be issued share capital at approximately £762 million on a fully diluted basis, and at approximately £764 million on an enterprise value basis.<sup>6</sup>
4. The Parties submitted that the main strategic rationale for the Merger is as follows:<sup>7</sup>
  - (a) The Merger provides GXO with the opportunity to enter the UK aerospace and defence CLS market where it is not currently present, and to expand into other markets or segments where it has a limited presence (eg non-retail).
  - (b) The Merger provides GXO with the opportunity to offer Wincanton's customers third-party logistics services outside the UK and Ireland.<sup>8</sup>

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<sup>1</sup> As explained in more detail in paragraph 24, CLS encompass a wide range of business-to-business (**B2B**) and business-to-consumer (**B2C**) supply chain-related services, which enable businesses to supply their goods to customers and consumers.

<sup>2</sup> Final Merger Notice, submitted to the CMA on 5 September 2024 (**FMN**), paragraph 82.

<sup>3</sup> FMN, Table 3.

<sup>4</sup> FMN, paragraph 84.

<sup>5</sup> FMN, paragraph 55.

<sup>6</sup> FMN, paragraph 53.

<sup>7</sup> FMN, paragraphs 57–66.

<sup>8</sup> Third-party logistics services involve outsourcing logistics and supply chain management functions to external service suppliers.

5. The CMA considers that the Parties' internal documents broadly support this rationale.<sup>9</sup>

## PROCEDURE

6. The CMA commenced its phase 1 investigation on 9 September 2024.
7. As part of its phase 1 investigation, the CMA gathered a significant volume of evidence from the Parties. In response to targeted information requests, the CMA received and reviewed more than 1,500 internal documents from GXO and Wincanton. The Parties also had opportunities to make submissions and comment on the CMA's emerging thinking throughout the phase 1 investigation. For example, on 8 October 2024, the CMA invited the Parties to attend an Issues Meeting. In response to CMA's Issues Letter, the Parties submitted a significant volume of new evidence. This included, for example, papers on the competitive threat from insourcing (self-supply), mixed sourcing and multi-sourcing and on customer-level margins earned by the Parties prepared by the Parties' economic advisers, together with underlying data. While the CMA had regard to this evidence in reaching this decision, the late stage of the process when this was submitted, and the CMA's statutory timetable,<sup>10</sup> limited the CMA's ability to fully interrogate the evidence and to test the Parties' submissions with third parties. This affected the weight that the CMA was able to attribute to some of this evidence.<sup>11</sup>
8. The CMA also gathered evidence from other market participants such as customers and competitors via calls and written questionnaires. It also received a number of complaints. The evidence the CMA has gathered has been tested rigorously, and the context in which the evidence was produced has been considered when deciding how much weight to give it.
9. Where necessary, this evidence has been referred to within this decision.
10. The Merger was considered at a Case Review Meeting.<sup>12</sup>

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<sup>9</sup> GXO's Internal Documents GXO\_00010897, '[><]', February 2024, page 18; and GXO\_00010360, '[><]', February 2024, page 1.

<sup>10</sup> The statutory timeframe to reach a phase 1 decision is 40 working days (section 34ZA(3) of the Act) and the evidence was submitted on working day 25 of the phase 1 investigation. This investigation also concerns a completed merger and, pursuant to section 24(1)(a) of the Act, there is a four-month deadline to reach a phase 1 investigation, See also paragraphs 13 and 15 below.

<sup>11</sup> See footnote 868686.

<sup>12</sup> Mergers: Guidance on the CMA's jurisdiction and procedure ([CMA2](#)), 25 April 2024, page 39.

## JURISDICTION

11. Each of GXO and Wincanton is an enterprise. As a result of the Merger, these enterprises have ceased to be distinct.
12. The UK turnover of Wincanton exceeded £70 million in its most recent financial year (FY 2023) so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the **Act**) is satisfied.<sup>13</sup>
13. The Merger completed on 29 April 2024, and it was made public by way of press release on the same day.<sup>14</sup> The four-month deadline for a decision under section 24 of the Act is 14 November 2024, following one extension under section 25(2) of the Act.
14. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
15. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 6 September 2024 and the statutory 40 working day deadline for a decision is therefore 1 November 2024.

## COUNTERFACTUAL

16. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).<sup>15</sup>
17. 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.<sup>16</sup> In determining the appropriate counterfactual, the CMA will generally focus on changes to the pre-merger conditions of competition only where there are reasons to believe that those changes would make a material difference to its competitive assessment.<sup>17</sup>
18. The Parties submitted that the appropriate counterfactual should be the pre-Merger conditions.<sup>18</sup> The Parties submitted that if the Merger had not occurred, Wincanton would either have continued to operate as an independent entity, or would have been acquired by an alternative bidder, as CEVA made an offer to acquire Wincanton that was recommended by Wincanton's board. The Parties submitted that absent the Merger, Wincanton's strategic priorities would most

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<sup>13</sup> FMN, paragraph 93 and 94.

<sup>14</sup> See press release available [here](#).

<sup>15</sup> [Merger Assessment Guidelines](#) (CMA129), March 2021, paragraph 3.1.

<sup>16</sup> CMA129, paragraph 3.2.

<sup>17</sup> CMA129, paragraph 3.9.

<sup>18</sup> FMN, paragraphs 135–139.



likely have remained the same or very similar whether operating as an independent entity or under the ownership of CEVA.<sup>19</sup> In this regard, the Parties noted that CEVA's offer documents do not make any reference to changing Wincanton's strategic priorities.

19. In this case, the CMA has not received submissions (or other evidence) suggesting that the Merger should be assessed against an alternative counterfactual. Therefore, the CMA believes the pre-Merger conditions of competition to be the relevant counterfactual.

## COMPETITIVE ASSESSMENT

### Market definition

20. 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.<sup>20</sup>
21. 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.
22. 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.<sup>21</sup>
23. In assessing whether a merger may give rise to an SLC, the CMA may take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. In many cases, especially those involving differentiated products, there is often no 'bright line' that can or should be drawn. Rather, it can be more helpful to describe the constraint posed by different categories of product or supplier as sitting on a continuum between 'strong' and 'weak'. The CMA will generally not need to come to finely balanced judgements on what is 'inside' or 'outside' the market. Not every firm 'in' a market will be equal and the CMA will assess how closely two merger

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<sup>19</sup> FMN, paragraph 135–137.

<sup>20</sup> [CMA129](#), paragraph 9.1.

<sup>21</sup> [CMA129](#), paragraph 9.2.

firms compete. The constraint posed by firms 'outside' the market will also be carefully considered.<sup>22</sup>

24. The Parties overlap in the supply of CLS. CLS encompass a range of B2B and B2C supply chain-related services, which enable businesses to supply goods to business customers and consumers. These services include transport and distribution (ie providing transport services in conjunction with transport management services),<sup>23</sup> warehousing (ie providing services such as receipt of goods, handling, storage, inventory management, packing and dispatching) and additional 'value-added' services (such as managing returns and/or repairs and reverse logistics).<sup>24</sup> Some of these services are tailored to the specific needs of each customer.<sup>25</sup>
25. CLS in the retail segment (**retail CLS**) involves the provision of services to customers whose products are consumer-facing, such as fashion and apparel, groceries, consumer technology, furniture and beauty products.<sup>26</sup> This includes products that are ordered online (**e-commerce**), products that sell quickly and have a short shelf life due to high consumer demand or perishability (known as Fast Moving Consumer Goods (**FMCG**)), and products that require temperature-controlled logistic services (including certain food and drink products).
26. CLS in the non-retail segment (**non-retail CLS**) involves the provision of services to customers whose products or services are not consumer-facing, such as automotive, construction, energy and manufacturing businesses, as well as public sector organisations.<sup>27</sup> However, non-retail CLS does not include the supply of CLS to life sciences or aerospace and defence customers, which the CMA considers to constitute separate markets (in line with the Parties' submissions).<sup>28</sup> This is due to unique demand- and supply-side characteristics, such as additional regulatory requirements, and the specialised equipment and permits required to meet customers' needs.<sup>29</sup>

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<sup>22</sup> [CMA129](#), paragraph 9.4.

<sup>23</sup> Standalone road freight or road haulage services are not included within CLS. FMN, paragraph 146.

<sup>24</sup> FMN, paragraph 13 and 149.

<sup>25</sup> FMN, paragraph 149.

<sup>26</sup> FMN, paragraph 287.

<sup>27</sup> FMN, paragraph 367.

<sup>28</sup> FMN, paragraph 265.

<sup>29</sup> The CMA considered a horizontal unilateral effects theory of harm in the supply of CLS to life sciences customers during its phase 1 investigation. However, the CMA concluded that there were no plausible competition concerns, and therefore this theory of harm is not discussed further in this decision. Wincanton is also active in the supply of CLS for the aerospace and defence markets and GXO has previously attempted to enter this market in the UK. The CMA therefore also considered a future competition theory of harm in the supply of CLS to aerospace and defence customers but concluded that there were no plausible future competition concerns and therefore this theory of harm is not discussed further in this decision. The only overlap between the Parties that is considered in this decision is the supply of mainstream CLS.

## Product market

27. The Parties submitted that the relevant product market is the supply of **mainstream CLS**, comprising both retail and non-retail CLS.<sup>30</sup> In particular, the Parties submitted that retail and non-retail CLS customers generally require the same core logistics services, regardless of the sector/segment in which they operate, and services are tailored to meet the requirements of each individual customer.<sup>31</sup>
28. The Parties also stated that there is a high level of supply-side substitutability across sectors, noting that the large majority of major third-party logistics suppliers (**3PLs**) are active in both retail and non-retail CLS.<sup>32</sup> The Parties stated that this is driven by a number of factors: (i) the assets required for different sectors are very similar; (ii) 3PLs can readily acquire the assets required to supply a new customer, as assets are often customer-owned, can be inherited from the incumbent supplier, or leased from a third party; and (iii) customers can and do easily switch suppliers.<sup>33</sup> The Parties submitted that asset ownership or access to assets does not provide a competitive advantage.<sup>34</sup>
29. While the evidence received by the CMA suggests that there are some bespoke services for retail CLS,<sup>35</sup> a number of third parties submitted that customers in both retail and non-retail CLS require the same set of core services (warehouse and distribution).<sup>36</sup> In addition, some third parties confirmed that assets are typically customer-owned or leased, and 3PLs do not need to own them to compete effectively,<sup>37</sup> although the CMA also received comments indicating that access to assets (including ownership) can give 3PLs a competitive advantage.<sup>38</sup>
30. On the supply side, the set of suppliers is similar across retail and non-retail CLS, although some suppliers specialise in specific sectors (such as Culina in food and drink).<sup>39</sup> The CMA also notes that there are differences in conditions of competition (eg as reflected in shares of supply) between retail and non-retail CLS, and the evidence indicates that there are some sectors within retail CLS (eg

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<sup>30</sup> FMN, paragraph 267 and 268.

<sup>31</sup> FMN, paragraph 271.

<sup>32</sup> FMN, Table 14.

<sup>33</sup> FMN, paragraph 270.

<sup>34</sup> Parties' response to the Issues Letter (**ILR**), 10 October 2024, paragraph R.1.

<sup>35</sup> Retail CLS for example can include final mile delivery, which is the transportation of goods directly to end consumers. Final mile delivery can be considered part of CLS where it is provided as part of a broader logistics solution, although retailers can also carry out this service themselves or outsource to specialist final mile delivery suppliers, couriers or delivery platforms. FMN, paragraph 147(a).

<sup>36</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 10.

<sup>37</sup> For instance, Note of a call with a third party, July 2024, paragraph 6; Note of a call with a third party, July 2024, paragraph 6; and Response to the CMA's questionnaire from a third party, September 2024, question 11.

<sup>38</sup> Note of a call with a third party, July 2024, paragraph 6; and Response to the CMA's questionnaire from a third party, September 2024, question 5. See also Wincanton's Internal Document, WIN\_00001218, '[<]'], 16 May 2022, page 14 that notes that 'property is a [<] – Wincanton will need [<] of additional warehouse space [<] to meet its [<]'.</p></div>

<sup>39</sup> Culina describes itself as 'a market leading ambient and chilled food & drink 3PL specialist'. See [Culina's website](#).

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groceries and omni-channel<sup>40</sup>) where there is a more limited set of credible suppliers (as explained in more detail in paragraph 107 below).<sup>41</sup>

31. The CMA also notes that there is sometimes a distinction made between retail and non-retail CLS in the Parties' internal documents and in general industry usage.<sup>42</sup> However, it is also common to see other CLS segmentations such as fashion, healthcare, automotive, e-commerce, government, groceries and FMCG.<sup>43</sup>
32. Overall, based on the evidence available, the CMA considers that it is appropriate to assess the impact of the Merger on the supply of mainstream CLS. It has considered differences between retail and non-retail CLS (and other segments/sectors) within its competitive assessment.

### Geographic market

33. The Parties submitted that a national geographic market is most appropriate in this case, as customers typically source CLS on a national basis, even where operations may be based in a specific region, and 3PLs can and do regularly supply CLS across the UK.<sup>44</sup>
34. The CMA considers that the evidence received supports the Parties' position, as customers tend to use suppliers with a national presence to meet their needs.<sup>45</sup> The Parties' internal documents also indicate that they tend to assess competition in the supply of mainstream CLS at a national level.<sup>46</sup>
35. The CMA has therefore assessed the impact of this Merger on the supply of mainstream CLS in the UK.

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<sup>40</sup> Customers that distribute through a number of different channels, eg bricks-and-mortar and e-commerce.

<sup>41</sup> For instance, see Note of a call with a third party, July 2024, paragraph 20.

<sup>42</sup> As explained in more detail in the section 0 below, and the [GXO/Clipper](#) and [XPO/K+N](#) decisions. The CMA notes that in GXO/Clipper the evidence was mixed as to whether retail and non-retail CLS constituted separate product markets. However, it was not necessary to reach a definitive conclusion since the CMA found no competition concerns on any plausible basis.

<sup>43</sup> For example, Wincanton has four business segments and sometimes assesses other competitors within those segments: Grocery & Consumer, General Merchandise, eFulfilment and Public & Industrial. See for example, Wincanton's Internal Documents, GXW-000000590 '[><]' May 2024, page 5; or WIN\_00000479, '[><]', January 2022, page 33. See also GXO's Internal Document, GXW-000000482, '[><]', slide 3, where GXO splits its customer groups by vertical: Aerospace and Defence, Agribusiness, Automotive, Consumer, Energy & Chemicals, Food & Beverage, Healthcare, Industrial & Construction, Omni-Channel Retail, Public Sector, Speciality B2B Services, Technology & Consumer Electronics and Transport & Logistics.

<sup>44</sup> FMN, paragraph 340–347.

<sup>45</sup> Responses to the CMA's questionnaire from a number of third parties, September 2024, question 7. See also Response to the CMAs' questionnaire from a number of third parties, September 2024, question 9. Note of a call with a third party, July 2024, paragraph 10.

<sup>46</sup> See for example, GXO's Internal Document, GXO\_00006320, '[><]', April 2023, page 1; and Wincanton's Internal Document, WIN\_00000479, '[><]', 01 March 2022, pages 33–36.

