ANTICIPATED ACQUISITION BY WILLIAM GRANT & SONS GROUP OF THE FAMOUS GROUSE, NAKED MALT AND AFFILIATED BRANDS

Decision on relevant merger situation and substantial lessening of competition

ME/7124/24

The Competition and Markets Authority's decision on relevant merger situation and substantial lessening of competition under section 33(1) of the Enterprise Act 2002 given on 6 March 2025. Full text of the decision published on 3 April 2025.

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 Some numbers have been replaced by a range, which are shown in square brackets.

ASSESSMENT

1. PARTIES, MERGER AND MERGER RATIONALE

1. William Grant & Sons Group (**WG&S**) agreed to purchase The Famous Grouse (**TFG**), Naked Malt and affiliated brands[1] of Scotch whisky[2] (the **Target**) from Highland Distillers Limited, a subsidiary of The 1887 Company Limited (**1887**) (the

[1] Including Grouse, Snow Grouse, Black Grouse, TFG Ruby Cask, TFG Smoky Black, TFG Sherry Cask, TFG Wine Cask, The Famous One, Gloag's and The Perth Royal. Final Merger Notice submitted to the CMA on 27 January 2025 (**FMN**), paragraph 2.9.

[2] This decision uses the spelling **whisky** and **whiskies** throughout (rather than whiskey and whiskeys). When doing so and not explicitly referring to Scotch whisky, these terms should be interpreted as including international whiskeys (that may typically use this alternative spelling).

Merger).[3] 1887 and WG&S are together referred to as the **Parties** and for statements relating to the future, WG&S and the Target are referred to as the **Merged Entity**.

2. WG&S is a global producer and supplier of spirits, including single malt, blended malt and blended Scotch whisky. Through its wholly owned subsidiary, Quality Spirits International Limited (**QSI**), WG&S supplies private label[4] bottled Scotch whisky.[5] WG&S also produces grain and malt new make spirit[6] at various distilleries in Scotland.

3. The stated rationale for the Merger is for WG&S to expand and develop TFG brand globally.[7]

2. JURISDICTION

4. The CMA has jurisdiction to review the Merger because WG&S and the Target are each enterprises which will cease to be distinct as a result of WG&S increasing its level of control over the Target, from material influence to a controlling interest.[8] WG&S and the Target have a combined share of more than 25% with an increment in the supply of bottled blended Scotch whisky (**blended Scotch**) to off-trade customers in the UK.[9] As a result, the CMA considers that the share of supply test in section 23 of the Enterprise Act 2002 (the **Act**) is met.

5. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.[10]

3. COUNTERFACTUAL

6. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual).[11] The CMA generally assesses anticipated mergers against the prevailing conditions of competition. The CMA has not received evidence that the Merger should be assessed against an alternative

[3] 1887 is a joint venture between The Edrington Group Limited (**Edrington**) (70%) and WG&S (30%). FMN, paragraph 2.
[4] Private label products (also known as 'own brand' or 'own label' products) are sold exclusively by a given retail supplier with their own branding.
[5] FMN, paragraph 2.2.
[6] New make spirit refers to the un-aged spirit used to produce whisky.
[7] WG&S also expects production cost efficiencies, as WG&S will use its own distilleries and bottling facilities to produce TFG (FMN, paragraphs B4–B6). This is supported by the Parties' internal documents, for example: WG&S' internal document, Annex 24 to the FMN, [✂], 10 January 2024, pages 2-3.
[8] The Parties submitted that through WG&S' pre-Merger 30% shareholding of 1887, WG&S already holds the ability to exercise material influence over 1887 (Parties' response to the CMA's Request for Information, 3 February 2025 (**RFI 5**), paragraph 4.8). See further section 129 and section 26(4) of the Act and paragraphs 4.36-4.37 of CMA2.
[9] See below at Table 1, paragraph 28.
[10] Section 23 of the Act.
[11] Merger Assessment Guidelines (**CMA129**), March 2021, paragraph 3.1.

counterfactual and has adopted the prevailing conditions of competition as the relevant counterfactual.

4. MARKET DEFINITION

7. 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.[12]

Supply of blended Scotch to off-trade customers

Product market

8. The Parties submitted that the product market should be at least as wide as blended[13] Scotch in the off-trade channel (eg supermarkets),[14] without distinguishing between private label and branded products,[15] and between premium and non-premium products.[16] The Parties noted that the relevant product market is possibly wider than blended Scotch, as these suppliers face increasingly strong constraints from international whiskies (eg American and Irish whiskies).[17] The CMA understands that the Parties' position is that, the supply of private label whisky to retailers is an upstream market, and that retailers compete in the off-trade channel, selling private label whisky to end-customers.[18]

9. In assessing the relevant market, the CMA's starting position is to consider the narrowest plausible markets where the parties overlap, and then to assess the extent to which the products within these candidate markets may be constrained by other products outside them.[19]

10. The Parties compete in the supply of non-premium[20] branded blended Scotch to off-trade and on-trade customers[21] in the UK through their respective brands,

