

Completed acquisition by Euro Car Parts of the assets of the Andrew Page business

Provisional findings report

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The Competition and Markets Authority has excluded from this published version of the provisional findings report information which the inquiry group 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 Some numbers have been replaced by a range. These are shown in square brackets. Non-sensitive wording is also indicated in square brackets.

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Glossary

Summary

Background

1. On 22 May 2017, the Competition and Markets Authority (CMA), in accordance with section 22 of the Enterprise Act 2002 (the Act), referred the completed acquisition by Euro Car Parts Limited (ECP) of certain assets of Andrew Page Limited, Solid Auto (U.K.) Limited and Colton Parts Company Limited (collectively AP) for further investigation and report by a group of CMA panel members (the Inquiry Group). Throughout this document, where appropriate, we refer to ECP and AP collectively as the Parties.
2. The CMA must decide:
 - (a) whether a 'relevant merger situation' has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the United Kingdom for goods or services.
3. This document, together with its appendices, sets out our provisional findings. The statutory deadline for preparing and publishing our report on this investigation is 5 November 2017.

The Parties and the Merger

4. ECP is a wholly owned subsidiary of LKQ Euro Limited, whose ultimate parent is LKQ Corporation, a public company incorporated in Delaware. ECP's UK annual turnover for its financial year (FY) ended 31 December 2016 was approximately £988 million.
5. AP was founded in 1917 and was run as a family business until 2010 when Phoenix Equity Partners invested in the company, followed by Endless LLP in 2014. AP went into administration in October 2016. For the financial year ended 30 September 2016, AP generated total revenue of £172 million.
6. On 4 October 2016, following an accelerated sale process, ECP acquired certain assets of AP out of administration. These assets included licences to occupy and an option to purchase the leaseholds of 101 AP local depots, AP's national distribution centre in Markham Vale and its Leeds head office. ECP also acquired AP's stock, its brands and certain customer and supply contracts. Most of AP's employees were also transferred to ECP.
7. ECP and AP overlap in the supply of car parts both to the independent motor trade (IMT) and to retail customers. They also supply garage equipment to the IMT and market car parts under a number of private label brands.

8. In our [statement of issues](#), we indicated that we were not minded to investigate the supply of car parts to retail consumers or the supply of private label car parts, as the overlap between the Parties in relation to these activities is minimal. We also indicated that we were not minded to investigate the effects of the Merger in respect of garage equipment because the evidence available suggested that AP's activities are limited in relation to such activity and that there are a large number of alternative suppliers to the Parties, including manufacturers of garage equipment. We invited comments on our intention not to investigate these areas of overlap between the Parties but did not receive any submissions in response. We did not therefore investigate these areas further.

Industry Background

9. The Parties' principal business is the distribution of independent aftermarket (IAM) car parts and components to IMT customers. IAM car parts are replacement car parts that are not specific to one individual car marque and are not approved by the car manufacturer and therefore not branded as original equipment manufacturer (OEM) car parts. OEM car parts are primarily supplied by the car manufacturers and their dealer networks which will generally only supply OEM car parts for their own makes of car and not IAM car parts or other car manufacturers' parts.
10. IAM and OEM car parts are used when a vehicle owner takes his or her vehicle to be repaired or serviced at an independent or franchised garage, work/repair shop, car dealer or fast-fit centre. Competition in the IMT is primarily on a local basis and the IMT is highly fragmented with a large number of firms. Some of these are active in one or a small number of local areas although there are a number of larger IMT customers, such as Halfords Autocentres, Kwik-Fit, the emergency services and the RAC which operate on a multi-regional or national basis.
11. IAM car part suppliers, such as ECP and AP, aim to supply as wide a range of IAM car parts for as many car marques as possible and are known as 'general motor factors'. They usually stock several different specifications of a particular car part at different price points. In addition to suppliers of OEM car parts and general motor factors such as the Parties, there are a number of specialist IAM car part suppliers. These suppliers generally specialise in a particular type of car part such as exhausts, brakes or clutches rather than supplying the full range of car parts.
12. IMT customers choose suppliers taking account of several parameters, particularly price, product availability, speed of delivery and quality of service. Product delivery time is particularly important, with customers usually

requiring parts to be delivered within approximately an hour of an order being placed.