## Theory of harm: Horizontal unilateral effects in the supply of mainstream CLS in the UK

36. 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.<sup>47</sup>
37. 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.<sup>48</sup> Horizontal unilateral effects are more likely when the parties to a merger are close competitors.<sup>49</sup>
38. The CMA has assessed whether 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 the supply of mainstream CLS in the UK**. The CMA considered evidence from the Parties (including submissions, internal documents and bidding data) and from third-party competitors and customers. The CMA discusses each of the following in turn below:
- (a) the Parties' submissions;
  - (b) shares of supply;
  - (c) bidding data;
  - (d) internal documents;
  - (e) third-party evidence; and
  - (f) self-supply.

### Parties' submissions

39. The Parties submitted that no competition concerns could plausibly arise, for the following reasons:
- (a) The Parties have a low combined share of supply for mainstream CLS of around [20-30]% (with an [5-10]% increment), and [10-20]% with a [0-5]% increment when including self-supply;<sup>50</sup>

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<sup>47</sup> CMA129, paragraph 2.11.

<sup>48</sup> CMA129, paragraph 4.1.

<sup>49</sup> CMA129, paragraph 4.8.

<sup>50</sup> FMN, paragraph 395. Parties' Internal Document, GXW-00000801, '[><]', September 2024, Table 3.

- (b) The Parties are not close competitors, as illustrated by the Parties' bidding data which shows that only a small proportion of customers have diverted from GXO to Wincanton and vice-versa;<sup>51</sup>
- (c) There are a wide range of credible alternative suppliers who are constantly competing for retail and non-retail CLS customers' business, including customers that self-supply some or all of their CLS operations;<sup>52</sup>
- (d) The Parties' internal documents show that they monitor a range of competitors in a regular and thorough manner and consistent with their relative position and activity in the market;<sup>53</sup> and
- (e) Businesses can outsource the supply of CLS to third parties,<sup>54</sup> self-supply, or use a combination of both (so called 'mixed sourcing') to best suit their business needs, maximise buyer power and achieve the most advantageous terms and highest levels of service from 3PLs.<sup>55</sup> The Parties stated that the process for a customer to self-supply is straightforward, and many customers already have ownership of the assets and internal logistics staff.<sup>56</sup> Furthermore, the Parties submitted that a customer's decision to self-supply or outsource is not static or final and many customers switch between both.<sup>57</sup>

40. The CMA has considered each of these points in the assessment below.

### Shares of supply

- 41. Shares of supply can be useful evidence when assessing closeness of competition, particularly when there is persuasive evidence as to which potential substitutes should be included or excluded or when the degree of differentiation between firms is more limited. In such circumstances, a firm with a higher share of supply is more likely to be a close competitor to its rivals.<sup>58</sup>
- 42. The Parties submitted that there is limited differentiation in the supply of mainstream CLS and that shares of supply are reliable evidence as to the competitive strength of the Parties and third parties.<sup>59</sup> Contrary to this, the CMA considers that shares of supply provide only a partial indication of a supplier's

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<sup>51</sup> FMN, paragraph 358.

<sup>52</sup> FMN, paragraph 404.

<sup>53</sup> ILR, paragraph R.12 and Parties' Cover letter to the ILR, paragraph 32(b).

<sup>54</sup> When businesses outsource the supply of CLS they typically use tender processes, usually involving multiple rounds. Bidders are scored against different factors, including price, track record/reputation, quality and automation. FMN, paragraph 156. The Parties do not consider that scale is evaluated as a competitive parameter in a CLS tender process, as it is not an advantage from an asset availability perspective as assets are largely customer owned, inherited or leased. ILR, paragraph R.4.

<sup>55</sup> FMN, paragraph 165, 187, 382(iv) and 450(vii).

<sup>56</sup> FMN, paragraph 170.

<sup>57</sup> FMN, paragraph 172.

<sup>58</sup> [CMA129](#), paragraph 4.14.

<sup>59</sup> Parties' Cover letter to the ILR paragraph 9; ILR, paragraph R.5.

competitive strength and positioning and found that there is a significant degree of differentiation in the supply of mainstream CLS, with the relative strength of suppliers varying across customer groups. In particular, the CMA found that:

- (a) Experience and track-record are important factors in a customer's choice of supplier, with customers preferring suppliers that have a track record of supplying customers in their specific sector.<sup>60</sup> In relation to this, the evidence received by the CMA indicates that many suppliers are less active in the retail segment, have a sector-specific focus, or are specialists with a narrow focus (limiting their ability to compete in areas where they have more limited experience).<sup>61</sup>
- (b) Many customers, such as grocery and omni-channel retailers, view only a limited number of suppliers, including the Parties, as strong alternatives and identified differences in the capabilities of different suppliers. For example, some customers indicated that suppliers are differentiated in their quality of service and technology (which are important parameters of competition).<sup>62</sup>

43. The CMA has therefore placed more weight on third-party evidence, bidding data and internal documents as evidence of closeness of competition than on shares of supply in this assessment. The CMA recognises, however, that shares of supply can provide a useful indication of a supplier's success winning past contracts and therefore competitive strength.
44. Share of supply estimates for mainstream CLS to UK customers in 2023 are provided in Table 1 below. These show shares of supply for the Parties, many of the largest CLS suppliers, and the main competitive alternatives to the Parties.<sup>63</sup>

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<sup>60</sup> The CMA considers that these preferences reflect the complex and often bespoke requirements of customers in specific sectors. See, for example paragraphs 107 and 109.

<sup>61</sup> See, for example: paragraph 111; Response to the CMA's questionnaire from a number of third parties, September 2024.

<sup>62</sup> See paragraphs 105–109.

<sup>63</sup> The CMA notes that these shares are based on the Parties' estimates of the market size for the supply of mainstream CLS. Due to data limitations, it has not been possible to estimate specific shares for many suppliers, which are instead grouped under 'others.' According to the Parties' submissions, three suppliers—Menzies, Turners, and DX Group—may be larger than some of those individually listed in Table 1; however, only Turners was identified by at least one customer as an alternative to either Party. Even based on the Parties' estimates, Turners would not have a share exceeding [0-5]%. Therefore, the CMA considers these shares to accurately reflect the relative size of the suppliers that are the most credible competitive constraints on the Parties. FMN, Table 16.

**Table 1: Shares of supply for the supply of mainstream CLS in the UK in 2023.**

<b>Supplier</b>	<b>Share (%)</b>
GXO	[10-20]
Wincanton	[5-10]
<b>Merged Entity</b>	<b>[20-30]</b>
Culina	[10-20]
DHL	[10-20]
CEVA	[0-5]
Gist	[0-5]
Kuehne + Nagel (K+N)	[0-5]
Unipart	[0-5]
XPO	[0-5]
Others	[20-30]

Source: CMA estimates based on revenue data from the Parties and third parties; FMN, Table 15 and Annex 038.

Notes: Shares are calculated based on the Parties' estimates of the total market size for mainstream CLS, incorporating revenue information gathered directly from the Parties and third parties for their respective shares. Third parties with market shares falling within the same range are listed in alphabetical order.

45. Table 1 shows that the Merger combines two of the largest suppliers of mainstream CLS services in the UK, with the Merged Entity becoming the largest supplier. The table also shows that only two third-party suppliers have shares above 5%, while the rest of the market is highly fragmented with a long tail of suppliers that are much smaller than the Parties.<sup>64</sup>
46. The CMA has also considered share of supply estimates for retail CLS, which show that both Parties hold a stronger position in this segment. These show that GXO is the largest supplier of CLS to retail customers, followed by Culina, DHL, and Wincanton and then a number of other suppliers that are much smaller than the Parties. They also show that several suppliers of CLS have a much more limited position in the supply of retail CLS. Overall, the Merged Entity would have a share of [20-30]% (with a [5-10]% increment) and would be the largest supplier in the retail segment by some distance.<sup>65</sup>
47. While the Parties' combined share in both mainstream CLS and retail CLS is not at a level that raises *prima facie* competition concerns, this is due in part to the presence of a large number of comparatively far smaller suppliers for which there is limited evidence (as set out below) of those suppliers, either separately or jointly, imposing a meaningful competitive constraint on the Parties.<sup>66</sup>

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<sup>64</sup> M&S acquired Gist in 2022 (which was its principal CLS supplier). In relation to this, [§]. Response to the CMA's questionnaire from a third party, September 2024, question 3. The CMA also considers that this position is broadly in line with market share estimates presented in the Parties' internal documents (albeit that these also include Menzies as a large supplier). See, for example: Wincanton's Internal Document, GXW-000000550, '[§]', February 2024, slide 13.

<sup>65</sup> CMA estimates based on revenue data from the Parties and third parties. FMN, Table 16 and Annex 038.

<sup>66</sup> The Parties submitted that a number of the suppliers captured in the 'others' category in Table 1 are large firms with a global footprint who have also won some large contracts from the Parties (ILR, paragraph R.7). While the CMA agrees that these are relevant suppliers of mainstream CLS in the UK, the CMA does not consider that the global presence of these suppliers provides meaningful evidence on whether they can impose a meaningful constraint in a geographic market where they have a much a smaller presence. Rather, the CMA has considered how closely these suppliers compete with the Parties based on the available evidence in the round including third-party evidence, bidding data, which captures any contract gains, and internal documents. In particular, as set out elsewhere in the decision, there is limited evidence that other smaller suppliers exert a material constraint on the Parties in relation to those contracts for which they compete particularly closely.



## Bidding data

48. The Parties submitted data based on the CLS opportunities that each of the Parties had bid for between 2019 and 2023.<sup>67</sup> The Parties also undertook a matching exercise to provide a list of opportunities that both Parties bid for.<sup>68</sup>
49. The CMA has analysed the Parties' bidding data to assess the closeness of competition between them, and to identify other material competitive constraints. The CMA has also gathered tender information directly from customers, who were asked to provide information on their most recent CLS tender (including which suppliers participated, and what stage of the process each of these suppliers reached).<sup>69</sup>

### *Overlap in the Parties' bidding activity*

50. According to the Parties' bidding data, GXO and Wincanton participated in [redacted] and [redacted] mainstream CLS opportunities respectively over a five-year period.<sup>70</sup> Of these opportunities, the Parties identified [a small proportion of the] mainstream CLS opportunities in which they both participated.<sup>71</sup>
51. The CMA recognises that this is a relatively limited overlap in terms of the number of opportunities (albeit somewhat higher as a proportion of opportunities for Wincanton than GXO), but the CMA considers that it is also informative to look at the value of overlapping opportunities.<sup>72</sup> The CMA notes that overlapping opportunities accounted for [less than a third] and [more than a half] of GXO's and Wincanton's opportunities by total value, respectively, and [less than a half] and [more than a half] when examining the retail segment only.<sup>73</sup> This shows that

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<sup>67</sup> This includes the name of the customer, an estimate of the opportunity's annual value and length, and, where known, the supplier the opportunity was won from or lost to. GXO's Internal Documents, GXW-000000776, '[redacted]', March 2024; and GXW-000000790, '[redacted]', September 2024. Wincanton's Internal Documents GXW-000000778, '[redacted]', February 2024; and GXW-000000791, '[redacted]', September 2024. Parties' Internal Document, GXW-000000508, 'Annex 010.01 – Wincanton bidding war kicks off (FT)', February 2024.

<sup>68</sup> Parties' Internal Document, GXW-000000926, '[redacted]', September 2024. As there are no unique identifiers that allow specific opportunities to be easily matched between the Parties' bidding datasets, matches were identified with reference to the customer's name, the contract close date, and the annual contract value using a combination of quantitative matching methods and manual review. In doing so, the CMA notes that the Parties identified several overlapping opportunities that were not previously included in each opportunities' dataset. These are opportunities that are recorded in each dataset as lost to the other Party, but which were not included in the other Parties' opportunities dataset.

<sup>69</sup> The CMA considers that this information is broadly consistent with the bidding data submitted by the Parties, although it has not sought to combine this information with the bidding data submitted by the Parties.

<sup>70</sup> Includes additional opportunities identified as matches but not included in both opportunities' datasets ([a small proportion] for GXO and [a small proportion] for Wincanton). Excludes life sciences and aerospace and defence opportunities, albeit the total number of Wincanton opportunities includes [less than half of] CLS opportunities that were not assigned a sector. Opportunities with a value of less than £100 annually are excluded from the Parties' dataset.

<sup>71</sup> GXO's internal document, GXW-000000790, '[redacted]', September 2024; Wincanton's internal document, GXW-000000791, '[redacted]', September 2024; and Parties' internal document, GXW-000000931, '[redacted]', September 2024.

<sup>72</sup> It is informative to weight opportunities by their value when considering the extent of overlap in the Parties' bidding activity to account for there being a large volume of low value contracts. In addition, a large number of low-value contracts were recorded as being lost to self-supply. As noted below, the CMA considers that many such opportunities may not represent actual competitions to supply customers, but rather may be customers benchmarking their own self-supply operations, or the Parties (unsuccessfully) seeking new business from customers who self-supply.

<sup>73</sup> Depending on whether Wincanton's CLS opportunities that were not assigned a sector are accounted for, the precise overlap for Wincanton varies between [redacted] and [redacted]% for mainstream CLS, and between [redacted] and [redacted]% for retail CLS.

there is a significant overlap in the bidding activity of the Parties which covers a material proportion of the market, in particular for high-value CLS opportunities, which is consistent with the third-party evidence discussed below.<sup>74</sup>

52. The Parties submitted that the significant overlap in terms of opportunity value reflects that GXO and Wincanton often bid for large opportunities, rather than indicating that they are close competitors.<sup>75</sup> However, the CMA considers that such a finding, if supported by other evidence, is consistent with the Parties being close competitors and may be reflective of their stronger market position in the supply of CLS to large retailers with more complex requirements.<sup>76</sup>

### *Information on wins and losses*

53. The CMA has considered how often the Parties record losses to each other in their bidding data relative to other suppliers. The CMA has interpreted this with caution as for some opportunities the winner is not always known, meaning the analysis may underrepresent the presence of individual alternative suppliers (or the extent of losses to self-supply).<sup>77</sup>
54. The CMA also notes that in GXO's data, a large proportion of opportunities are recorded as lost to self-supply, [§<].<sup>78</sup> On a cautious basis the CMA has therefore excluded 'pipeline' losses to self-supply from the following analysis,<sup>79</sup> while noting that the remaining renewal losses to self-supply may still overstate the strength of self-supply as a competitive constraint. For example, several of these renewal losses are recorded as due to changes in customer requirements, such as site mothballing, or from customer acquisition, indicating that in at least some instances the Parties may not be directly competing with self-supply.<sup>80</sup>

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<sup>74</sup> In particular, it is noted that retail CLS opportunities accounted for the significant majority of opportunities both Parties participated in by value.

<sup>75</sup> ILR, paragraph R.8.

<sup>76</sup> Consistent with this, the evidence gathered from customers suggests that a number of large retailers consider the Parties to be among a small number of close alternatives. See, for example: paragraphs 105–109.