[12] CMA129, paragraph 9.2.
[13] The Parties submitted that the lack of demand-side substitution between blended and single/blended malt Scotch whisky indicates they should not be considered as part of the same product market (FMN, paragraph 12.6).
[14] FMN, paragraph 12.38.
[15] The Parties submitted that end-customers consider these products to be close substitutes (FMN, paragraph 12.16).
[16] The Parties submitted that due to the lack of clear demarcation between premium or non-premium products, the market should not be segmented based on price and/or quality factors (FMN, paragraph, 12.10).
[17] All whisky is made from cereals (grains and/or malted barley), yeast and water but the main distinction between different categories of whiskies is the location of production (FMN, paragraphs 11.1-11.3).
[18] The CMA understands that this is the Parties' position given that they considered the supply of private label in the vertical effects section of the FMN (see FMN, paragraph 18.3).
[19] CMA129, paragraph 9.6.
[20] IWSR subsegments brands into categories (eg value, standard, premium) on the basis of the price (£) per 70cl bottle. Pursuant to this categorisation, most blended Scotch (including Grant's and TFG) are considered 'non-premium', while Johnnie Walker (excluding Red Label), Chivas and some additional smaller brands, are considered to be 'premium'.
[21] On-trade customers sell on premises (eg in pubs/bars/restaurants) (FMN, appendix 3). The Parties also overlap in the supply of (i) blended malt Scotch whisky to the on-trade and off-trade channels, and (ii) blended Scotch to the on-trade

Grant's and TFG. The CMA considered whether it is appropriate to broaden this candidate product market to include other products and channels.

11. For the purposes of identifying the most significant competitive alternatives to off-trade customers, the CMA recognises that competition at the retail level (ie sales to end-customers) informs competition at the wholesale level (ie sales to off-trade customers).[22]

Sales to on-trade and/or travel retail customers

12. In line with the previous decisions of the CMA's predecessor,[23] the CMA considers that the supply to off-trade and on-trade customers are two separate markets due to the differences in customer preferences and competitive conditions.[24, 25]

Private label blended Scotch

13. The CMA considered the effect of the Merger on competition at the wholesale level (ie the supply of blended Scotch to off-trade customers) and, therefore, considered the supply of private label whisky to off-trade customers to occur at the same level of the supply chain as the supply of branded blended Scotch to off-trade customers.

14. As discussed in the competitive assessment, evidence consistently indicates that end-customers consider private label blended Scotch to be a sufficiently close alternative to branded blended Scotch.[26] As a result, the CMA considers private label and blended Scotch to be part of the same product market.[27] The CMA took

channel. The CMA found no realistic prospect of a substantial lessening of competition (**SLC**) in relation to these overlaps due to WG&S' limited share of supply to on-trade customers and the Target's very small share in blended malt Scotch whisky.

[22] Third party evidence indicated that demand from off-trade customers is derived from demand at the retail level from end-customers (Note of a call from a third party, December 2024, paragraph 10).

[23] Completed acquisition by Diageo plc of United Spirits Limited, [ME/6130/13], paragraphs 35-41 (**Diageo/United Spirits**).

[24] Third-party evidence indicates competitive dynamics differ in the off-trade channel compared to on-trade (Note of a call with a third party, November 2024, paragraph 10). Internal documents consistently refer to off-trade and on-trade channels separately (1887's internal document, Annex 34 to the FMN, [✂], page 9; WG&S' internal document, Annex 101 to the FMN, [✂], March 2021, page 4).

[25] The CMA also considered whether the travel retail channel should be considered as a separate product market. Evidence received by the CMA indicates that competitive conditions between the off-trade and travel retail channel differ. However, as Grant's and TFG have a limited share of supply in the travel retail channel, the CMA did not have to conclude whether the travel retail channel constitutes a separate product market, as no competition concerns arise in a standalone travel retail market or in a broader off-trade market that includes travel retail. On a cautious basis and for the purpose of the assessment of the Merger, the CMA considered the retail travel channel as a separate market. As no competition concerns arise on any plausible basis, the travel retail channel is not considered further in this decision.

[26] See paragraphs 27 and 35.

[27] There are some differences in how private label whisky is procured. For example, the CMA understands that agreements for the supply of private label products to off-trade customers are negotiated separately to the sale of branded blended Scotch, and while it varies between customers, the terms tend to be renegotiated every 1 – 3 years. However, off-trade customers choose which products to stock on the basis of end-customer demand (FMN paragraph 18.26; Note of a call from a third party, December 2024, paragraph 10).

into account any differences in the competitive constraint and the nature of competition between these products in the competitive assessment.

Premium blended Scotch

15. Although premium and non-premium brands are within a spectrum, evidence from third parties and internal documents shows limited demand-side substitution between the Parties' brands and premium brands.[28] Therefore, on a cautious basis, the CMA has considered the impact of the Merger in relation to the supply of non-premium blended Scotch using the IWSR classification, excluding all brands classified as 'premium', 'super-premium' or 'ultra-premium' from the relevant product market.[29] The CMA nevertheless considered their role as out-of-market constraints in the competitive assessment.