13. In addition to the Parties, other larger general motor factors include Parts Alliance (PA), Alliance Automotive (AAG) and Motor Parts Direct (MPD). The market is, however, highly fragmented and there are a significant number of independent local suppliers of IAM car parts. Some of these smaller general motor factors form buying groups. These buying or trading groups enable smaller general motor factors to negotiate better prices with suppliers and to better serve a broader range of customers. PA, which also has a network of owned depots, is one of the largest of these buying groups. It uses its associate members to supply larger IMT customers in areas where it does not have its own depots as well as to negotiate greater volume discounts for its members. Neither ECP nor AP is a member of a buying/trading group.

Relevant Merger situation

14. We provisionally found that the Merger has resulted in a 'relevant merger situation' within the meaning of the Act.

Market Definition

15. We provisionally found that the relevant product market is the supply of IAM car parts by general motor factors for cars and light vehicles to the IMT. The Parties submitted that the market is wider including OEM and specialist parts suppliers. The evidence available to us indicates, however, that OEM and specialist parts suppliers are alternative suppliers to general motor factors in a limited range of circumstances and therefore exert only a limited competitive constraint on general motor factors such as the Parties and We have therefore provisionally found that they are not part of the relevant market.
16. As described above, IMT customers can be segmented broadly into locally based IMT customers (primarily independent garages and workshops operating from one or a small number of closely located sites) and larger (in sales) nationally or multi-regionally based customers (Key Accounts). We found that the Merger was likely to have different impacts on local IMT customers and Key Accounts. Unlike local IMT customers, Key Accounts generally require a primary supplier supplying the majority of their requirements across a broad geographic area and therefore have different requirements when selecting a supplier than a local IMT customer operating from a single site or a small number of closely located sites.
17. For local IMT customers, we provisionally conclude that the relevant markets are local to each depot. Our analysis of each of the Parties' depots' catchment areas shows that, while there is some variation between depots,

both the ECP and AP depots serve customers in a relatively narrow geographic area. For Key Accounts, we provisionally found that the market is national because Key Accounts normally require a small number of suppliers with broad geographic coverage to supply most of their sites.

Counterfactual

18. Before analysing the competitive effects of the Merger, we considered what would have happened to AP and its assets in the absence of the Merger (the counterfactual). Identifying the counterfactual provides a benchmark against which to assess the competitive effects of the Merger.
19. We provisionally found that, absent the Merger, AP would have been likely to exit the market as a result of financial failure.
20. We then considered whether there would have been an alternative purchaser to ECP for AP or any its assets. We provisionally found that, absent the Merger, it is more likely than not that PA and MPD would have acquired up to the 52 AP depots for which they bid (and intended to continue to operate) in the AP sale process leading to the Merger, and therefore the acquisition of these AP depots should be the relevant counterfactual for our competitive assessment.
21. There were no alternative bids for 49 depots, the national distribution centre or head office. Absent a sale, these assets would have been likely to have been closed by AP's administrators. We therefore provisionally concluded that the appropriate counterfactual for our competitive assessment in relation to these 49 depots is exit of AP from the relevant markets and therefore the loss of a competitor.
22. With respect to our competitive assessment for Key Accounts, we provisionally concluded that the appropriate counterfactual is the exit of AP and the purchase, by a combination of PA and MPD, of up to the 52 depots for which they bid in the accelerated sale process and would have continued to operate. The remaining depots, distribution centre and head office would have closed.

Competitive assessment of the effects of the Merger on local IMT customers

23. We first identified those local areas in which an AP depot does not overlap with an ECP depot to any material extent and therefore where, in our view, the Merger does not have the potential to create competition concerns. We identified three such local areas (Scarborough, Gatwick and Isle of Wight). In the absence of any actual overlap between the ECP and AP depots in these areas, we provisionally concluded that, in the three relevant local markets

where these three depots are located, the Merger may not be expected to give rise to a SLC.