<sup>77</sup> The CMA considers that the bidding data should accurately capture losses from one Party to the other due to the matching exercise conducted by the Parties. Losses to third parties may not be accurate as the data reflects who the Parties perceived to win the contract rather than necessarily who won the contract, as demonstrated by the Parties identifying different third-party winners for some matched opportunities.

<sup>78</sup> In particular, [§<]. FMN, Annex 027 and Annex 028. See also: GXO's Internal Document, GXO\_00010435, '[§<]', February 2024, slide 11. In relation to benchmarking, one of the Parties' customers told the CMA that its most recent tender opportunity was in fact a benchmarking exercise. Response to the CMA's questionnaire from a third party, September 2024, question 9.

<sup>79</sup> On a cautious basis, the CMA has included any 'pipeline' opportunities lost to self-supply which were identified as matched opportunities, acknowledging that the Parties' data suggests these were competitively tendered. Pipeline losses to unknown third parties have also been retained to avoid overstating losses between the Parties; however, the CMA notes that many of these losses may be attributed to self-supply, potentially understating the Parties' relative losses to each other.

<sup>80</sup> See paragraph 126.

55. Table 2 below summarises which supplier each Party lost opportunities to, across all mainstream CLS opportunities, and presents this information as a proportion of total lost opportunity values.<sup>81</sup>

**Table 2: Loss information for mainstream CLS opportunities (2019-2023)**

Supplier	GXO		Wincanton	
	Lost to (number of opportunities)	Opportunities lost (% of total value)	Lost to (number of opportunities)	Opportunities lost (% of total value)
GXO	-	-	[<]	[less than a third]
Wincanton	[<]	[less than 10%]	-	-
DHL	[<]	[less than a third]	[<]	[less than a third]
Culina	[<]	[less than 10%]	[<]	[less than fifth]
Best Logistics	[<]	[less than 10%]	-	-
Sodexo	-	-	[<]	[less than 10%]
Others	[<]	[less than a third]	[<]	[less than a third]
Self-supply	[<]	[less than a fifth]	[<]	[less than 10%]
No information	[<]	[less than a third]	[<]	[less than a fifth]
<b>Total</b>	[<]	100	[<]	100

Source: CMA analysis of FMN, Annex 027 and Annex 028, and Parties' internal document, GXW-000000931, '[<]', September 2024.

Note: The table shows the losses between the Parties compared to the top three other suppliers, ordered by the total value lost. All other suppliers, where named in the dataset, are included in the category 'others'. The table includes all mainstream and unassigned opportunities. Total value of contracts calculated using the annual value multiplied by the contract duration. Where there was no value recorded for the duration, the annual value was used. Opportunities with multiple winners were accounted for by including the opportunity as a loss to each supplier and splitting the total value among them. On a cautious basis, opportunities listed as lost to XPO before 6 August 2021 were reallocated to GXO, while opportunities won or lost between GXO and XPO before this date were dropped. Other adjustments were made to correct erroneous entries as per Annex 035 to the FMN. Pipeline opportunities recorded as lost to self-supply were removed except for opportunities in which both GXO and Wincanton participated (see paragraph 54).

56. Table 2 shows that the Parties regularly lose opportunities to each other, with Wincanton losing the highest proportion of opportunities by value to GXO ([less than a third]) and GXO losing the highest proportion to DHL ([more than a fifth]), followed by Wincanton ([less than 10%]).

57. Both Parties lost a material proportion of opportunities to DHL, and to a lesser extent Culina. By comparison, other suppliers individually accounted for only a small proportion of lost opportunities by value.<sup>82</sup> In addition, GXO recorded [less than a fifth] of losses by value to self-supply, significantly more than Wincanton, which lost only a few small contracts to self-supply.<sup>83</sup>

58. Table 2 below summarises which supplier each Party lost opportunities to, across all retail CLS opportunities, and presents this information as a proportion of total lost opportunity values.

<sup>81</sup> The CMA also notes that contract values are estimated and vary between each Party's datasets, which introduces a degree of inconsistency as to the weight we place on each opportunity as between the Parties' respective bidding datasets.

<sup>82</sup> Collectively, other suppliers accounted for a material proportion of lost contracts by value, although these were generally for lower-value contracts as compared to those lost to DHL and Wincanton.

<sup>83</sup> As noted in paragraph 54, the CMA considers that the bidding data is of limited probative value in assessing the constraint imposed by self-supply. The strength of self-supply as a competitive constraint is discussed further in section 0.

**Table 2: Loss information for retail CLS opportunities (2019-2023)**

Supplier	GXO		Wincanton	
	Lost to (number of opportunities)	Opportunities lost (% of total value)	Lost to (number of opportunities)	Opportunities lost (% of total value)
GXO	-	-	[<]	[less than half]
Wincanton	[<]	[less than 10%]	-	-
DHL	[<]	[less than a fifth]	[<]	[less than a fifth]
Culina	[<]	[less than 10%]	[<]	[less than a fifth]
Arvato	[<]	[less than 10%]	-	-
ID Logistics	[<]	[less than 10%]	[<]	[less than 10%]
Others	[<]	[less than fifth]	[<]	[less than a fifth]
Self-supply	[<]	[less than a third]	[<]	[less than 10%]
No information	[<]	[less than a third]	[<]	[less than a fifth]
<b>Total</b>	[<]	100	[<]	100

Source: CMA analysis of FMN, Annex 027 and Annex 028, and Parties' internal document, GXW-000000931, '[<]', September 2024.

Note: This table includes only opportunities assigned to the retail segment and excludes unassigned Wincanton opportunities. The CMA notes that including unassigned opportunities would not materially change the results presented above. Total value of contracts calculated using the annual value multiplied by the contract duration. Where there was no value recorded for the duration, the annual value was used. Opportunities with multiple winners were accounted for by including the opportunity as a loss to each supplier and splitting the total value among them. On a cautious basis, opportunities listed as lost to XPO before 6 August 2021 were reallocated to GXO, while opportunities won or lost between GXO and XPO before this date were dropped. Other adjustments were made to correct erroneous entries as per Annex 035 to the FMN. Pipeline opportunities recorded as lost to self-supply were removed except for opportunities in which both GXO and Wincanton participated (see paragraph 54).

59. Table 2 shows that both Parties' losses to the other are more pronounced in the retail segment. Wincanton lost a significantly larger proportion of opportunities by volume and value to GXO than to any other competitor, and GXO lost a larger portion to only DHL. Aside from DHL, Culina accounts for a material portion of opportunity losses for both Parties, with other suppliers individually accounting for both a low value and volume of opportunity losses. By comparison, the Parties' losses to each other are more limited in the non-retail segment, with Wincanton losing a larger proportion of opportunities by value to DHL, Culina, Sodexo and CEVA than GXO, and GXO losing a larger proportion by value to DHL, Best Logistics and Culina than Wincanton.
60. The Parties submitted that the volume of contracts lost by each Party to the other was low and that the large value lost is driven by a small number of large contracts. In particular, the Parties noted that a large proportion of losses to GXO by Wincanton in the retail segment were from [a small number of] bids.<sup>84</sup> The CMA considers that this is consistent with the Parties competing closely for high value contracts in the retail segment, and notes that Wincanton lost the largest portion of retail contracts to GXO by both volume and value.
61. The Parties further submitted that of these [small number] bids, [the majority] involved strong competition from at least one other close competitor or a competitive threat from self-supply.<sup>85</sup> The CMA notes that the Parties' submission in this regard is based on assumptions about these customers' preferences and 3PL participation. In order to reach a robust conclusion on the competitiveness of

<sup>84</sup> ILR, paragraph R.9.

<sup>85</sup> ILR, paragraph R.9.

these opportunities, the CMA would need information on the suppliers that participated, their relative performance and the extent to which self-supply was a viable alternative.<sup>86</sup> The CMA also notes that the presence of a single close competitor, or a competitive threat from self-supply, does not mean that the loss of Wincanton and GXO as independent competitors cannot give rise to concerns.

62. In relation to the loss information, the Parties further submitted that other suppliers successfully compete across large mainstream CLS opportunities, citing examples where both have recently lost retail contracts, including large retail contracts, to other 3PLs.<sup>87</sup> The CMA acknowledges that there is evidence of other suppliers winning contracts from the Parties. However, the CMA considers that the specific examples put forward by the Parties do not demonstrate that such suppliers impose a competitive constraint on the Parties across the full range of opportunities for which they compete. Further evidence on the constraint from other suppliers is considered below.

#### *Information on switches*

63. The CMA has also considered how often the Parties record losses to each other in circumstances where one of the Parties is the incumbent supplier. This provides evidence on the extent of customer switching between the Parties relative to other suppliers.
64. The Parties submitted that there is a low level of customer switching from Wincanton to GXO in the retail segment.<sup>88</sup> However, while the number of switches may be low, the CMA considers that, in comparison to switches to other third parties, the value of these lost renewal contracts is material.
65. Wincanton recorded [redacted] total lost contract renewals in the retail segment, [a small amount] of which were recorded as lost to GXO (accounting for [more than a half] of the total value of losses from renewal contracts),<sup>89</sup> [a small amount] to Culina ([less than a third]), [a small amount] to UPS ([less than 10%]), [a small amount] to unknown competitors ([less than a third]), and [a small amount] to self-supply ([less than 10%]). This indicates that while the volume of renewal losses to GXO may be low, it is comparatively higher than the volume lost to most other competitors, and the value of these contract losses account for the largest proportion of total renewal losses.

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<sup>86</sup> While the CMA has received information from one of these customers, given the late stage in the process this information was provided by the Parties, it was not possible within the constraints of the statutory timetable to obtain information from each of the other customers. Response to the CMA's questionnaire from a third party, September 2024, questions 9 and 10. The CMA has therefore not placed weight on the Parties' submission and has instead relied on the other evidence set out in this decision.

<sup>87</sup> ILR, paragraph R.9.

<sup>88</sup> ILR, paragraph R.9.

<sup>89</sup> Including [redacted] recorded [redacted] in December 2020, [redacted].

66. Similarly, of the [redacted] retail contract renewal losses recorded by GXO, [a small amount] were recorded as lost to Wincanton ([less than 10%] by value).<sup>90</sup> The only other supplier with a higher percentage lost to was Culina at [more than 10%] from [small amount] contract loss. GXO lost a similar value to DHL ([less than 10%]) from [a small amount of] contract losses and all other suppliers individually accounted for less than [less than 5%]. The CMA notes that most of GXO's renewal losses ([less than three quarters]) were recorded as lost to self-supply.<sup>91</sup>
67. The Parties also submitted that there were no switches between them in the non-retail segment.<sup>92</sup> The CMA notes, however, that the Parties' bidding data shows that, of the [redacted] non-retail renewals lost by Wincanton, [a small amount] was recorded as lost to Maritime and GXO. Similarly, of the [redacted] contracts lost by GXO, [a small amount] was recorded as lost to Wincanton, Maritime and Gregory's, while another matched contract recorded as lost to Yusen in Wincanton's bidding data, was in fact ultimately won by GXO.
68. Overall, this shows that there is evidence of customers switching between the Parties, albeit there are relatively few instances of switching between 3PLs' recorded in the Parties' bidding data (which limits the weight that can be placed on such an analysis). Given this, the CMA has placed more weight on the extent to which the Parties lose opportunities to each other relative to others (irrespective of whether the Parties were the incumbent supplier), which captures a wider range of competitive interactions.<sup>93</sup>

### *Customer bidding information*

69. Information gathered from retail customers on their most recent CLS tenders indicates that the Parties frequently bid against one another and reach the final stages of these tenders, relative to other suppliers in this segment (with the exception of DHL).<sup>94</sup> Namely:
- (a) Wincanton and DHL were present in the majority of tenders GXO participated in, compared to other suppliers which were present in far fewer.<sup>95</sup>

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<sup>90</sup> Including [redacted].

<sup>91</sup> As noted at paragraph 54, the CMA considers that these losses may overstate the competitive constraint the Parties face from self-supply. For example, the CMA notes that a number of these lost renewals were listed as due to mothballed sites, an unsuitable site, loss in volumes and customer acquisition.

<sup>92</sup> ILR, paragraph R.3.

<sup>93</sup> This is because competition between the Parties is not solely driven by actual switching, but also the threat that customers may switch or select another supplier when tendering.

<sup>94</sup> The CMA notes that these customers accounted for [less than a third] and [less than a half] of GXO and Wincanton's total revenues in retail CLS in 2023 respectively. CMA analysis based on FMN, Annex 036, and response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>95</sup> XPO was present in around a third of tenders GXO participated in; Culina, CEVA, and K+N were present in around a fifth respectively; while all other suppliers were present in less than a fifth. Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

(b) GXO and DHL were present in the majority of tenders Wincanton participated in. As with GXO, others were present less frequently.<sup>96</sup>

(c) While a number of other suppliers also participated in the tender opportunities of each Party, they less commonly reached the final stages of the process as compared to the other Party and DHL.<sup>97</sup>

70. The customer tender data also indicates that there are often a limited number of credible participants in retail CLS tenders, such that the Merger may materially reduce the number of alternatives available to customers. Three quarters of retail customers responding to the CMA's questionnaire said that both Parties participated in their most recent tender, of which:<sup>98</sup>

(a) DHL and no more than one alternative supplier were present in around a third of these tenders (ie the tender included the Parties, DHL and no or only one other supplier);<sup>99</sup>

(b) in more than half of tenders both Parties participated in, only the Parties or the Parties and DHL reached the final stages of the process and in many such instances others withdrew from the process at an early stage or were noted to have limitations in their offering.<sup>100</sup>

71. By comparison, the information gathered from non-retail customers is consistent with the Parties competing less frequently in this segment. While Wincanton participated in half of GXO's tenders, GXO participated in only a quarter of Wincanton's tenders, which is less than DHL and Culina, and comparable to XPO.<sup>101</sup> Nonetheless, the customer tender information provides several examples of the Parties competing head-to-head to supply non-retail customers and, in each case, facing between two to four other independent alternatives.<sup>102</sup>

72. The Parties submitted that in tenders with fewer alternatives, customers could invite additional suppliers, which is supported by a range of competitors winning large retail contracts.<sup>103</sup> However, the CMA notes that the information provided by customers on credible alternatives (discussed below) aligns broadly with their

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<sup>96</sup> XPO and Culina were present in around a third of tenders participated in by Wincanton; while all other suppliers were present in less than a fifth. Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>97</sup> Wincanton and DHL reached the final stages of around half of tenders participated by GXO, while all other suppliers reached the final stages in no more than a fifth. GXO and DHL reached the final stages of more than half of tenders Wincanton participated in, while all others reached the final stages in no more than a tenth. Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10; Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>98</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>99</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>100</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 9.

<sup>101</sup> Albeit the CMA notes that it has a smaller sample of tenders in this segment, meaning the CMA has placed relatively less weight on this finding.

<sup>102</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>103</sup> ILR, paragraph R.10.

recent tender information, suggesting that customers do not view other suppliers as readily able to contest future tenders post-Merger. The CMA also considers that customer requirements may differ significantly such that the presence of a competitor in one tender does not imply they would be considered a credible supplier in another.