16. As considered in the competitive assessment, the CMA also understands that there remains a degree of price differentiation between the brands included in the relevant market, and that brands operating at similar price points will exert stronger competitive constraint on each other, as opposed to those at more distant price points.[30]

Malt Scotch whisky

17. Third-party evidence indicates that malt Scotch whisky[31] is not a strong alternative to blended Scotch.[32] The differences in the production of blended Scotch and blended/single malt Scotch whisky also indicates a lack of supply-side substitution. As a result, and on a cautious basis, the CMA assessed the effect of the Merger on the blended Scotch product market excluding malt Scotch.

Non-Scotch whisky

18. Third-party evidence indicates that international whiskies were generally considered to be a moderate alternative to blended Scotch.[33] This is supported by the Parties' internal documents, which indicate that international whiskies, particularly brands sold at a similar price point to Grant's and TFG, provide constraint on blended Scotch, albeit more limited.[34] As the Parties do not produce

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[28] See paragraph 37(c) for a discussion of the competitive constraint exerted by premium brands on the Parties.
[29] The CMA understands that, on the basis of the price (£) per 70cl bottle, Johnnie Walker (excluding Red Label), Chivas and some additional smaller brands, are considered to be 'premium' in the IWSR categorisation
[30] Namely Johnnie Walker Red Label, which is not considered a premium brand under the IWSR classification, however it operates at a slightly higher price point than Grant's and TFG.
[31] Blended Scotch is made from a blend of one or more single malts and one or more single grain whiskies from different distilleries (FMN, paragraph 11.3).
[32] Response to the CMA questionnaire from a number of third-parties, January 2025, question 8.
[33] See further discussion in the competitive assessment at paragraph 39.
[34] For example, Edrington's internal document, Annex 171 to the FMN, [✂], 31 January 2024, slide 35; Edrington's internal document, Annex 34 to the FMN, [✂], May 2024, slide 9; WG&S' internal document, Annex 12 to the FMN, [✂], August 2023, slide 11.

international whiskies[i] and no concerns arise on any plausible basis, the CMA did not have to conclude whether international whiskies form part of the same product market as blended Scotch. The extent to which international whiskies constrain the Parties' blended Scotch is considered in the competitive assessment.

Conclusion

19. On a cautious basis, the CMA assessed the effects of the Merger by reference to the supply of non-premium blended Scotch to off-trade customers. As the Merger does not raise competition concerns on any plausible basis, the CMA did not have to conclude on the precise relevant product market definition.

Geographic market

20. The Parties submitted that the geographic market definition is UK-wide, as supply and distribution arrangements are organised on a UK-wide basis, and the Parties' off-trade customers purchase blended Scotch on a UK-wide basis.[35]

21. Evidence from third parties indicates that in the off-trade, supply arrangements between blended Scotch suppliers and off-trade customers are largely UK-wide.[36] Therefore, the CMA has assessed the effects of the Merger in the UK.

Supply of grain new make spirit

Product market

22. The Parties submitted that there are separate product markets in the supply of grain and malt new make spirit, but that it can ultimately be left open.[37]

23. Grain new make spirit (**new make**)[38] produced in Scotland[39] is an essential input in the supply of blended Scotch.[40] The CMA considered grain to be distinct from malt new make spirit due to limited demand-side substitutability as the production of blended Scotch requires grain and malt new make spirit.[41] In addition, third-party evidence indicates that it is not easy to switch between the supply of grain

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[35] FMN, paragraph 12.31.
[36] Multiple off-trade customers and competitors indicated that supply arrangements are negotiated on a UK-wide basis. Note of a call with a third party, December 2024, paragraph 5. Note of a call with a third party, February 2025, paragraph 2. Note of a call with a third party, November 2024, paragraph 12. Note of a call with third party, December 2024, paragraph 21. This is also consistent with previous decisions of the CMA's predecessor, for example in Diageo/United Spirits, the OFT used the UK geographic scope in its competitive assessment for the supply of bottled whisky, given the largely national nature of the whisky supply arrangements between suppliers and their customers (Diageo/United Spirits, paragraph 50).
[37] FMN, paragraphs 12.26–12.27 and 12.40.
[38] 'New make' refers specifically to grain new make spirit.
[39] The Parties submitted that new make used for the production of blended Scotch must be distilled (and subsequently aged for a minimum of 3 years) in Scotland (FMN, paragraph 12.37).
[40] FMN, paragraph 11.3. Third parties said that security of supply is crucial for blended Scotch (see paragraph 45).
[41] When asked what alternatives competitors could use instead of WG&S' new make, no competitor listed a malt distiller. Response to the CMA questionnaire from a number of third parties, January 2025, question 11.

and malt new make spirit due to the differences in the production process.[42] Since the Merger does not raise competition concerns in relation to new make on any plausible basis, it has not been necessary for the CMA to reach a conclusion on the precise relevant product market.

Geographic market

24. The evidence indicates that most Scottish distillers' new make is used for blended Scotch, although small volumes are supplied in the rest of the UK and internationally for use in other spirits.[43] Since the Merger does not raise competition concerns on any plausible basis in relation to new make, the CMA did not have to reach a conclusion on the precise relevant geographic market definition.