24. We therefore focused our competitive assessment on the 98 AP depots which overlap with one or more ECP depots and where the Parties may compete to a material extent. We undertook a different assessment for the purposes of analysing the effects of the Merger depending on whether the appropriate counterfactual for the area concerned is exit of the AP depot from the relevant local market or acquisition by an alternative purchaser.

Assessment where the counterfactual is exit of the AP depot

25. For the purposes of assessing whether the Merger could give rise to a SLC relative to a counterfactual involving the closure of the AP depot, we have considered whether, and in what circumstances, a change in the distribution of sales or in the number of depots operated by ECP in an area could lead to a SLC, given that the total number of competitors in the area is the same following the Merger and in the counterfactual.
26. For the purposes of assessing whether a merger could lead to a SLC relative to a counterfactual of exit of the target firm/assets, we take into account the differences between the merger and the counterfactual. In respect of the Merger these differences included:
 - (a) the distribution of sales: as a result of the Merger, ECP will at least initially acquire all the sales of the AP depot whereas the distribution of the AP depot's sales may have been different under the exit counterfactual;
 - (b) The number and location of depots operated by ECP: as a result of the Merger ECP will at least initially operate an AP depot in addition to its existing depot which it would not otherwise have operated.
27. We identified several market characteristics which lead us to consider that, where the counterfactual is the exit of the AP depot, the Merger will not affect ECP's or third party suppliers' ability to compete in a local area. In particular, local customers usually shop around before placing orders and tend to have trading accounts with several suppliers. Customers also typically place orders when the parts are required and expect delivery to their sites at short notice. These characteristics suggest that the level of competition will depend primarily on the number of available suppliers and their respective ability to deliver car parts to customers in the relevant local area.
28. Therefore, we consider that the competitive constraints on ECP would be substantially the same following the Merger and in the counterfactual. We have not received submissions, nor seen evidence, suggesting that the ability of existing suppliers to compete in a local area would be materially affected by

the acquisition by ECP or the exit of the AP depot. The redistribution of a portion of AP's sales to competing suppliers under the counterfactual (rather than the acquisition of all AP's sales, at least initially, to ECP following the Merger) would not materially affect other suppliers' operational costs nor would it materially affect their ability to deliver car parts from their current location.

29. Similarly, we have not received submissions, nor seen evidence, suggesting that ECP's operational costs would materially vary as a result of a different distribution of AP's sales or an increase in the number of depots it operates in an area.
30. On the evidence available, we therefore considered it unlikely that the exit of an AP depot from the relevant local market would lead to a more competitive outcome than if the AP depot continued to operate under ECP's ownership. We therefore provisionally concluded that the acquisition of the 49 AP depots for which the counterfactual was exit of the AP depot may not be expected to give rise to a SLC.

Assessment where the counterfactual is an alternative purchaser

31. In cases where the counterfactual is acquisition of the AP depot by an alternative purchaser, we sought to identify the local areas where the Merger would cause a SLC as a result of a reduction in the number of suppliers in the local area. Given the number of local areas to consider, our overall approach was to identify mechanistic rules which could filter out unproblematic areas and then to carry out more detailed local area assessments in the remaining areas.
32. This involved first identifying, using the available evidence, a list of suppliers across the UK in relation to which we had sufficient evidence to conclude that the supplier imposes a significant constraint on at least one ECP or AP depot (Effective Competitors). We then, for each ECP and AP depot, identified from the list of Effective Competitors those suppliers which are present in the relevant local area and may therefore compete with the Parties in that area (Actual Competitors).

Filtering to identify depots of potential concern

33. Having identified the Actual Competitors in an area, we then applied a filter to identify depots in areas that were unlikely to raise competition concerns. The filter used a combination of three criteria to identify depots of potential concern, namely a measure of the extent of overlap between the Parties' depots, a fascia count and a store count. We adopted a conservative approach to this initial filtering process in relation to the overlapping ECP and

AP depots so that we were confident that it would identify those depots potentially of concern. This process identified 35 AP and ECP depots (15 AP depots and 20 ECP depots) as unlikely to be a concern out of an initial 129 AP and overlapping ECP depots.