73. In addition, the Parties submitted that these customers would also have the option to self-supply.<sup>104</sup> However, the CMA notes that less than a third of the Parties' customers put forward a positive view of self-supply as a viable alternative to their currently outsourced CLS.<sup>105</sup>

#### *CMA's conclusion on bidding data and tender information*

74. Overall, the CMA considers that both the Parties' bidding data and the tender information provided by customers suggest that the Parties compete closely.
75. While the bidding data overall indicates that the Parties face a strong constraint from DHL, other third parties appear to exert a more limited competitive constraint. In particular, the number and strength of alternatives in recent CLS tenders suggests that customers (particularly large retailers) may have insufficient options post-Merger to ensure competitive outcomes.

#### **Internal documents**

76. The Parties submitted internal documents that either assess the CLS industry in general, or specific segments (such as mainstream CLS, retail CLS, non-retail CLS and life sciences). The Parties submitted that cumulatively, they monitor and assess competitor 3PLs more frequently and in greater volume than each other.<sup>106</sup>
77. The CMA notes the Parties' submission that when considering all of the internal documents submitted, some 3PLs are mentioned very frequently. However, the CMA considers that a purely quantitative analysis (such as counting how often a competitor name appears in the documents) is not a reliable way to assess the competitive strength of a particular competitor or how closely it competes with one of the Parties. The CMA considers that there are numerous and recurring instances where a competitor name 'hit' in an internal document is irrelevant from this perspective: for example, XPO is frequently mentioned in relation to the previous spin off of GXO from XPO, and XPO's name can be found as a legacy name in GXO internal presentations. There are also various 'Competitor Updates' that are collections/excerpts of industry specific trade magazine articles and therefore do not necessarily represent the Parties' views of who their main

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<sup>104</sup> ILR, paragraph R.10.

<sup>105</sup> The CMA has further considered the constraint from self-supply from paragraph 123. Response to the CMA's questionnaire from a number of third parties, September 2024, question 5 and 6.

<sup>106</sup> Parties' Cover Letter to the ILR, paragraph 32(b).



competitors are. The CMA has assessed the evidence qualitatively and in the round to come to the conclusions set out in this section.

78. The CMA considers that the Parties' internal documents indicate that GXO, Wincanton and DHL are close competitors in mainstream CLS, whilst other suppliers are monitored in less detail, or regarded as specialists. In particular, some documents discussing competitors, or the competitive landscape, focus only on the Parties and DHL, or describe them in more detail than other firms. For instance:
- (a) A GXO internal document that assesses net wins and losses by competitors shows that GXO won most of its contracts from DHL and Wincanton in 2022 and 2023.<sup>107</sup>
  - (b) A number of documents from Wincanton board meetings (eg strategy papers and minutes of the meetings) show that Wincanton is closely monitoring GXO and analysing its performance.<sup>108</sup>
79. Other documents discuss both the Parties' size in the UK, and the breadth of their offering across segments, while other suppliers are considered to be more specialist. For instance:
- (a) A Wincanton document states that Wincanton and GXO are among the '5 key major players', besides [redacted], [which] report annual UK revenue of over £1bn, but [redacted] in particular is indicated as more specialist in its respective areas and [redacted] as not serving a wide range of sectors compared to the Parties and DHL.<sup>109</sup>
  - (b) In an earnings call script, GXO states [redacted].<sup>110</sup>
  - (c) A Wincanton analysis in June 2022 solely focusses on GXO as a competitor and the impact of GXO's acquisition of Clipper, [redacted].<sup>111</sup>
80. Some of the Parties' internal documents indicate that the Parties and DHL compete closely within the retail CLS segment overall as well as in specific sectors within retail CLS, and that rivals are few or specialist. In particular:
- (a) A GXO overview of competitors from March 2022 lists Wincanton, Clipper (now GXO) and DHL as GXO's main competitors across the retail CLS segment. The CMA notes that other players which are active in this segment

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<sup>107</sup> GXO's Internal Document, GXO\_00009637, '[redacted]', December 2022, Overview tab.

<sup>108</sup> Wincanton's Internal Documents, WIN\_00001404, '[redacted]', February 2022, pages 7 and 20; WIN\_00001637, '[redacted]', June 2022, slides 5 and 6; and WIN\_00001595, '[redacted]', June 2022, slides 2–6.

<sup>109</sup> Wincanton's Internal Document, WIN\_00002769, '[redacted]', September 2022, slides 5–6. Similarly, a Wincanton [redacted]. See Wincanton's Internal Document, WIN\_00002681, '[redacted]', August 2022, slide 1.

<sup>110</sup> GXO's Internal Document, GXO\_00010401, '[redacted]', February 2024, page 6.

<sup>111</sup> Wincanton's Internal Document, WIN\_00001607, '[redacted]', June 2022, slide 6. The same document [redacted]. Slide 7 See also, Wincanton's Internal Document, WIN\_00022052, '[redacted]', July 2024, slides 21, 23, 28, 32, 34, 35 and 36.

and are mentioned in that document (eg iForce and Bibby) are much smaller by revenue.<sup>112</sup>

- (b) Several Wincanton internal documents relating to [redacted] Grocery and Consumer, General Merchandise, and eFulfilment [redacted] describe GXO and a small number of other suppliers as the 'main competitor[s]'.<sup>113</sup> One of the documents discusses [redacted] in General Merchandise. Only DHL and GXO are mentioned as 3PLs that Wincanton [redacted].<sup>114</sup>
- (c) One Wincanton internal document relating to [redacted] Grocery and Consumer [redacted] suggests that DHL and GXO are generalist suppliers while [redacted] are more specialist suppliers.<sup>115</sup>

81. Other documents suggest the Parties consider each other and DHL when considering specific customer contract opportunities. For instance both GXO and DHL are shown to be frequently competing for Wincanton's '[redacted]' customer contracts across various sectors, (including some occasions in which both of them are listed as key competitors in relation to the same '[redacted]').<sup>116</sup> Also, DHL was identified as GXO's primary competitor in the majority of GXO [redacted].<sup>117</sup> Wincanton is identified as a primary competitor less frequently in these [redacted].<sup>118</sup>
82. The CMA considers that internal documents also indicate that third-party competitors active in the supply of mainstream CLS (other than DHL) compete less closely with the Parties.

## Culina

83. The Parties' internal documents describe Culina as a UK 3PL, active in the supply of mainstream CLS with a focus on ambient and chilled food and drinks. The Parties' internal documents show that Culina exerts a moderate competitive threat to the Parties, as shown in the examples listed below. The CMA, however, notes that Culina's CLS capabilities are assessed in less detail compared to the Parties.

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<sup>112</sup> GXO's Internal Document, GXO\_00000048, '[redacted]', 2 March 2022, sheet 'UK competitors'.

<sup>113</sup> Wincanton's Internal Documents, GXW-000000594, '[redacted]', May 2023, slides 5–6 and 9, GXW-000000590, '[redacted]', May 2024, slides 5 and 10; and GXW-000000588, '[redacted]', May 2024, slide 10.

<sup>114</sup> Wincanton's Internal Document, GXW\_000000594, '[redacted]', May 2023, slides 5–6. Another Wincanton internal document also notes in relation to [redacted], a General Merchandise customer, that, given GXO's [redacted], Wincanton will have [redacted] (and no other 3PL is mentioned) (Wincanton's Internal Document, WIN\_00002060, '[redacted]', 13 July 2022, page 20).

<sup>115</sup> Wincanton's Internal Document, WIN\_00002681, '[redacted]', 23 August 2022, slide 2.

<sup>116</sup> Wincanton's Internal Document, WIN\_00022052, '[redacted]', July 2023, slides 28, 30, 32, 34, 35 and 43.

<sup>117</sup> GXO produced a number of reports [redacted].

<sup>118</sup> GXO's Internal Documents: GXO\_00000001, '[redacted]', February 2022, page 5; GXO\_00000007, '[redacted]', February 2022, page 4; GXO\_00000022, '[redacted]', February 2022, page 4; GXO\_00000083, '[redacted]', March 2022, page 4; GXO\_00000104, '[redacted]', March 2022, page 4; GXO\_00000241, '[redacted]', March 2022, page 4; GXO\_00000670, '[redacted]', April 2022, page 4; GXO\_00000764, '[redacted]', April 2022, page 4; GXO\_00000769, '[redacted]', April 2022, page 4; GXO\_00000774, '[redacted]', April 2022, page 4; GXO\_00000912, '[redacted]', April 2022, page 4; GXO\_00000924, '[redacted]', February 2022, page 4; GXO\_00001135, '[redacted]', May 2022, page 4; GXO\_00002054, '[redacted]', July 2022, page 4; GXO\_00002365, '[redacted]', July 2022, page 4; GXO\_00002370, '[redacted]', February 2022, page 5; GXO\_00002376, '[redacted]', July 2022, page 4; GXO\_00002426, '[redacted]', July 2024, page 5; GXO\_00010020, '[redacted]', January 2024, page 4; GXO\_00010024, '[redacted]', page 5; GXO\_00010196, '[redacted]', January 2024, page 5; GXO\_00010202, '[redacted]', January 2024, page 4 and GXO\_00010363, '[redacted]', February 2024, page 4.

84. The CMA recognises that both Parties include Culina in their ‘competitor tables’, which generally flag what type of CLS offering other suppliers have and the sectors in which they are present. Some of these documents identify Culina as present in some mainstream CLS sectors, for example [redacted] Culina is servicing mainstream CLS customers [redacted]<sup>119</sup> but generally it is characterised as an ambient and chilled food and drink supplier.<sup>120</sup>
85. This is also apparent from the few documents discussing Culina in more detail. For instance a Wincanton document, [redacted] focusing on Culina, [redacted] in the Grocery, FMCG and Retail Markets [redacted], but when looking into each of the brands owned by Culina in more detail, it is apparent that Culina is a specialist ([redacted]).<sup>121</sup>
86. Further, the CMA notes that only [a very few] GXO [redacted] documents list Culina as GXO’s [redacted] (alongside DHL) (fewer than Wincanton).<sup>122</sup> Culina is not mentioned as a potential bidder in Wincanton’s ‘[redacted]’ customer opportunities across various sectors.<sup>123</sup>
87. The CMA therefore considers that the internal documents show that Culina poses a competitive constraint on the Parties, but that it is a less close competitor to the Parties than they are to each other or to DHL.

### **XPO and CEVA**

88. The CMA considers that XPO and CEVA are discussed more superficially in the Parties’ internal documents than the Parties, DHL and Culina. XPO is also sometimes described as a transport specialist and CEVA as not being active in the same sectors as the Parties, having a strong focus on aerospace and defence and life sciences.
89. The CMA recognises that both Parties typically include CEVA in their general ‘competitor tables’. In these documents, CEVA is sometimes marked as active in some retail CLS and non-retail CLS segments (but generally not [redacted] where the

<sup>119</sup> GXO’s Internal Document, GXW-000000796, [redacted], September 2024, slide 5.

<sup>120</sup> See for example, GXO’s Internal Documents, GXO\_00002609, [redacted], July 2022, tab ‘UK Competitors’; GXO\_000000048, [redacted], tab ‘UK competitors’, Feb 2022, tab ‘UK competitors’; GXO\_00001141, [redacted], 19 May 2022, page 10; GXO\_00002604, [redacted], 4 March 2022, page 3; GXO\_00006320, [redacted], April 2023, tab ‘Sheet 1’; GXO\_00006321, [redacted], April 2023, tab ‘Sheet 1’; GXO\_00006456 [redacted], April 2023 tabs ‘Competitors’ and ‘Analysis’. Wincanton’s Internal Document, WIN\_00015033, [redacted], January 2024, tabs ‘Companies’, ‘Sectors’, ‘Sector Comps’, ‘Fashion’, ‘Automotive’.

<sup>121</sup> Wincanton’s Internal Document, GXW-000000589, [redacted], April 2024, pages 1–4. Another Wincanton document prepared by [redacted] in the context of [redacted] also describes Culina [redacted] (Wincanton’s Internal Document, WIN\_00011426, [redacted], October 2023, page 14). Similarly, a number of Wincanton strategy documents lists Culina amongst [redacted], the same documents note that [redacted] (Wincanton’s Internal Documents, GXW-000000590, [redacted], May 2024, page 5; GXW-000000588, [redacted], May 2024, page 5; and GXW-000000594, [redacted], May 2024, page 5). See also GXO’s Internal Documents, GXO\_00004805, [redacted], December 2022, slide 27; and GXO\_00005264, [redacted], Undated, page 1 that recognise that Culina is a traditional temperature control / chilled operator and that Culina does not tend to offer foodservice logistics.

<sup>122</sup> This also includes one reference to Eddie Stobart. GXO’s Internal Document, GXO GXO\_00000083, [redacted], March 2022, page 4; and GXO\_00000764, [redacted], April 2022, page 4.

<sup>123</sup> Wincanton’s Internal Document, WIN\_00022052, [redacted], July 2023.

Parties are strong).<sup>124</sup> XPO only appears in Wincanton's 'competitor tables', which show that Wincanton sees XPO as specialising in [REDACTED].<sup>125</sup>

90. The Parties' internal documents that discuss these suppliers in more detail show that, while XPO is regarded in some Wincanton documents as [REDACTED], XPO is a transport specialist and CEVA's strengths are in aerospace and defence, life sciences and healthcare. For example:
- (a) Wincanton strategy documents list XPO among [REDACTED].<sup>126</sup> However, another Wincanton document focuses on XPO's [REDACTED] rather than [REDACTED],<sup>127</sup> which is consistent with the documents mentioned above in paragraph 89. In the few mentions of XPO across GXO's documents,<sup>128</sup> XPO is only mentioned briefly compared to DHL and Wincanton.<sup>129,130</sup>
  - (b) A document prepared by [REDACTED] notes the potential acquisition of Wincanton would be an opportunity for CEVA '[REDACTED]' which suggests that CEVA's offering in certain retail CLS [REDACTED] in the UK is currently limited.<sup>131</sup> Similarly, a GXO document indicates that CEVA is not active across the same sectors as the Parties, [REDACTED], and has a much smaller UK turnover compared to the Parties.<sup>132</sup>
91. As regards documents detailing specific contract opportunities, there are GXO documents which mention XPO being a potential competitor for some contracts, and the CMA has seen at least [a small amount] where GXO lost a contract to XPO.<sup>133</sup> However, these documents seem to indicate that the tenders were transport [REDACTED]. CEVA is identified as a potential credible alternative to GXO infrequently in GXO's [REDACTED] documents.<sup>134</sup> Also, XPO is only mentioned once and

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<sup>124</sup> See for example, GXO's Internal Documents, GXO\_00002609, '[REDACTED]', July 2022, tab 'UK Competitors'; GXO\_000000048, '[REDACTED]', tab 'UK competitors'; GXO\_00001141, '[REDACTED]', 19 May 2022, page 10; GXO\_00002604, '[REDACTED]', 4 March 2022, page 3; GXO\_00006320, '[REDACTED]', April 2023, tab 'Sheet 1'; GXO\_00006321, '[REDACTED]', April 2023, tab 'Sheet 1'; GXO\_00006456, '[REDACTED]', April 2023 tabs 'Competitors' and 'Analysis'; GXW-000000593, '[REDACTED]', September 2024, tab 'Overview'. Wincanton's Internal Document, WIN\_00015033, '[REDACTED]', January 2024, tabs 'Companies', 'Sectors', 'Sector Comps', 'Fashion', 'Automotive'; and WIN\_00015294, '[REDACTED]', page 17.