5. COMPETITIVE ASSESSMENT

25. In its investigation of the Merger, the CMA considered the following theories of harm:

(a) horizontal unilateral effects in the supply of blended Scotch; and

(b) input foreclosure arising from the supply by WG&S of new make to the Parties' competitors in the supply of blended Scotch.

Horizontal unilateral effects in the supply of blended Scotch in the UK

26. Horizontal unilateral effects may arise when a firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm to profitably raise prices or degrade non-price aspects of its competitive offering without needing to coordinate with its rivals.[44] Horizontal unilateral effects are more likely to arise when the merging firms are close competitors or when the remaining constraints on the merging firms are weak.

27. In assessing the loss of competition resulting from the Merger, the CMA has considered WG&S' supply of private label blended Scotch to retailers in the off-trade channel.[45] While 1887 does not supply private label products, WG&S is one

[42] Different distillers make grain vs malt, as there are different inputs used. It is not possible to use a grain distillery to produce malt new make or for a malt distillery to produce grain new make spirit. One third-party noted that it would take up to 36 months to set up a grain distillery and involve a significant amount of financial investment (Note of a call with a third party, December 2024, paragraph 17).
[43] New make volumes sold outside of Scotland cannot be used to produce Scotch whisky, however may be used in the production of other spirits (FMN, paragraph 12.37). WG&S sells [✂] outside Scotland and internationally (Parties' response to the CMA's Request for Information, 17 January 2025 (RFI 4), paragraph 12).
[44] CMA129, paragraph 4.1.
[45] This is consistent with the OFT's decision in Diageo/United Spirits (Diageo/United Spirits, paragraph 34).

of the two largest private label suppliers of blended Scotch.[46] In its competitive assessment, the CMA considered how this will impact competition post-Merger in two ways:

(a) Whether the Merger will result in a loss of competition due to the combination of TFG and Grant's, as well as WG&S' private label blended Scotch. In particular, the CMA considered the extent to which private label competes with branded blended Scotch, including TFG.

(b) Whether the increment of TFG branded products to WG&S' branded and private label products may incentivise the Merged Entity to increase prices or degrade any aspect of its private label products to divert sales towards its own brands. In particular, the CMA assessed whether the Merger would make it substantially more difficult for retail suppliers to find a suitable alternative supplier of private label blended Scotch.[47]

28. In order to assess this theory of harm, the CMA considered:

(a) shares of supply;

(b) closeness of competition between the Parties; and

(c) strength of alternative competitive constraints.

Shares of supply

29. The shares in the supply of non-premium blended Scotch in the UK (by volume and value) between June 2023 to June 2024 are set out in Table 1.[48,49] These shares of supply exclude premium, super-premium and ultra-premium blended Scotch whiskies using the IWSR classification.[50] The CMA recognises that the non-premium brands included in these shares of supply operate across a relatively

[46] The CMA estimates that QSI (WG&S) produces [30-40]% of the private label blended Scotch volumes in the UK.
[47] See paragraph 38 for a discussion of competition in the supply of private label.
[48] The estimates in Table 1 are based on the shares of supply for blended Scotch in the UK submitted by the Parties in the FMN. The CMA assigned the shares of supply of private label to different suppliers based on their respective volumes of private label supplied based on customer responses to question 12 and competitor responses to question 16 of the CMA's third-party questionnaire.
[49] The CMA believes that Table 1 provides a reliable indication of the shares of supply of blended Scotch suppliers in the UK, as: i) the estimates are based on Nielsen data which both the Parties and one off-trade customer submitted is the main data used by suppliers, including retail suppliers, in the market (Note of a call with a third party, February 2025, paragraph 12); FMN, paragraph 13.2); ii) the Parties' internal documents and third parties identified a similar competitor set to the suppliers in Table 1, supporting the CMA's market definition (eg see Edrington's internal document, Annex 8 to the FMN, [✂], August 2021, page 4; Response to the CMA questionnaire from a number of third-parties, January 2025, questions 5 and 7); and iii) a 2024 document from WG&S estimates the Merged Entity's share of supply in blended Scotch considering the shares coming from Grant's, TFG and QSI's private label (WG&S' Internal Document, Annex 65 to the FMN, [✂], 24 May 2024, page 5).
[50] The shares in Table 1 exclude brands categorised as 'premium' by IWSR, on the bases of the price (£) per 70cl bottle. Pursuant to this categorisation, Johnnie Walker (excluding Red Label), Chivas and some additional smaller brands, are considered to be 'premium'.

broad price range, which affects the competitive pressure they exert on each other. This factor has been considered in the competitive assessment.