34. We reviewed a number of areas where the filtering exercise did not identify that either the AP or ECP depot should be subject to a detailed analysis. We were satisfied on the basis of these reviews that those depots identified as not a concern by the filters did not require further review. In areas where one of the Party's depots was identified as requiring further analysis but the other Party's depot in the same area was not, we conducted a further analysis of the area where both of the depots are located. This identified five additional AP depots for further consideration.
35. As a result of this filtering exercise, we provisionally concluded that the acquisition by ECP of 10 AP depots may not be expected to give rise to a SLC.

Local assessments of depots identified by the filter

36. In order to conduct our more detailed local assessments of the remaining 99 AP and ECP depots, we grouped these depots into 60 distinct local areas. We considered all of the evidence available to us in each local area, allowing us to assess the strength of competition from each supplier and the closeness of competition between ECP and AP.
37. The information we used included the number, identity and location of any overlapping ECP and AP depots and of Actual Competitors to each ECP and AP depot in the area, together with the location of the customers of the Parties' depot. We also considered a range of additional evidence to inform our view of the strength of suppliers in the local area. This included evidence relating to the prevalence of such suppliers in ECP's price matching data, responses to our survey of local IMT customers in the relevant area and evidence of other suppliers which may provide a constraint on the Parties, such as suppliers which our methodology did not identify as Actual Competitors but where we have other evidence which suggests that they do compete with the Parties. We also considered the geographical closeness of Parties' depots and competing suppliers for the Parties' customers, and submissions from the Parties on the competitive conditions in these local areas.
38. Finally, we also considered the identity of the alternative purchaser(s) under the appropriate counterfactual and whether it/they is/are present in the overlap areas.

39. We provisionally found 50 areas where we considered that the acquisition by the relevant alternative purchaser would not be substantially more competitive than the Merger and therefore the Merger does not give rise to a SLC in the relevant local area.
40. We identified 10 areas where we provisionally found, based on our assessment of the closeness and the relative strength of the Parties' and third parties' depots in the area, that the loss of AP as a competitor, compared with the counterfactual where the AP depot is operated by an alternative purchaser, would substantially lessen competition.

Competitive effects

41. We assessed the likely effects of the Merger against the relevant counterfactual in each of the 10 local areas where we provisionally found that the Merger may be expected to be substantially less competitive than acquisition by the alternative purchaser. In view of the limited competitive constraints on ECP in those local areas following the Merger relative to the counterfactual, we provisionally found that ECP will have an incentive to increase prices and/or reduce the quality of service to local IMT customers in those local areas.
42. We have not identified any countervailing factors that are likely to offset the effects of the Merger in these 10 local areas.
43. We therefore provisionally concluded that the Merger may be expected to give rise to a SLC in the following ten local areas: Blackpool; Brighton; Gloucester; Liphook; Scunthorpe; Sunderland; Swindon; Wakefield; Worthing; and York.

Competitive assessment of the effects of the Merger on Key Accounts

44. For a SLC to be found in relation to Key Accounts, there would need to be evidence that competition for Key Accounts would have been significantly stronger in the counterfactual, in which at least 49 depots would have closed and where PA and MPD would between them have acquired up to the 52 depots for which one or both of them had bid.
45. We considered that:
- (a) the closure of 49 AP depots, and redistribution of their sales among existing suppliers, would not have been likely to have enabled these (or any other) suppliers to compete more strongly for Key Accounts;
 - (b) PA's acquisition of any or all the 39 depots it bid for would not have been likely to result in a material increase in its ability to compete for Key Accounts. Before the Merger, PA already represented a competitive

constraint on ECP. This constraint might have increased to some extent had PA acquired up to the 39 AP depots for which it bid, through cost and other efficiencies arising from replacing supply partners with PA-owned depots. However, we have not received evidence which suggests that these efficiencies would have been sufficiently large or sufficiently likely to be passed through to customers, such that, in the counterfactual, PA would have exerted a significantly stronger constraint on ECP than it did before the Merger.