<sup>125</sup> Wincanton's Internal Document, WIN\_00015033, '[REDACTED]', January 2024, tab 'Sectors'; WIN\_00015294, '[REDACTED]', page 24. The CMA notes that in the latter document, Wincanton does not analyse XPO in dedicated slides like Wincanton does for other competitors such as DHL, GXO and Culina.

<sup>126</sup> Wincanton's Internal Documents, GXW-000000590, '[REDACTED]' April 2023, slide 5; and GXW-000000594, '[REDACTED]', May 2023, slide 5-6 and 9.

<sup>127</sup> Wincanton's Internal Documents, WIN\_00003792, '[REDACTED]', December 2022, page 38.

<sup>128</sup> Other than references to it before the GXO spin-off. The CMA also notes that after GXO was spun off from XPO, XPO and GXO entered into a non-compete agreement which lasted until August 2023, which might have affected how often XPO is referred to in GXO's internal documents.

<sup>129</sup> Eg GXO's Internal Document, GXO\_00000262, '[REDACTED]', February 2022, slide 17 for XPO cover, and slide 33 and following for DHL cover.

<sup>130</sup> Wincanton has conducted a SWOT analysis of XPO [REDACTED] in the Life Sciences market (Wincanton's Internal Document, WIN\_00002383, '[REDACTED]', August 2022, tab 'XPO') but the CMA has not seen similar analysis in relation to the mainstream CLS sector.

<sup>131</sup> GXO's Internal Document, GXO\_00009961, '[REDACTED]', January 2024, page 1.

<sup>132</sup> GXO's Internal Document, GXO\_00006320, '[REDACTED]', April 2023, page 1.

<sup>133</sup> GXO's Internal Documents, GXO\_00008167, '[REDACTED]', page 23; GXO\_00009374, '[REDACTED]', tab Final.

<sup>134</sup> GXO's Internal Documents, GXO\_00006400, '[REDACTED]' April 2023, pages 4-5; GXO\_00000241, '[REDACTED]' March 2022, page 4; and GXO\_00000924, '[REDACTED]', February 2022, page 4.

CEVA only twice as a potential bidder in Wincanton's '[redacted]' customer opportunities across various sectors.<sup>135</sup>

92. Based on the above, the CMA considers that XPO and CEVA are both fairly specialist, competing less closely with the Parties than Culina. Therefore, the CMA considers that these suppliers exert only a limited constraint on the Parties in the supply of mainstream CLS for certain contracts.

### **K+N, Unipart and Yusen Logistics**

93. Few internal documents contain detailed references to K+N, Unipart and Yusen Logistics, and those that do generally note that these suppliers focus on different markets and sectors to the Parties.
94. Both Parties sometimes include these competitors in their general 'competitor tables'. However, these documents mainly refer to K+N as a healthcare, aerospace and defence and technology CLS supplier;<sup>136</sup> Unipart as an 'other retail', consumer, healthcare, public sector and technology supplier; and Yusen Logistics as an automobility, life sciences and healthcare and home appliances supplier (although it is sometimes also recorded as active in retail CLS and other non-retail CLS sectors).<sup>137</sup>
95. Other internal documents that assess these competitors in more detail do not appear to be mainstream CLS specific. For instance, [redacted].<sup>138</sup> The CMA has seen [redacted].
96. Some GXO documents mention GXO either winning contracts from or losing mainstream CLS contracts to Unipart and K+N,<sup>139</sup> but the CMA has not seen similar Wincanton documents. Similarly, the CMA has not seen documents where either Party won or lost contracts to Yusen Logistics ([redacted]).<sup>140</sup> In addition, there is only [redacted] reference to Yusen Logistics [redacted] and [redacted] to K+N and Unipart.<sup>141</sup>
97. Based on the above, the CMA considers that K+N, Unipart and Yusen compete less closely with the Parties than XPO and CEVA. Therefore, the CMA does not

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<sup>135</sup> Wincanton's Internal Document, WIN\_00022052, '[redacted]', July 2023, pages 20 and 30.

<sup>136</sup> K+N sold its drinks distribution, food service and mainstream CLS operations to GXO in January 2021.

<sup>137</sup> See for example, GXO's Internal Documents, GXO\_00002609, '[redacted]', July 2022, tab 'UK Competitors'; GXO\_000000048, '[redacted]', tab 'UK competitors'; GXO\_00001141, '[redacted]', 19 May 2022, page 10; GXO\_00002604, '[redacted]', 4 March 2022, page 3; GXO\_00006320, '[redacted]', April 2023, tab 'Sheet 1'; GXO\_00006321, '[redacted]', April 2023, tab 'Sheet 1'; GXO\_00006456, '[redacted]', April 2023 tabs 'Competitors' and 'Analysis'; GXW-000000593, '[redacted]', September 2024, tab 'Overview'. Wincanton's Internal Document, WIN\_00015033, '[redacted]', January 2024, tabs 'Companies', 'Sectors', 'Sector Comps', 'Fashion', 'Automotive'; WIN\_00015294, '[redacted]', page 17.

<sup>138</sup> Wincanton's Internal Document, WIN\_00002383, '[redacted]', August 2022.

<sup>139</sup> For example, GXO won the contract with [redacted] from Unipart in [redacted]. See GXO's Internal Documents, GXO\_00006473, '[redacted]', March 2023, tab Actions; and GXO\_00004499, '[redacted]', November 2022, tab 'Feuil 1'.

<sup>140</sup> Wincanton's Internal Document, WIN\_00002060, '[redacted]', July 2022, page 18.

<sup>141</sup> Wincanton's Internal Document, WIN\_00022052, '[redacted]', July 2023. The CMA notes that this document contained references to Unipart and K+N but they related to life sciences and aerospace and defence markets respectively.

consider that any of these suppliers exert a meaningful constraint on the Parties in the supply of mainstream CLS.

### Other competitors

98. The CMA found that there are very limited references to other competitors (including DSV, ID Logistics, EV Cargo, Menzies, Maersk and Bleckmann) in the Parties' internal documents,<sup>142</sup> and it has not seen any detailed assessment or deep dives into any of these suppliers.<sup>143</sup> Further, these other suppliers were not mentioned as potential bidders in Wincanton's '[redacted]' customer opportunities across various sectors.<sup>144</sup> The CMA notes, however, that some internal documents note that the Parties have won/lost a minority of contracts from/to these suppliers.<sup>145</sup>
99. The CMA therefore considers that these suppliers do not exert a material constraint on the Parties' mainstream CLS operations.

### CMA's conclusion on internal documents

100. Overall, the evidence from internal documents shows that the Parties often monitor and analyse each other and DHL closely, and to a lesser extent Culina. In contrast, other 3PLs are monitored less frequently and in less detail and/or only in relation to specific sectors. Some are considered mostly in relation to their

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<sup>142</sup> The CMA notes that the Parties sometimes include some of these suppliers in their 'competitor tables' where the Parties assess their top competitors with reference to their verticals and offerings. For example, DSV is sometimes listed as having a focus [redacted]. Bleckmann, EV Cargo, Menzies and Maersk are listed as active in some mainstream CLS sectors but do not appear often in any of the 'competitor tables'. ID Logistics does not feature in these 'competitor tables'. See for example, GXO's Internal Documents, GXO\_00002609, '[redacted]', July 2022, tab 'UK Competitors'; GXO\_00000048, '[redacted]', tab 'UK competitors', March 2022; GXO\_00001141, '[redacted]', 19 May 2022, page 10; GXO\_00002604, '[redacted]', 4 March 2022, page 3; GXO\_00006320, '[redacted]', April 2023, tab 'Sheet 1'; GXO\_00006321, '[redacted]', April 2023, tab 'Sheet 1'; GXO\_00006456, '[redacted]', April 2023 tabs 'Competitors' and 'Analysis'; GXW-000000593, '[redacted]', September 2024, tab 'Overview'. Wincanton's Internal Document, WIN\_00015033, '[redacted]', January 2024, tabs 'Companies', 'Sectors', 'Sector Comps', 'Fashion', 'Automotive'; WIN\_00015294, '[redacted]', page 17.

<sup>143</sup> The very few documents that discuss these suppliers in greater detail than the 'competitor tables' (but that are not deep dives) typically recognise that they are much smaller than the Parties, active in different segments, or recent entrants with limited presence. For example, regarding **DSV** see GXO\_00006929, '[redacted]', June 2023, slide 14 and WIN\_00006886, '[redacted]', March 2023, page 26. Regarding **ID Logistics** a GXO document indicates that [redacted] (GXO's Internal Document, GXO\_00003596, '[redacted]', September 2022, slide 2). Regarding **EV Cargo**, A GXO document indicates that [redacted] (GXO's Internal Document, GXO\_00006320, '[redacted]', April 2023, page 1). A Wincanton document also indicates that it focuses [redacted] (Wincanton's Internal Document, WIN\_00011426, '[redacted]', October 2023, page 4). Regarding **Menzies**, a Wincanton document indicates that Menzies is [redacted] (Wincanton's Internal Document, WIN\_00002769, '[redacted]', 07 September 2022, slide 5–6). Regarding **Maersk**, a Wincanton document notes that Maersk is [redacted] (Wincanton's Internal Documents, WIN\_00000196, '[redacted]', January 2022, page 61). The CMA has not seen detailed analysis of Maersk in GXO's internal documents apart from [redacted]. Finally, regarding **Bleckmann**, the CMA has not seen any detailed assessment of Bleckmann in the Parties internal documents ([redacted]). However, the CMA notes that a GXO document indicates that Bleckmann is a supply chain supplier with expertise in [redacted] (GXO's Internal Document, GXO\_00005968, '[redacted]', March 2023, slide 16).

<sup>144</sup> Wincanton's Internal Document, WIN\_00022052, '[redacted]', July 2023.

<sup>145</sup> Wincanton's Internal Document, GXW-000000390, '[redacted]', August 2024, tab 'Wincanton bids' (Wincanton lost [redacted] to ID Logistics). GXO's Internal Documents, GXW-000000389, '[redacted]', August 2024, tab GXO bids (GXO won [redacted] from ID Logistics); GXW-000000004, '[redacted]', July 2024, tabs GXO bids and GXO bids (Won); GXW-000000011, '[redacted]', July 2024, tabs 'GXO bids' and '[redacted]'; GXO\_00003751, '[redacted]', June 2022, tab 'report1663329066095'; GXW-000000389, '[redacted]', August 2024, tab 'GXO bids' (GXO won [redacted] contract from Bleckmann and lost [redacted] and [redacted]); GXW-000000390 '[redacted]' August 2024, tab 'Wincanton bids'; GXW-000000798, '[redacted]', September 2024, tab 'GXO bids' (GXO won [redacted] from EV Cargo). See also, GXO\_00000109, '[redacted]', September 2022, tab 'Sheet 1' (Menzies has a contract with [redacted]) and GXO\_00007028, '[redacted]', June 2023, page 5 ([redacted] that sees Maersk as GXO primary competitor).

activities in other markets (eg CLS for aerospace and defence and/or life sciences).

### **Third-party evidence**

101. This section considers the evidence received from third parties regarding (i) closeness of competition between the Parties, (ii) the strength of alternative providers, and (iii) views on the Merger.<sup>146</sup>

#### *Closeness of competition between the Parties*

102. Overall, the evidence received from third parties indicates that the Parties are close competitors in the supply of mainstream CLS. It suggests that the Parties compete closely to supply CLS to retail customers and that the Parties impose a material competitive constraint on each other in the supply of CLS to non-retail customers.

103. The CMA asked retail and non-retail customers of the Parties to list the suppliers that they would consider to be credible in a future CLS tender, and to comment on the strength of each alternative supplier.<sup>147</sup>

104. Figure 1 and Figure 2 below show the number of times each supplier was listed as either 'very strong' or 'strong' by customers separately for the retail customers of each Party.

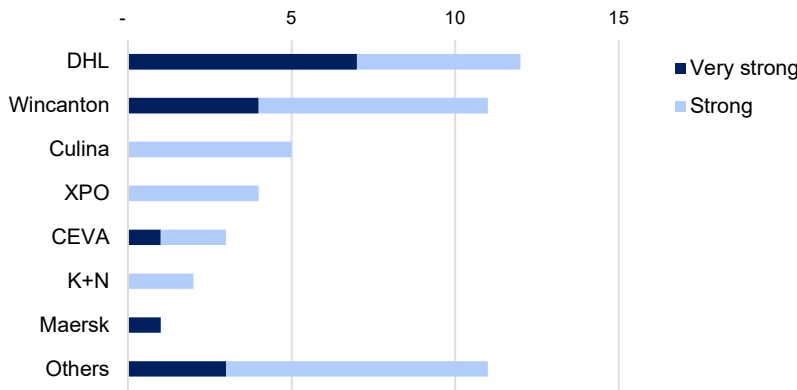
105. These figures show that the majority of each Party's retail customers mentioned the other Party as a very strong or strong alternative, suggesting that the Parties are viewed as close alternatives by the Parties' customers. Moreover, the Parties along with DHL were frequently identified as very strong or strong alternatives relative to other suppliers.

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<sup>146</sup> The Parties raised several points relating to the quality of the third-party evidence received by the CMA and the weight it should place on it. For example, the Parties submitted that Supply Chain Directors (for whom they provided contact details) may not have a reliable understanding of the market and may not have been involved in recent procurement exercises. The Parties also submitted that the questionnaire responses may be biased as the CMA only contacted customers of the Parties which may, in particular, have a limited understanding of the market as they receive a high-quality of service and do not have factors pushing them to change supplier or consider their alternatives more widely. ILR, paragraph R.32 and the Cover Letter to the ILR, paragraph 37. The CMA notes that sending questionnaires to customers of the merging parties is a standard practice for the CMA during merger investigations, as it helps assess the merger's potential impact on those who are most likely to be affected —those who currently purchase from the merging parties. The CMA also notes that it sent questionnaires to the Parties' largest retail and non-retail customers, which, as noted by the Parties (FMN, page 7), are sophisticated and well-informed.

<sup>147</sup> The CMA questionnaire asked customers to list the suppliers they would consider to be 'credible' if they were going to tender for a new CLS opportunity in the UK. Customers were asked to rate each supplier listed as: very weak, weak, moderate, strong or very strong.