Table 1: Shares of supply for non-premium blended Scotch in the UK

Brand owner	Products	Volume	Value
		2023/24	**2023/24**
WG&S	Grant's Triple Wood	[5-10]%	[5-10]%
	Private label	[5-10]%	[5-10]%
1887	TFG	[20-30]%	[30-40]%
Combined	**Combined**	**[40-50]%**	**[40-50]%**
Emperador	Whyte & Mackay	[10-20]%	[10-20]%
	Private label	[10-20]%	[10-20]%
Diageo	Bell's and Johnnie Walker Red Label	[10-20]%	[10-20]%
Loch Lomond	High Commissioner	[0-5]%	[0-5]%
	Private label	[0-5]%	[0-5]%
Pernod Ricard	Ballantine's	[0-5]%	[0-5]%
Other*	Other	[0-5]%	[0-5]%

Source: *Parties' shares of supply estimates submitted in the Final Merger Notice and competitors' and customers' private label volumes submitted in response to the CMA's questionnaire.*

*'Other' includes suppliers not listed in **Table 1**. Totals may not amount to 100% due to approximations.

30. The CMA's share of supply estimates indicate that 1887 and WG&S are, respectively, the first and fourth largest suppliers of blended Scotch in the UK. While the Parties' combined share of supply is relatively high, a significant portion of WG&S' share comes from the supply of private label. Following the Merger, the second and third largest suppliers will be Emperador and Diageo.

Closeness of competition between the Parties

31. The Parties submitted that they are not close competitors due to the differences in brand perception and price positioning of Grant's and TFG. In particular, the Parties submitted that:

(a) Grant's has been negatively impacted by the decline in demand for blended Scotch in the UK, [✂].[51] Grant's is currently a brand with a high price elasticity of demand and little brand equity, which competes most closely with private label and branded whiskies that are on frequent and aggressive price promotions.[52]

(b) TFG has benefited from [✂], successfully protecting its brand equity, despite the decline in demand for blended Scotch. TFG typically sells at a higher price point than Grant's and competes more closely with brands such as Johnnie Walker Red Label and Bell's, as well as Irish and American whisky (eg Jameson and Jack Daniel's).[53]

[51] FMN, paragraphs 25–26.
[52] FMN, paragraph 29.
[53] FMN, paragraph 30.

CMA's assessment

32. The Parties' internal documents indicate that Grant's poses a weaker constraint on TFG than Bell's or Whyte & Mackay (**W&M**). In particular, some of WG&S' internal documents discuss how:

(a) Blended Scotch consumption is in a long-term decline, impacting Grant's [✂] in the face of competition.[54]

(b) Grant's lags behind key competitors such as Bell's, TFG, W&M or Johnnie Walker in terms of the brand awareness and quality perception.[55]

(c) The [✂] of some of the Grant's stock-keeping units (**SKU**s) [✂] key retailers, including Co-op, Tesco and Asda, has harmed the brand.[56]

33. The Parties' internal documents indicate that there is a degree of differentiation in the price positioning of the Parties' brands, as TFG is generally priced higher than Grant's. In particular:

(a) 1887's and Edrington's internal documents discuss TFG's position as the market leader in blended Scotch, noting that TFG is seen as a more premium product compared to Bell's, Grant's or W&M, with more brand equity and operating at slightly higher price points.[57]

(b) One 2024 WG&S' internal document maps the price of Grant's against its main competitors (TFG, Bell's and W&M). The document shows that, when accounting for price promotions, the average price of Grant's 1L and 70cl SKUs [✂].[58]

34. Third parties identified Grant's and TFG as strong or very strong alternatives to each other, on par with W&M and Bell's. However, a few third parties considered Grant's to be a weaker alternative to TFG than Bell's or W&M, and vice versa.[59] This is consistent with the evidence presented in paragraph 31 regarding Grant's weakened position.

35. As noted in paragraph 27, the CMA also considered the closeness of competition between WG&S' private label and TFG. The Parties' internal documents and third-

[54] For example, see WG&S' internal document, Annex 54 to the FMN, [✂], April 2023, page 12; WG&S' internal document, Annex 10 to the FMN, [✂], 15 November 2022, page 1.
[55] For example, WG&S' internal document, Annex 37 to the FMN, [✂], 7 April 2024, page 4; WG&S' internal document, Annex 10 to the FMN, [✂], 15 November 2022, page 1.
[56] Including Co-op's [✂] of [✂] of Grant's SKUs, Tesco's [✂] of Grant's [✂] SKU and Asda's [✂] of Grant's [✂] SKU (FMN, paragraph 14.17.3).
[57] For example, Edrington's internal document, Annex 6 to the FMN, [✂], July 2022, page 4; Edrington's internal document, Annex 7 to the FMN, [✂], 18 November 2021, pages 6–8; Edrington's internal document, Annex 39 to the FMN, [✂], November 2022, page 19.
[58] WG&S' internal document, Annex 97 to the FMN, [✂], 15 July 2024, pages 33 and 34.
[59] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 5 and 7.

party evidence suggest that private label (including that supplied by WG&S) is a strong alternative to branded blended Scotch (including TFG).[60] However, as TFG is typically slightly more expensive than Bell's, Grant's and W&M, it is likely to compete less closely with WG&S' private label blended Scotch than other brands.

Competitive alternatives

36. The CMA considered the strength of the competitive alternatives to the Parties, including branded blended Scotch, private label and out-of-market alternatives, such as more premium blended Scotch and international whiskies.