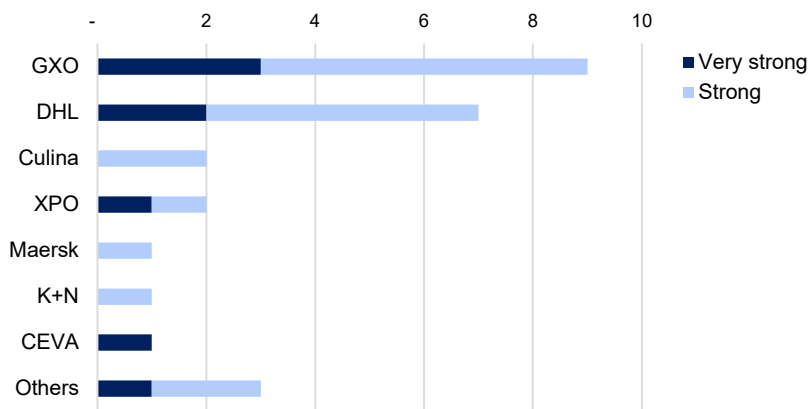
**Figure 1: Strong or very strong alternatives identified by GXO’s retail customers**



Source: Response to the CMA’s questionnaire from a number of third parties, September 2024, question 8.

Notes: Suppliers mentioned by only one customer have been combined into the ‘other’ category and include: ID Logistics, Advanced Supply Chain, Amazon, DP World, Gregory Transport, JK Phillips, Kammac, Romac, Europa, Howard Tenens, and Rhenus. In addition, one customer listed self-supply as a strong alternative.

**Figure 2: Strong or very strong alternatives identified by Wincanton’s retail customers**



Source: Response to the CMA’s questionnaire from a number of third parties, September 2024, question 8.

Notes: Suppliers mentioned by only one customer have been combined into the ‘other’ category and include: DP World, Kammac, and Europa. In addition, one customer listed self-supply as a strong alternative.

106. While many suppliers were also identified by customers as moderate alternatives, the evidence provided by customers on these suppliers often highlighted limitations in their offering, indicating that the supplier had more limited capabilities or sector experience. Therefore, on a cautious basis, the CMA placed comparatively more weight, when considering closeness, on the position of the Parties relative to other suppliers in terms of being identified as strong or very strong alternatives.<sup>148</sup>

<sup>148</sup> Notwithstanding this position, the CMA notes that the Parties and DHL were more frequently identified as alternatives than other suppliers by each Party’s retail customers even accounting for those raised as moderate alternatives. Moreover, a customer being left with a moderate rather than strong or very strong alternative could still be considered a degradation in the options available to them.



107. The evidence collected from third parties indicates that the Parties are close alternatives for retail customers due to their experience and capabilities, particularly within the groceries and FMCG sectors and in supplying omni-channel retailers.<sup>149</sup> For example:
- (a) Several retail customers active in the groceries sector indicated that the Parties were their strongest or only alternatives for the supply of CLS.
    - (i) Two grocery retailers submitted that they consider only one other supplier to be a strong alternative to the Parties, and one of them noted that other suppliers are less able to supply CLS to grocery customers which have specific requirements (such as chilled and frozen warehousing and transport capabilities, and final mile delivery service for convenience stores).<sup>150</sup>
    - (ii) Another grocery retailer stated that the Parties are its two main alternatives for CLS and that other alternatives either specialise in transport, were unsuccessful in recent tenders, or had unknown capabilities.<sup>151</sup>
    - (iii) Another grocery retailer submitted that some other suppliers of CLS lack scale in comparison to DHL, GXO and Wincanton, which all have national transport capabilities and specific capabilities to supply grocery customers.<sup>152</sup>
  - (b) One omni-channel retailer noted that there are relatively few national 3PLs and that, compared to the Parties, other suppliers have less innovative offerings, lack sector experience, or may be a risky alternative due to not having an established presence in both warehousing and transport.<sup>153</sup> Another omni-channel supplier said that only the Parties and DHL are strong alternatives, and listed one other credible supplier which it noted was a weak choice as it was small and had no track record.<sup>154</sup>
  - (c) One competitor told the CMA that the pool of suitable suppliers for large national retailers is limited, with customers typically choosing between GXO, Wincanton, and DHL.<sup>155</sup> Another competitor indicated that there are economies of scale in the supply of CLS to retail customers and that having

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<sup>149</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8. Response to the CMA's questionnaire from a number of third parties, September 2024, question 9.

<sup>150</sup> Note of a call with a third party, July 2024, paragraph 6 and 10. Response to the CMA's questionnaire from a number of third parties, September 2024, question 8 and 9.

<sup>151</sup> Response to the CMA's questionnaire from a third party, September 2024, questions 8 and 12.

<sup>152</sup> It further noted that it would be a challenge to give other suppliers a large proportion of its business and would need to test them first. Note of a call with a third party, August 2024, paragraph 9.

<sup>153</sup> Response to the CMA's questionnaire from a third party, September 2024, questions 8 and 12.

<sup>154</sup> Response to the CMA's questionnaire from a third party, September 2024, questions 8.

<sup>155</sup> Note of a call with a third party, August 2024, paragraph 27.

access to a large volume of specialist infrastructure (including refrigerated warehouses and trucks) is a competitive advantage when competing to supply grocery customers.<sup>156</sup>

108. For non-retail customers, the CMA notes that the Parties were less frequently identified as very strong or strong alternatives by each Party's customers. In particular, while non-retail customers of Wincanton frequently identified GXO and XPO as very strong or strong alternatives, GXO's customers identified DHL, CEVA, and XPO more frequently than Wincanton.<sup>157</sup> This suggests that while the Parties are alternatives for non-retail customers, they may compete less closely for customers in this segment. Nonetheless, the CMA notes that some non-retail customers identified both Parties among a small number of strong or very strong alternatives.<sup>158</sup>
109. More generally, the CMA notes that the vast majority of retail and non-retail customers identified scale, incumbency, and track record as important factors in their choice of CLS supplier.<sup>159</sup> In this context, the CMA notes that the Parties are among the largest suppliers of CLS and have a track record of supplying customers across a broad range of sectors, including several retail sectors. Furthermore, many customers said the Parties were strong suppliers because of their scale, sector experience, and track record.<sup>160</sup>

#### *The strength of alternative suppliers*

110. The CMA has also used the third-party evidence to assess the competitive constraints from alternative suppliers of mainstream CLS on the Merged Entity.
111. While other 3PLs were identified as alternatives<sup>161</sup> by retail customers, all apart from DHL appear to be weaker constraints on the Parties than they are on each other. In particular:
- (a) **DHL:** More than half of the Parties' retail customers identified DHL as either strong or very strong, and in many instances DHL was listed alongside the

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<sup>156</sup> Submission to the CMA by a third party, July 2024, paragraph 2.5.

<sup>157</sup> Response to the CMA's questionnaire CMA's questionnaire from a number of third parties, September 2024, question 7.

<sup>158</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 7.

<sup>159</sup> Scale: Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

Incumbency: Response to the CMA's questionnaire from a number of third parties, September 2024, question 7.

Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

Track record: Response to the CMA's questionnaire from a number of third parties, September 2024, question 7.

Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

<sup>160</sup> Response to the CMA's questionnaire CMA's questionnaire from a number of third parties, September 2024, question 7 and 8.

<sup>161</sup> The CMA notes that this includes suppliers identified as credible but described as 'very weak' or 'weak'.

Parties as an alternative.<sup>162</sup> The CMA therefore considers that DHL poses a strong competitive constraint on the Parties for retail customers.

- (b) **XPO:** Around a third of retail customers identified XPO as an alternative, but only a small number of the Parties' retail customers identified XPO as a very strong or strong alternative.<sup>163</sup> Two of those identifying XPO as a strong or very strong alternative indicated that it may be weaker in warehousing as it is a transport specialist.<sup>164</sup> Another customer said it was a moderate alternative given its transport focus,<sup>165</sup> while another indicated that XPO was a very weak alternative as it did not have the capacity to supply grocery customers.<sup>166</sup>
- (c) **CEVA:** Half of retail customers identified CEVA as an alternative, but very few of each of the Parties' retail customers identified CEVA as a very strong or strong alternative.<sup>167</sup> Evidence from third parties suggests that CEVA may be a strong supplier of CLS to fashion retailers.<sup>168</sup> By contrast, several customers said that CEVA did not have experience in the grocery sector.<sup>169</sup> Consistent with this, a competitor indicated that CEVA has a more limited presence in FMCG and is a weak competitor for omni-channel retailers (and noted that these sectors have high barriers to entry).<sup>170</sup>
- (d) **Culina:** Half of retail customers identified Culina as an alternative, although less than a third of GXO's retail customers and very few of Wincanton's customers identified it as a strong alternative.<sup>171</sup> One third party stated that Culina was only a moderate alternative in the groceries sector as it 'lacked final mile convenience delivery'.<sup>172</sup> Another third party submitted that Culina was a weak competitor to the Parties for retail customers as it is a specialist in the supply of CLS to ambient and chilled products.<sup>173</sup>
- (e) **K+N:** Very few retail customers identified K+N as an alternative, and very few of each Party's retail customers identified it as a strong supplier.<sup>174</sup> One retail customer that said it was a strong alternative indicated that this was for CLS

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<sup>162</sup> Response to the CMA's questionnaire CMA's questionnaire from a number of third parties, September 2024, question 8 and 9.

<sup>163</sup> Response to the CMA's questionnaire CMA's questionnaire from a number of third parties, September 2024, question 8 and 9.

<sup>164</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>165</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8.

<sup>166</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8.

<sup>167</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>168</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8; Response to the CMA's questionnaire from a third party, September 2024, question 3.

<sup>169</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>170</sup> Response to the CMA's questionnaire from a third party, September 2024, question 7; Note of a call with a third party, August 2024, paragraph 3.

<sup>171</sup> None of these customers identified Culina as a very strong alternative. Response to the CMA's questionnaire from a number of third parties, September 2024, question 7 and 8.

<sup>172</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8.

<sup>173</sup> Response to the CMA's questionnaire from a third party, September 2024, questions 5–8.

<sup>174</sup> The CMA notes that [redacted]. Response to the CMA's questionnaire from a third party, September 2024, question 2.

services relating to imports.<sup>175</sup> The CMA considers that these responses may overstate the competitive strength of K+N as they may reflect its performance in tenders prior to GXO's acquisition of a number of K+N's assets in 2021 including its retail CLS assets.<sup>176</sup>

- (f) **Maersk:** Around a quarter of retail customers identified Maersk as an alternative. While a few identified it as a strong or very strong alternative, the majority said it was a moderate alternative and one that it was weak, with each citing its limited experience and scale.<sup>177</sup>
- (g) **DSV:** A very small number of retail customers identified DSV as an alternative. All rated it as either a moderate or weak alternative, with one customer noting its limited scale, and another its limited technological offering and flexibility.<sup>178</sup>
- (h) **Others:** Several other suppliers were identified as an alternative by only one or two retail customers. While this may indicate that smaller, specialist suppliers exercise a competitive constraint in certain sectors or for certain services, it suggests that these suppliers would not act as a competitive constraint across the Merged Entity's business more widely.<sup>179</sup>

- 112. While XPO, CEVA, and Culina were identified as alternatives to the Parties by a number of retail customers, the CMA notes that they appear to be competitive mainly for specific types of opportunity within retail. In particular, it appears that each has strengths in the supply of transport, CLS to fashion retailers, and CLS for ambient and chilled products respectively.
- 113. The CMA notes that many customers, particularly customers in the groceries sector, listed only the Parties and one other supplier (typically DHL) as very strong or strong alternatives.<sup>180</sup>
- 114. By comparison, the evidence from non-retail customers indicates that other suppliers may be more credible in this segment, although there may still be relatively few strong alternative suppliers. In particular, in addition to DHL, which was identified as a very strong or strong alternative by at least half of each Parties' non-retail customers:<sup>181</sup>

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<sup>175</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8.

<sup>176</sup> FMN, paragraphs 74–76.

<sup>177</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>178</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>179</sup> The CMA also notes that despite being a large supplier of CLS, Menzies were not raised as an alternative by customers of the Parties.

<sup>180</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8. A number of others also listed the Parties along with two other suppliers as very strong or strong alternatives. Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>181</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

- (a) Half or slightly fewer of each Party's non-retail customers identified XPO as a very strong or strong alternative.<sup>182</sup>
  - (b) While slightly fewer than half of GXO's non-retail customers identified CEVA as strong, none of Wincanton's non-retail customers identified CEVA as strong or very strong.<sup>183</sup>
  - (c) Similarly, only one of each Party's non-retail customers identified Culina as a strong alternative.<sup>184</sup>
  - (d) More generally, a wider range of other suppliers were raised as very strong or strong alternatives by a single customer, many of which only listed one of the Parties as an alternative.<sup>185</sup>
115. In response to the third-party evidence, the Parties submitted several examples of large retailers, including grocery customers and omni-channel retailers, purchasing CLS from a range of different suppliers and the Parties losing CLS contracts to these suppliers.<sup>186</sup> The CMA does not consider that the specific examples provided by the Parties undermines the evidence provided by customers. The CMA considers that the evidence shows that customers have diverse preferences and requirements, meaning that a supplier may be a good alternative for one customer but not another. This means that the effective competitor set for customers (or even opportunities) can vary, with some customers having relatively more credible options than others even compared to customers of a similar size or in the same sector.
116. The Parties also submitted that the CMA has not sufficiently (or at all) based its findings and evidential underpinnings on discernible customer groups or requirements (even allowing for the existence of a continuum of customers).<sup>187</sup> As noted at paragraph 42 above, the supply of mainstream CLS is highly differentiated, and customer requirements differ. The CMA does not consider it necessary to draw bright line distinctions between customer groups in order to assess whether the Merger gives rise to a realistic prospect of an SLC. Instead, the CMA has reviewed a wide range of evidence to assess the closeness of competition between the Parties and the strength of the constraints that the Parties face. Taking that evidence in the round, the CMA considers that the Parties compete particularly closely in the retail segment (and for particular types of retail customer such as grocery retailers).

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<sup>182</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>183</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>184</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>185</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>186</sup> Parties' Cover letter to the ILR paragraph 19; ILR, paragraph R.32, and ILR, Annex 004.

<sup>187</sup> Parties' Cover letter to the ILR paragraph 3.

117. The Parties also made a number of submissions concerning a number of pro-competitive features of the supply of CLS, such as the prevalence of self-supply and mixed-sourcing (which, along with open book contracting, allow customers to benchmark 3PLs against each other and self-supply) and limited switching costs.<sup>188</sup> The CMA notes that these market features are consistent with the evidence received from third parties and could be expected to facilitate strong competition between suppliers. However, the CMA notes that such features rely on customers having good alternatives and, as such, do not preclude the possibility of horizontal unilateral effects. Further, customer evidence also points towards the importance of scale, reputation and a proven track record which favour larger and established suppliers and could be expected to dampen competition between suppliers.<sup>189</sup>

### *Third-party views on the Merger*

118. The CMA also sought third-party views regarding the overall impact of the Merger on competition. These views are consistent with the Parties being close competitors and at least some customers having limited credible options.
119. Over a third of customers responding to the CMA's market testing raised concerns about the impact of the Merger on competition,<sup>190</sup> namely:
- (a) Several customers, across both the retail and non-retail CLS segments, said that the Merger would have a negative impact on competition.<sup>191</sup> In particular, several stated that there has been a significant degree of consolidation in the supply of mainstream CLS,<sup>192</sup> and several stated that the Merger could lead to higher prices and have an adverse impact on consumers.<sup>193</sup> Another customer that submitted a complaint to the CMA said that only the Parties and DHL were credible options, with the Merger reducing alternatives 'from three to two' and potentially lead to higher costs and lower service quality.<sup>194</sup> Another customer noted that the Merger could increase retailers' costs due to the market being 'relatively constricted' with 'few players'.<sup>195</sup>

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<sup>188</sup> Parties' Cover letter to the ILR, paragraph 8; ILR Annexes 001, 005, and 006.