37. The evidence from the Parties' internal documents and third parties indicates that there are several strong competitors exerting a constraint on the Parties:

(a) The Parties' internal documents consistently identify the competitor set for blended Scotch as including other important competitors such as Bell's and W&M.[61] Third-party evidence also generally indicated that Bell's and W&M are strong or very strong alternatives to both TFG and Grant's.[62]

(b) The Parties' internal documents recurrently monitor Johnnie Walker Red Label, which is positioned as a more premium whisky, although internal documents acknowledge that it is a smaller competitor than W&M or Bell's.[63] Third parties had mixed views on the strength of Johnnie Walker Red Label as an alternative to the Parties: competitors often described it as a strong alternative, while customers thought it to be weaker.[64]

(c) Some internal documents reference premium brands such as Chivas or Johnnie Walker Black Label, highlighting that they operate at significantly higher price points than TFG and Grant's.[65] These brands were named as generally weaker alternatives to the Parties by a small number of third parties.[66]

38. The CMA understands that WG&S (through QSI) supplies [30-40]% of private label blended Scotch volume in the UK. Although WG&S has a high share in the

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[60] The majority of competitors which responded to the CMA's questionnaire considered private label as either a very strong or strong alternative to TFG, and the majority considered it as either a very strong or strong alternative to Grant's. The majority of customers who responded to the CMA's questionnaire considered private label as either a very strong or strong alternative to TFG and the majority considered it as either a very strong or strong alternative to Grant's. Additionally, for example see WG&S' internal document, Annex 97 to the FMN, [✂], 15 July 2024, page 27; Edrington's internal document, Annex 6 to the DMN, [✂], July 2022, page 5.
[61] For example, see Edrington's internal document, Annex 6 to the FMN, [✂], July 2022, pages 5 and 6; Edrington's Internal Document, Annex 8 to the FMN, [✂], August 2021, page 4; WG&S' internal document, Annex 92 to the FMN, [✂], 30 October 2023, [✂].
[62] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 5 and 7.
[63] For example, see Edrington's internal document, Annex 6 to the FMN, [✂], July 2022, pages 5 and 6; WG&S' internal document, Annex 305 to the FMN, [✂], September 2024, [✂].
[64] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 5 and 7.
[65] For example, see: WG&S' internal document, Annex 94 to the DMN, [✂], March 2023, pages 26-27; WG&S internal document, Annex 41 to the FMN, [✂], May 2024, page 3.
[66] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 5 and 7.

supply of private label, the CMA considers that there will remain sufficient competitive constraints to prevent the Merged Entity from degrading its private label offering. In particular:

(a) Emperador, QSI's main competitor, will remain the leading supplier of private label in the UK, accounting for [50-60]% of private label volumes and will continue to exert a significant constraint on the Merged Entity.

(b) There are several smaller suppliers that frequently compete for private label opportunities (eg [✂]). While these competitors [✂], some retail suppliers named them as relatively strong alternatives, and their participation in tenders exerted competitive constraint on QSI.[67]

(c) Some alternative suppliers to QSI submitted that they have plans or would be interested in expanding their supply of private label blended Scotch and could do so relatively quickly.[68]

(d) The Merged Entity's ability to negotiate private label price increases will be constrained to some extent by off-trade customers' ability to sell more branded blended Scotch, in particular, Bell's and W&M.

39. Importantly, most off-trade customers indicated that, if their current supplier was unable to continue providing them with the required private label volumes, they would look for alternatives by either running a tender process or reaching out to suppliers which they have contacted in the past.[69]

40. In addition to the alternatives in the supply of blended Scotch, the CMA considers that American and Irish whiskies will continue to exert a moderate constraint on the Parties. In particular:

(a) Some of the Parties' internal documents discuss the constraint posed by American and Irish whiskies. The documents sometimes identify Jack Daniels (American whisky) and Jameson (Irish whisky) as stronger competitors within these categories, noting that some blended Scotch end-customers are switching to them.[70]

(b) The majority of third parties said that Irish whisky[71] was at least a moderate alternative to both Grant's and TFG, with a few third parties seeing Irish

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[67] Response to the CMA questionnaire from a number of third-parties, January 2025, question 13.
[68] Response to the CMA questionnaire from a number of third-parties, January 2025, question 19. The CMA also notes that private label contracts can be large and are awarded every one to three years. Winning or losing one of the large private label contracts can significantly affect an existing or new supplier's share.
[69] Only a small number of retail suppliers told the CMA that there are a limited number of private label suppliers and that by switching providers they may incur higher costs in the short term (Response to the CMA questionnaire from a third party, January 2025, question 14; Response to the CMA questionnaire from a third party, February 2025, question 14).
[70] Edrington's internal document, Annex 6 to the DMN, [✂], July 2022, page 8; Edrington's internal document, Annex 22 to the FMN, [✂], November 2022, page 10.
[71] In their responses, third parties often mentioned brands such as Jameson.

whisky as a strong alternative.[72] In respect of American whisky,[73] third-party evidence is mixed, with almost half submitting that American whisky was at least a moderate alternative to the Parties, while the other half saw it as a weak to very weak alternative. Some third parties noted that, while Irish and American whiskies have different taste profiles, they are priced similarly to the Parties' whisky and appeal to a common end-customer demographic (ie 'newer' end-customers who consume whisky with mixers).[74]

41. Only a few third parties expressed concerns in relation to the horizontal effects of the Merger, noting that it would result in a higher degree of concentration in the blended Scotch market.[75] The CMA considers that, although the market is concentrated, the Merger does not raise competition concerns because TFG already has a strong market position, there is some degree of differentiation between the Parties' brands, and sufficient competitive constraints will remain post-Merger.

Conclusion on horizontal unilateral effects

42. For the reasons set out above, the CMA believes that there is some degree of differentiation between the Parties' brands and that, after the Merger, there will remain a sufficient number of credible alternatives, including other branded and private label blended Scotch and international whiskies, which will continue to exert material competitive constraint on the Merged Entity. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in the supply of non-premium blended Scotch to off-trade customers in the UK.

Input foreclosure in grain new make spirit

43. The concern under this theory of harm is that the Merged Entity may use its control of new make upstream to harm the competitiveness of its downstream blended Scotch rivals. For example, the Merged Entity could refuse to supply new make to these customers, increase the price or lower its quality. This could harm

[72] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 6 and 8.
[73] A few third parties mentioned Jack Daniels (Response to the CMA questionnaire from a number of third-parties, January 2025, question 5-8).
[74] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 6 and 8.
[75] Five third parties expressed concerns over the Merger: one third party noted that Grant's will own over 50% of the core branded blended whisky market (Response to the CMA's questionnaire, January 2025, question 17). Another third-party expressed similar concerns, stating that, as TFG has such a strong market position, post-Merger WG&S would own two out of the top four brands in the market giving it an unfair dominance in the market (Response to the CMA's questionnaire, January 2025, question 17). One third party noted that a reduction in the number of whisky suppliers means potentially less investment into the trade and reduced competition in stores. (Response to the CMA's questionnaire, January 2025, question 17). One third party said that the blended Scotch market is already concentrated, and the Merger will negatively impact competition, making it harder for smaller brands to be competitive on pricing and further reducing the choices available to end-customers ([Response to the CMA's questionnaire, January 2025, question 17). Another third party indicated that the Merged Entity would have over 50% of the market, allowing it to leverage its position to control price promotions or obtain premium listings for its malt whisky brands (Response to the CMA's questionnaire, January 2025, question 17).

overall competition in the downstream supply of blended Scotch, to the detriment of customers.[76]

44. The CMA's approach to assessing foreclosure theories of harm is to analyse the Merged Entity's (a) ability to foreclose rivals, (b) its incentive to do so, and (c) the overall effect of such strategy on competition.[77]

Ability

45. The evidence shows that new make is an essential input into the supply of blended Scotch.[78] While some suppliers of blended Scotch are vertically integrated and self-supply their new make, others rely wholly on distillers. Even vertically integrated blended Scotch suppliers enter into sales, swap or exchange agreements with other distillers (such as WG&S) to manage their stocks and ensure different flavour profile availability for their whisky.[79]

46. WG&S currently supplies significant volumes of new make to its competitors for the production of blended Scotch.[80] While there are some limitations to the CMA's analysis due to the lack of available third-party data,[81] the CMA believes that the Merged Entity will be the largest new make supplier with a relatively high share of supply.

[76] CMA129, paragraph 7.9.
[77] CMA129, paragraph 7.10.
[78] FMN, paragraph 11.3. Third parties confirmed that security of supply is crucial to the supply of blended Scotch (Note of a call with a third party, December 2024, paragraphs 3-5; Note of a call with a third party, December 2024, paragraph 10; Note of a call with a third party, November 2024, paragraphs 42-46).
[79] FMN, paragraph 18.21; Response to the CMA questionnaire from a third party, January 2025, question 11 ; Note of a call with a third party, November 2024, paragraphs 42–46 ; Note of a call with a third party, December 2024, paragraphs 3–5 and 7–9 .
[80] The CMA's analysis based on WG&S and third-party data, estimates that by volume (LAA): a) WG&S has a [30 – 40]% share of supply of total new make in Scotland; (b) WG&S has a [40 – 50]% share of supply in Scotland calculated by spare capacity, or capacity that is currently made available to third parties (ie excluding WG&S volumes used for its own production of blended Scotch) (Parties' response to RFI 4, paragraph 12; Response to the CMA questionnaire from a number of third-parties, January 2025, question 12.
[81] These limitations may result in WG&S' share of supply in new make being overstated.

47. However, evidence from most third-parties[82] indicates that there are alternative providers of new make.[83] Multiple competitors indicated that they would be willing to increase their production of new make if there is demand.[84]

48. The CMA considers that the evidence, in the round, indicates that the Merged Entity may lack the ability to foreclose competitors post-Merger. However, the CMA did not have to conclude as to WG&S' ability to foreclose as it believes that the Merged Entity will not have the incentive to adopt this strategy (see below).