<sup>189</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6. Response to the CMA's questionnaire from a number of third parties, September 2024, question 8.

<sup>190</sup> The Parties stated in their Cover letter to the ILR, paragraph 39, that none of their customers complained about the Merger which is noteworthy as the Parties' customers would not hold back in raising concerns. However, the CMA does not consider it surprising that customers did not complain directly to the Parties. The CMA notes that customers are often reluctant to raise concerns about a merger because of concerns about the impact that it could have on their supply relationship.

<sup>191</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>192</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>193</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>194</sup> Email to the CMA from a third party, 9 July 2024.

<sup>195</sup> Response to the CMA's questionnaire from a third party, September 2024, question 10.

(b) While the majority of customers had a mixed or neutral view about the overall impact of the Merger on competition, many of these customers also raised concerns about how the Merger could affect competition.<sup>196</sup> For example, one customer said that it had some competition concerns as there is a ‘relatively limited pool of national logistics suppliers’.<sup>197</sup> Another said that the Merger could negatively impact customer choice, future innovations and costs through a lack of large scale suppliers in the market.<sup>198</sup>

120. The CMA also notes that a number of competitors raised concerns about the impact of the Merger on competition.<sup>199</sup> For example, one competitor said that the Merger would remove a close competitor to GXO, and that the Parties are among the few suppliers capable of bidding successfully for large, national omni-channel retail CLS accounts.<sup>200</sup>

#### *CMA’s conclusion on third-party evidence*

121. The CMA therefore considers that the evidence from third parties indicates that the Parties are close competitors in the supply of mainstream CLS, and together with DHL, are considered to be the main alternative suppliers for a number of customers, particularly retail customers in the grocery and omni-channel retail sectors.

122. Other suppliers, such as CEVA, XPO and Culina, were listed as credible suppliers by a much smaller number of customers, and the evidence from third parties indicates that these suppliers may pose only a limited competitive constraint on the Parties due to their presence and capabilities in the retail segment.

#### **Self-supply**

123. The Parties submitted that self-supply is a fundamental part of the mainstream CLS market and that customers would have the ability and incentive to engage in (or threaten to) self-supply to prevent the Merged Entity from raising its prices. The Parties also submitted that many customers are capable of managing the same operations currently managed by 3PLs, including those with high degrees of automation.<sup>201</sup>

124. Consistent with the Parties’ submissions, the majority of customers responding to the CMA’s questionnaire stated that they currently self-supply a material

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<sup>196</sup> Response to the CMA’s questionnaire from a number of third parties, September 2024, questions 9 and 10.

<sup>197</sup> Response to the CMA’s questionnaire from a third party, September 2024, question 10. The customer indicated that it had both ‘positive’ and ‘negative’ views on the Merger; the positive aspect was that it considered that it may see some commercial benefit due to potential reductions in the Parties’ costs.

<sup>198</sup> Response to the CMA’s questionnaire from a third party, September 2024, question 10.

<sup>199</sup> Response to the CMA’s questionnaire from a number of third parties, September 2024, question 12.

<sup>200</sup> Response to the CMA’s questionnaire from a third party, September 2024, question 12.

<sup>201</sup> Parties’ Cover letter to the ILR, paragraphs 23–30 and ILR Annex 005.

proportion of their logistics requirements.<sup>202</sup> Furthermore, several customers told the CMA that they actively maintain a mix of self-supply and outsourced supply.<sup>203</sup> The Parties' internal documents also indicate that self-supply is common in the supply of CLS, and that winning CLS contracts that were previously self-supplied is an important source of revenue growth.<sup>204</sup>

125. The CMA notes that the presence of self-supply would only exercise a meaningful competitive constraint on the Parties to the extent that customers would switch to self-supply in response to a small but significant deterioration in the offering of external suppliers. While there are a number of examples of customers, including customers of the Parties, switching to self-supply, the CMA has seen limited evidence that these were in response to changes in competitive conditions.<sup>205</sup> Rather, these may be consistent with customers making broader, longer-term commercial decisions to self-supply based on a range of factors such as their size, growth trajectory, distribution costs, or modernisation needs. In particular, the CMA notes that it has seen only limited evidence that customers would switch to self-supply if the outcome of their competitive tender process was not satisfactory.<sup>206</sup>
126. In this context, based on the third-party evidence outlined below, the CMA considers that self-supply may be an alternative for some of the Parties' customers but that a significant proportion of customers would find it costly to switch to (or increase their) self-supply limiting any disciplining effect self-supply may have on the commercial offerings of 3PLs:<sup>207</sup>
- (a) The CMA asked customers whether they saw self-supply as an alternative to outsourcing their CLS. The CMA received a range of different views, indicating that the ability of a customer to self-supply varies on a case-by-case basis.

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<sup>202</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4. In particular, several customers said that they operate one or more of their own warehouses or distribution centres. Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4.

<sup>203</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4.

<sup>204</sup> This is reflected in the Parties' bidding data, which shows that they ([<]) record a [<] proportion of opportunities as lost to self-supply (see paragraphs 54 and 57 above). Albeit, as noted at paragraph 54, the CMA considers that a [<] proportion of opportunities lost to self-supply likely represent the Parties unsuccessfully seeking business from customers that self-supply (and indeed may never have outsourced). In these instances, self-supply may act as a material competitive constraint, though it is not clear that current customers of the Parties (for whom the impact of the Merger is most pronounced and who currently outsource) would be protected by these competitive dynamics. See, also: GXO's Internal Document, GXO\_00010435, '[<]', February 2024, slide 11.

<sup>205</sup> ILR Annex 001.

<sup>206</sup> ILR, Annex 001 and ILR, Annex 005, paragraph 13. In relation to this, the Parties submitted that even when customers make a major strategic decision to self-supply—such as in the case of JD Sports—these reflect genuine competitive choices driven by price, cost, or quality (Parties' Cover letter to the ILR paragraphs 23, 24 and 26). However, the CMA considers that, in such cases, these decisions could plausibly be driven by changes in the customer's demand that are independent of competitive dynamics.

<sup>207</sup> These costs may extend beyond the immediate costs of switching and include the ongoing operational costs customers would incur.



- (i) Around half of customers told the CMA that self-supply was not an alternative for their outsourced logistics.<sup>208</sup> For example, one customer stated that bringing its outsourced logistics services in-house would not be a viable alternative, as it would require investment in its systems and expertise.<sup>209</sup> Another customer stated that it lacks the skills and expertise to self-supply its warehousing and transportation logistics.<sup>210</sup>
  - (ii) Some customers gave mixed views, indicating that self-supply was a potential alternative but that switching to self-supply may be difficult, costly, or require significant time and planning.<sup>211</sup> However, one such customer in the groceries sector noted that it would consider self-supply if its CLS supplier raised its prices.<sup>212</sup> Several other customers also gave mixed views, indicating that while self-supply is an option, they actively maintain some operations internally and externally to benefit from the technology and expertise of 3PLs.<sup>213</sup>
  - (iii) A minority of customers expressed positive views about their ability to self-supply (all of which already do so to a material extent), albeit two of these customers indicated that that it may only be possible for warehousing,<sup>214</sup> and another said that it benefitted from the expertise of 3PLs in modernising its warehouse operations.<sup>215</sup>
- (b) Only some of the customers that identified a small number of strong alternatives to the Parties put forward a positive view of self-supply as a viable alternative to their currently outsourced CLS.<sup>216</sup>
- (c) The CMA also received a range of different views from competitors on the extent to which self-supply is a viable option for customers:
- (i) Two competitors told the CMA that customers typically do not switch from outsourcing to self-supply.<sup>217</sup> Two other competitors indicated that

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<sup>208</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4.

<sup>209</sup> Response to the CMA's questionnaire from a third party, September 2024, question 3 and 4.

<sup>210</sup> Response to the CMA's questionnaire from a third party, September 2024, question 3 and 4.

<sup>211</sup> For example, one customer said that self-supply is viable in some circumstances but that it would be very disruptive to transition all of its outsourced supply. Another customer said that while it was possible to self-supply all of its logistics, self-supply CLS operations require substantial effort and resources, and it would require significant forward-planning to rebuild its internal systems. Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4.

<sup>212</sup> Response to the CMA's questionnaire from a third party, September 2024, question 6.

<sup>213</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4. Another supplier said that it operates a hybrid approach. Response to the CMA's questionnaire from a third party, September 2024, question 3 and 4.

<sup>214</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4. In particular, one customer said that while self-supplying its warehousing was viable, particularly as it owns the warehouse, it would be too expensive to self-supply its transport logistics as it lacks the infrastructure. Another also said that it would be viable to self-supply its warehousing logistics as it has developed a high-level of expertise from self-supplying a number of existing warehouses. Response to the CMA's questionnaire from a number of third parties, September 2024, question 3 and 4.

<sup>215</sup> Response to the CMA's questionnaire from a third party, September 2024, question 3 and 4.

<sup>216</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 5 and 6.

<sup>217</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 10.

self-supply would generally only be viable for larger customers.<sup>218</sup> One competitor said that major retailers can switch between self-supply and outsourcing depending on their scale and specific circumstances, but that non-grocery retail CLS customers tend to outsource more than grocery retailers.<sup>219</sup>

- (ii) Two other competitors indicated that self-supply was an alternative and gave examples of customers that have brought back their transport and warehousing requirements internally.<sup>220</sup>

127. The Parties submitted that their internal documents show considerable evidence of self-supply and return to self-supplying as imposing a direct competitive constraint. The Parties also stated that the customers may acquire automation expertise and many of them have done so.<sup>221</sup>

128. There are some internal documents that indicate self-supply imposes a competitive constraint on the Parties. For example:

- (a) One Wincanton document specifically lists 'In-House' alongside a number of other 3PLs as competitors in [REDACTED].<sup>222</sup> Another Wincanton document notes that 'in-house' is a key competitor in the [REDACTED] sector and notes [REDACTED].<sup>223</sup> A further Wincanton document benchmarks its capabilities in [REDACTED] against both competitors and customers.<sup>224</sup> A GXO internal document also identifies self-supply in an [REDACTED] competitor analysis.<sup>225</sup>
- (b) The internal documents also identify examples where Wincanton lost a contract [REDACTED] to self-supply<sup>226</sup> and when the customers indicated that they would be prepared to self-supply [REDACTED].<sup>227</sup>

129. However, other internal documents indicate that self-supply, at least in some situations, is a weaker constraint due to the advantages the Parties have over self-supply. For example:

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<sup>218</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 10.

<sup>219</sup> That competitor also said that most manufacturers have outsourced and would likely not self-supply going forward. Response to the CMA's questionnaire from a third party, September 2024, question 10.

<sup>220</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 10.

<sup>221</sup> ILR, paragraph R.37.

<sup>222</sup> Wincanton's Internal Document, WIN\_00000832, '[REDACTED]', March 2022, slide 20.

<sup>223</sup> Wincanton's Internal Document, WIN\_00009753, '[REDACTED]', July 2023, slide 66.

<sup>224</sup> Wincanton's Internal Document, WIN\_00001968, '[REDACTED]', July 2022, slide 53.

<sup>225</sup> GXO's Internal Document, GXW-000000483, '[REDACTED]', September 2024, slide 32.

<sup>226</sup> Wincanton's Internal Document WIN\_00000622, '[REDACTED]', February 2022, slide 6 which mentions Wincanton losing [REDACTED] business because the customer decided to self-supply.

<sup>227</sup> GXO's Internal Document, GXO\_00000007, '[REDACTED]', February 2022, pages 3–5.

- (a) One Wincanton document notes in relation to a tender the main competitor is the customer's 'experienced in-house team' but that Wincanton expects the customer [REDACTED].<sup>228</sup>
- (b) A GXO document [REDACTED], notes that outsourcing [REDACTED] due to greater willingness of organisations to outsource key business functions (including logistics) due to the [REDACTED].<sup>229</sup> Likewise, in the transcript of an investor call, GXO notes that due to GXO's scale it is able to secure significant discounts when purchasing technology, in some cases more than 50% on adaptive technology when compared to the prices charged to in-house operators and other competitors.<sup>230</sup> Another document indicates that GXO has significant advantages over self-supply, noting that it is differentiated in its [REDACTED], and that customers do not have automation expertise.<sup>231</sup> Further a third-party market study prepared for GXO lists a number of trends, such as [REDACTED] in the next years which are expected to increase out-sourcing.<sup>232</sup>
130. Finally, a number of internal documents indicate that customers' ability and willingness to self-supply will depend on various factors. [REDACTED].<sup>233</sup> A Wincanton document notes that [REDACTED]. Therefore, for the majority of customers return to self-supplying might not be a viable option.<sup>234</sup>
131. In line with the Parties' submissions, the CMA considers that larger retail customers may be better able to self-supply given the scale of their logistics operations, extent of existing self-supply, and ownership of the relevant warehouse and transport assets.<sup>235</sup> Nonetheless, this still varies on a customer-by-customer basis and the CMA found that a number of large retailers (including grocery retailers) indicated that self-supply was not a viable alternative for their outsourced supply.
132. The Parties submitted that the financial costs of switching to self-supply are low for large retailers compared to a small price increase in their management fee.<sup>236</sup> However, the CMA considers that such a comparison is of limited value as it does not consider all of the factors that may feed into such a decision. It does not consider the complexity or timeliness of switching to self-supply, nor does it consider whether the rise in the management fee would actually make outsourcing

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<sup>228</sup> Wincanton's Internal Document, WIN\_00002707, '[REDACTED]', August 2022, slide 11.

<sup>229</sup> GXO's Internal Document, GXO\_00001772, '[REDACTED]', June 2022, page 12.

<sup>230</sup> GXO's Internal Document, GXO\_00005406, '[REDACTED]', January 2023, page 21.

<sup>231</sup> GXO's Internal Document, GXO\_00000312, '[REDACTED]', March 2022, page 1-2.

<sup>232</sup> GXO's Internal Document, GXO\_00001973, '[REDACTED]', July 2022, page 14.

<sup>233</sup> GXO's Internal Document, GXO\_00010229, '[REDACTED]', January 2024, slide 11. The CMA notes that the date of this document is very close to the initial discussions between the Parties regarding the Merger and thus the Merger might have already been in contemplation when GXO produced this document. Therefore, the CMA has only placed limited weight on this presentation.

<sup>234</sup> Wincanton's Internal Document, WIN\_00006422, '[REDACTED]', February 2023, slide 10.

<sup>235</sup> ILR, paragraph R.39.

<sup>236</sup> The Parties also noted that switching to self-supply is further facilitated by market features such as high customer asset ownership and the ability for employees to transfer with the CLS contracts. ILR, paragraph R.39.

less cost effective than self-supply. Furthermore, it does not take into account the non-price factors that the CMA understands are important to customers and may not be replicable when self-supplying (eg around automation and the quality of services).<sup>237</sup> In addition, this evidence is contrary to the views of a number of large retailers, as set out above.

133. [X].<sup>238</sup> While the CMA recognises that such a finding is consistent with these customers having stronger outside options, [X] can be driven by a range of factors,<sup>239</sup> and in any event are not probative as to the potential competitive effects of the Merger as the presence of [X] may change in the event that customers lose an outside option.

#### *CMA conclusion on self-supply*

134. On balance, the CMA considers that the ability of customers to self-supply may impose a degree of constraint on the Merged Entity, albeit the strength of this constraint is highly uncertain and may be limited (or not present) for many customers, including larger retailers.

## **Conclusion**

135. Based on the available evidence set out above, the CMA considers that:
- (a) the Merger would materially increase the level of concentration in the market, with the Merged Entity and its two largest rivals accounting for a significant proportion of supply. The CMA found that the Merged Entity would become the largest mainstream CLS supplier with a share of [20-30]%, followed by DHL ([10-20]%), Culina ([10-20]%) and a tail of much smaller suppliers (all <5%).
  - (b) The Parties (along with DHL and to a lesser extent Culina) compete closely in the supply of mainstream CLS. They are distinguished by their track record, scale and capabilities (see for example paragraphs 107–109), particularly when competing to supply larger retail customers such as omnichannel retailers and those active in the groceries and FMCG sectors. A range of evidence including tender data, customer evidence and internal

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<sup>237</sup> Quality: Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

Automation: Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

<sup>238</sup> In particular, the Parties noted that GXO's top five retail contracts have a margin of [X]% compared to [X]% on all mainstream customers, while Wincanton's top five retail contracts have a margin of [X]% compared to [X]% on all mainstream customers. ILR Annex 6, paragraph 3.

<sup>239</sup> It is also consistent with suppliers competing more for larger and thus, overall, more valuable contracts. In this regard, the CMA notes that the Parties' analysis indicates that [X]. This suggests that the differences in margins are driven by the long tail of small/low value contracts both Parties have. In addition, as the CMA's evidence gathering was focused on the top 20 customers for each of the Parties this suggests that there are [X] across the customers included in the CMA's evidence base. ILR, Annex A to Annex 6, paragraphs A.2–A.3.

documents suggests that these customers may have limited credible options and that both Parties are currently strong alternatives.

- (c) Although there is a long tail of other CLS suppliers, many of these are very small, or specialise in supplying particular types of logistics services (eg transport) or particular sectors (eg fashion and apparel). While there is evidence that some of these suppliers constrain the parties for particular types of opportunity, the evidence reviewed by the CMA during its phase 1 investigation does not suggest that individually or cumulatively they exert a sufficient constraint across the mainstream CLS market to prevent competition concerns from arising.
- (d) While a significant proportion of logistics are self-supplied, the ability of customers to self-supply would impose only a weak competitive constraint on the Merged Entity as many customers are unable to self-supply while others would find it costly to switch to or increase their self-supply in response to a worsening of the Merged Entity's offering.

136. Accordingly, the CMA considers that the Merger raises significant competition concerns as a result of horizontal unilateral effects in the supply mainstream CLS in the UK.

## ENTRY AND EXPANSION

137. 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. In assessing whether entry or expansion might prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient.<sup>240</sup>

### Parties' submissions

138. The Parties submitted that barriers to entry and expansion in the mainstream CLS market are low given that the customer base is large and there are ample competitive opportunities. This is in part due to the use of multi-sourcing as often large customers award smaller 3PLs subsets of their logistics operations (such as smaller warehouses) providing smaller entrants opportunities to evidence their capabilities and gain experience, which can lead to larger CLS contracts.<sup>241</sup> The Parties also submitted that high levels of multi-sourcing indicate that economies of scale are not meaningful barriers to entry in CLS, as otherwise customers would

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<sup>240</sup> [CMA129](#), paragraph 8.31.

<sup>241</sup> FMN, paragraph 442. ILR, paragraph R.43.

single-source their logistics requirements to leverage the scale and scope benefits provided by 3PLs.<sup>242</sup>

139. The Parties stated that entry and expansion is facilitated by the ease with which customers can switch suppliers at the end of a contract term, noting that the use of tenders is advantageous for new and expanding entrants.<sup>243</sup> The Parties indicated that capability and track record were not decisive factors when winning CLS contracts. They provided the example of XPO being selected as Weetabix's multi-warehouse supplier in 2024, despite having no previous retail CLS experience in the UK.<sup>244</sup>
140. The Parties noted that for many retail and non-retail CLS customers, 3PLs do not need to make significant capital investments to service their contracts, and regulatory barriers are also low.<sup>245</sup> In addition, many customer contracts do not require the 3PLs to own or acquire particular operating assets, as often these are wholly or mostly owned by the customer or inherited from the incumbent (including any specialised assets).<sup>246</sup> The Parties also submitted that access to specialised infrastructure is generally not required to service retail CLS customers so is not a barrier to entry in retail CLS. In contrast, the Parties submitted that the need for specialised infrastructure is more common in areas of non-retail CLS, where the Parties do not materially overlap.<sup>247</sup>
141. The Parties also noted that investment requirements for 3PLs do not extend to access to technology and automation. Many smaller suppliers operate highly automated, dedicated and shared warehouses for small to medium-sized retail CLS customers. It is more common for larger customers to procure third-party automation solutions directly, with the 3PLs employed in a management capacity.<sup>248</sup>
142. The Parties provided examples of recent entrants from neighbouring markets such as Maersk,<sup>249</sup> and examples of 3PLs entering the UK market by leveraging their existing customer relationships from other countries (such as Arvato, Bleckmann, CEVA, and Culina).<sup>250</sup> The Parties submitted that they were not aware of any competing 3PLs withdrawing from the market.<sup>251</sup>

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<sup>242</sup> ILR, paragraph R.43.

<sup>243</sup> FMN, paragraph 444 and 448. ILR, paragraph R.43.

<sup>244</sup> ILR, paragraph R.42.

<sup>245</sup> FMN, paragraph 440 and 448. ILR, paragraph R.43.

<sup>246</sup> FMN, paragraph 445. ILR, paragraph R.45

<sup>247</sup> ILR, paragraph R.45.

<sup>248</sup> ILR, paragraph R.44.

<sup>249</sup> FMN, paragraph 449(a). ILR, paragraph R.43.

<sup>250</sup> FMN, paragraph 449(b).

<sup>251</sup> ILR, paragraph R.43.

## CMA's assessment

143. The evidence gathered by the CMA indicates that there are a number of market features that may support entry and/or expansion. These include multi- or mix-sourcing by customers of their logistics needs, that assets are generally customer owned, inherited or leased, and that contracts tend to be awarded through tenders, which can facilitate switching between suppliers.
144. However, evidence from third parties, (including from the Parties' retail customers) indicates that barriers to entry and expansion could be high:
- (a) Several customers noted that when choosing a 3PL, they value whether it has the sufficient scale<sup>252</sup> to meet their complex needs.<sup>253</sup> Also, some customers indicated that they would take into account a 3PL's ability to rapidly scale up operations in response to increased demand at peak periods,<sup>254</sup> or as they grow their businesses.<sup>255</sup> These views are also reflected by the Parties' competitors, who noted that 3PLs need scale to be able to compete on the mainstream CLS markets.<sup>256</sup>
  - (b) Several customers and one competitor indicated that incumbency is an important factor when customers choose their CLS supplier.<sup>257</sup> Some customers and competitors also considered reputation to be an important factor in choosing the 3PL,<sup>258</sup> for instance, two customers noted that they need to be confident that the 3PL can meet the needs of the business.<sup>259</sup>
  - (c) Similarly, the majority of customers listed track record as an important factor when selecting a CLS supplier.<sup>260</sup> In this regard, a retail CLS customer submitted that it would not choose a supplier without relevant retail CLS

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<sup>252</sup> Namely: size of company; number of employees; length of trading; geographic footprint; technological reach, investment and sophistication of the solutions offered; the ability to meet the changing demands of the business at varying peaks during the year; the ability to support the longer term growth strategy of the business, in terms of scale, capacity, compliance and standards, innovation and financial stability; and to bring economies of scale to influence price.

<sup>253</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

<sup>254</sup> Response to the CMA's questionnaire from a third party, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

<sup>255</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 6.

<sup>256</sup> Response to the CMA's questionnaire from a third party, September 2024, questions 3 and 5. Response to the CMA's questionnaire from a third party, September 2024, questions 8 and 12. Note of a call with a third party, August 2024, paragraph 13. Note of a call with a third party, August 2024, paragraph 25(c).

<sup>257</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6. One competitor said that it is difficult to win contracts in segments that a 3PL has not previously serviced, as capability is scrutinised heavily during the procurement process. Note of a call with a third party, August 2024, paragraph 22.

<sup>258</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8. Response to the CMA's questionnaire from a third party, September 2024, question 6. Response to the CMA's questionnaire, from a third party, September 2024, question 11. Note of a call with a third party, July 2024, paragraph 20. Response to the CMA's questionnaire, from a third party, September 2024, question 11. Note of a call with a third party, July 2024, paragraph 20.

<sup>259</sup> Response to the CMA's questionnaire from a third party, September 2024, question 8. Response to the CMA's questionnaire from a third party, September 2024, question 6.

<sup>260</sup> Response to the CMA's questionnaire from a number of third parties, September 2024, question 7. Response to the CMA's questionnaire from a number of third parties, September 2024, question 6. Note of a call with a third party, July 2024, paragraph 20.

experience and considered the need for the CLS supplier to achieve the required level of capability and track record in the grocery sector to be an important barrier to entry.<sup>261</sup> Competitors also shared this view. Two competitors submitted that the Parties' strong position in retail CLS prevents competitors from expanding into servicing large scale retail CLS operations or specific retail CLS sectors like e-commerce.<sup>262</sup> One competitor also submitted that due to the Merger, some competitors are already withdrawing from the UK market and prioritising investment elsewhere as they would not be able to compete against the Parties post-Merger due to their strong position and scale.<sup>263</sup>

- (d) Some competitors stated that 3PLs would need to incur high levels of capital expenditure to enter or expand their businesses, recruit and retain staff or achieve sufficient scale to compete effectively in the market, particularly in the retail CLS segment.<sup>264</sup> In this regard, a competitor identified that high initial set-up investment costs are required to automate warehouses, which are important for servicing large scale retail CLS operations.<sup>265</sup> Similarly, another competitor identified that having access to a bigger pool of specialised infrastructure assists with scaling up market shares and is particularly useful in sectors such as grocery.<sup>266</sup>

145. The above is also supported by the Parties' internal documents. For example, a Wincanton document states that there are 'high barriers to entry' for contract logistics [redacted].<sup>267</sup> A GXO document indicates that having [redacted] is more important than the level of [redacted] that is required in order to enter, as the supply of CLS is very '[redacted]'.<sup>268</sup>

146. Further, while Maersk, Arvato and Bleckmann have all entered, evidence from third parties indicates that these suppliers have not been able to expand successfully since entering the mainstream CLS market. This includes both the evidence on how often they were identified as credible alternatives and comments from customers when discussing alternatives or suppliers they invited to the tender. On the latter:

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<sup>261</sup> Note of a call with a third party, July 2024, paragraphs 19–21.

<sup>262</sup> Note of a call with a third party, August 2024, paragraph 29. Note of a call with a third party, July 2024, paragraph 16.

<sup>263</sup> Note of a call with a third party, July 2024, paragraph 17; and Response to the CMA's questionnaire from a third party, September 2024, question 11.

<sup>264</sup> Note of a call with a third party, July 2024, paragraph 21. Response to the CMA's questionnaire from a third party, September 2024, question 11. Response to the CMA's questionnaire from a third party, September 2024, question 11.

<sup>265</sup> Note of a call with a third party, August 2024, paragraph 29.

<sup>266</sup> Response to the CMA's questionnaire from a third party, September 2024, question 11.

<sup>267</sup> Wincanton's Internal Document, WIN\_00013265, '[redacted]', December 2023, slide 5.

<sup>268</sup> GXO's Internal Document, GXO\_00010435, '[redacted]', February 2024, page 11.



- (a) A number of customers submitted that Maersk is relatively new to the market and therefore lacks the relevant track record and scale, lacks experience or has a weak offering;<sup>269</sup>
  - (b) A couple of customers noted that Arvato participated in recent tenders, noting that it did not progress in those tenders due to ‘incorrect business fit’ or ‘technical ability’;
  - (c) One customer noted that Bleckmann has only a small capacity in the UK.
147. Finally, the CMA notes that GXO’s own example of expansion of its grocery offering after winning the [redacted] contract in 2016 also supports the view that any entry or expansion in response to the Merger would not be sufficiently timely and effective.<sup>270</sup> The CMA considers that GXO’s entry occurred eight years ago and it needed a number of years and significant effort to establish itself and achieve its current scale and market position.
148. For the reasons set out above, in particular evidence from third parties regarding the importance of track record, incumbency advantages and scale in the retail segment, the CMA believes that entry or expansion would not be timely, likely or sufficient to prevent a realistic prospect of an SLC as a result of the Merger.

## CONCLUSION ON SUBSTANTIAL LESSENING OF COMPETITION

149. 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 mainstream CLS.

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<sup>269</sup> Response to the CMA’s questionnaire from a number of third parties, September 2024, question 8.

<sup>270</sup> The CMA notes that prior to winning the [redacted] contract, GXO had already had presence in the retail segment in the UK, including some grocery experience, particularly, one waste management contract with [redacted] and one [redacted] contract for a frozen warehouse, one warehouse for [redacted], some transport for [redacted] and a food warehouse for [redacted]. ILR, paragraph R.35, Case Study A.

# DECISION

150. 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.
151. The CMA therefore believes that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised whilst the CMA is considering whether to accept undertakings under section 73 of the Act instead of making such a reference.<sup>271</sup> GXO has until 8 November 2024<sup>272</sup> to offer an undertaking to the CMA.<sup>273</sup> The CMA will refer the Merger for a phase 2 investigation<sup>274</sup> if GXO does not offer an undertaking by this date; if GXO indicates before this date that it does not wish to offer an undertaking; or if the CMA decides<sup>275</sup> by 15 November 2024 that there are no reasonable grounds for believing that it might accept the undertaking offered by GXO, or a modified version of it.
152. 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 14 November 2024. For the avoidance of doubt, the CMA hereby gives GXO 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 GXO 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 GXO 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**  
**1 November 2024**

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<sup>271</sup> Section [22\(3\)\(b\)](#) of the Act.

<sup>272</sup> Section [73A\(1\)](#) of the Act.

<sup>273</sup> Section [73\(2\)](#) of the Act.

<sup>274</sup> Sections [22\(1\)](#) and [34ZA\(2\)](#) of the Act.

<sup>275</sup> Section [73A\(2\)](#) of the Act.