Incentive

49. The Parties submitted that:

(a) A [✂] of WG&S' business strategy for its Scotch whisky operations is the supply of new make to third parties.[85]

(b) Upstream supply volumes which WG&S could lose if it attempted to foreclose its downstream competitors would be significant, and the profits which would be lost would not be recuperated or outweighed by an increase in profits in the supply of blended Scotch in the UK.[86]

50. WG&S' business strategy to supply new make to third parties[87] is supported by internal documents[88] and the fact that WG&S currently supplies approximately [✂] of its new make to third parties, most of which is used for the production of blended Scotch.[89] WG&S is also currently expanding its grain distillery, which will likely increase the volume of new make available to third parties post-Merger.[90] This indicates that, pre-Merger, WG&S is not pursuing a foreclosure strategy in spite of its downstream position.

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[82] One of WG&S' customers raised concerns about their ability to access new make post-Merger, indicating that WG&S would not continue to supply them with new make (Note of a call with a third party, December 2024, paragraphs 24 and 25); Response to the CMA questionnaire from a third party, January 2025, question 20). However, the CMA is satisfied that this is unlikely to be an issue, in particular given the planned expansion of WG&S' Girvan distillery (see paragraph 50).
[83] While one customer out of eight indicated there were no alternatives of new make (Response to the CMA questionnaire from a third party, January 2025, question 15), 7 customers indicated there were other suppliers they could use (Response to the CMA questionnaire from a number of third-parties, January 2025, question 15).
A number of third parties raised concerns about the viability of North British, a new make distillery which is a joint venture between Edrington and Diageo, that currently supplies volumes for production of TFG. The CMA considers that post-Merger, [✂] will ultimately provide additional new make capacity for third parties. Further, hypothetically, even if North British were to exit, the CMA considers there will be enough new make distillers who expressed interest in supplying additional volumes to meet any increase in demand.
[84] Response to the CMA questionnaire from a number of third-parties, January 2025, questions 13 and 14. One is currently expanding capacity of its new make distillery (Response to the CMA competitor questionnaire from a third party, January 2025, questions 13 and 14). A few third parties noted that different grain flavour profiles can limit their ability to switch new make supplier (Response to the CMA questionnaire from a number of third-parties, January 2025, question 15).
[85] FMN, paragraph 18.17.
[86] FMN, paragraph 18.24.
[87] CMA129, paragraph 7.19.
[88] For example, WG&S Internal Document, Annex 271 to the FMN, [✂], February 2024, pages 1 and 7.
[89] FMN, 18.20; Parties' response to RFI 4, paragraphs 12-13.
[90] FMN, paragraph 18.17; Parties' response to RFI 4, paragraphs 13 and 14.6.

51. The CMA has considered the potential upstream gains and downstream losses of the Merged Entity if it pursued a foreclosure strategy.[91] The CMA found that:

(a) With respect to downstream gains, the UK market for all blended Scotch is estimated to represent only 4% of global demand.[92] The CMA believes it is appropriate to consider the Merged Entity's gain in blended Scotch sales globally, as opposed to the UK. While the Merged Entity has a relatively high share of supply of blended Scotch in the UK, globally this is likely to be [✂] [5-10]% as both Grant's and TFG have a significantly smaller share at a global level.[93] As a result of the strength of other competitors globally, any diversion to Grant's or TFG from the foreclosure of any one competitor would likely be limited, and therefore, downstream gains are likely to be small. Furthermore, many of the Parties' largest downstream competitors are vertically integrated and would be able to continue to supply blended Scotch downstream, even if the Merged Entity attempted to foreclose other customers, reducing its incentive to adopt this strategy.

(b) With respect to losses, these are likely to be significant given WG&S' substantial sale of new make to downstream suppliers of blended Scotch which supply blended Scotch both in the UK and at a global level.[94]

52. The CMA, therefore, believes that the increased downstream increment from the acquisition of TFG would not give the Merged Entity the incentive to foreclose downstream rivals, as any gains from the foreclosure of downstream rivals would be outweighed by upstream losses. As such, the CMA did not have to consider the effect of any foreclosure strategy.

53. The CMA found that the Merger does not give rise to a realistic prospect of an SLC in relation to input foreclosure arising from the supply of new make to blended Scotch competitors.

[91] CMA129, paragraph 7.19.
[92] FMN, paragraph 18.9.
[93] Parties' response to RFI 4, paragraphs 6.1 and Annex 2.
[94] Parties' response to RFI 4, paragraph 16.1. WG&S also relies on its rivals to sell, exchange/swap both grain and malt new make spirit, to ensure consistent flavour and quality of its bottled Scotch whisky. This mutual dependency further reduces WG&S' incentive to foreclose rival blended Scotch suppliers (FMN, paragraph 18.21; Note of a call with a third party, November 2024, paragraph 45).

DECISION

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

Maria Duarte
Director, Mergers
Competition and Markets Authority

6 March 2025

ENDNOTE:

[i] The Parties clarified that while the Target does not supply international whiskies, WG&S supplies one international whisky brand (Tullamore D.E.W) with relatively small sales compared to other international whisky brands such as Jack Daniel's or Jameson.