- (c) MPD's acquisition of any or all the 21 depots for which it bid and would continue to operate would not have been likely to result in a material increase in competition for Key Accounts. MPD's geographic coverage would not have been sufficiently increased to allow it to pose more than the marginal competitive constraint it currently exerts and would not have significantly increased MPD's buyer power.

- 46. We therefore provisionally concluded that the Merger may not be expected to result in a SLC in the supply of IAM car parts by general motor factors to Key Accounts in the UK.

Provisional conclusion

- 47. As a result of our assessment, we provisionally concluded that the Merger:

- (a) has created a relevant merger situation; and
- (b) may be expected to result in a SLC in the supply of IAM car parts by general motor factors to local IMT customers in the ten local areas set out below and that this may be expected to lead to adverse effects for local IMT customers in terms of an increase in prices and/or a reduction in the quality of service in those ten local areas.
 - (i) Blackpool
 - (ii) Brighton
 - (iii) Gloucester
 - (iv) Liphook
 - (v) Scunthorpe
 - (vi) Sunderland
 - (vii) Swindon
 - (viii) Wakefield

(ix) Worthing

(x) York

Provisional findings

1. The reference

- 1.1 On 22 May 2017, the CMA, in accordance with section 22 of the Act, referred the acquisition by ECP of assets of the AP business for further investigation and report by the Inquiry Group.
- 1.2 In exercise of its duty under section 35(1) of the Act the CMA must decide whether:
 - (a) the acquisition by ECP of assets of the AP business has resulted in the creation of a relevant merger situation; and
 - (b) the creation of that situation has resulted, or may be expected to result, in a SLC within any market or markets for goods and services in the United Kingdom.
- 1.3 The Inquiry Group's terms of reference are in Appendix 1.1 together with details of the investigation to date. The Inquiry Group is required to publish its final report by 5 November 2017.
- 1.4 This document, together with its appendices, constitutes the Inquiry Group's provisional findings, published and notified to ECP and AP in line with the CMA's rules of procedure.¹ Further information relevant to this inquiry, including non-confidential versions of the submissions received from ECP, can be found on the CMA's website.²
- 1.5 Throughout this document, ECP and AP are referred to collectively as 'the Parties'.

2. The Parties

Euro Car Parts

- 2.1 ECP was founded in 1978 by Sukhpal Singh Ahluwalia when it traded under the name of Highway Autos. ECP currently employs around 9,000 staff and operates over 200 depots across the UK, in addition to 16 regional distribution centres and four national distribution centres.

¹ See Rule 11 of the CMA's rules of procedure.

² <https://www.gov.uk/cma-cases/euro-car-parts-andrew-page-merger-inquiry>.

- 2.2 ECP's ultimate parent company is LKQ Corporation (LKQ), a US public company incorporated in Delaware and listed on the NASDAQ Stock Exchange. LKQ first entered the UK market with its acquisition of ECP in October 2011.³ All of LKQ's UK operations are carried out through its wholly-owned subsidiary, LKQ Euro Ltd
- 2.3 LKQ is a global distributor of aftermarket car parts, including replacement parts, components and systems used in the repair and maintenance of passenger and commercial vehicles, as well as speciality vehicle products and accessories. LKQ's annual revenue for FY16 was around £6.4 billion, of which around £1 billion was generated by ECP in the UK.⁴
- 2.4 In the UK, ECP operates the following business units (each with its own management team, field structure, financial reporting and planning, strategic planning and targets):
- (a) IMT: supplying car parts but also garage equipment to IMT customers with trade accounts from its network of over 200 local depots and regional and national distribution centres across the UK;
 - (b) Key Accounts: supplying IAM car parts and garage equipment to national or multi-regional IMT customers. Such accounts, in particular the larger national and public body accounts, are often tendered and will be managed by an ECP account manager. They may have individually negotiated volume and service agreements with ECP;
 - (c) Retail: supplying IAM car parts and hand tools to 'walk-in' customers without trade accounts, who purchase in one of ECP's stores located at the front of its local depots;
 - (d) E-commerce: supplying IAM car parts and hand tools online (principally via www.eurocarparts.com, www.carparts4less.co.uk and also via ECP's eBay Store). Customers can either have products delivered to an address or collect in person from an ECP local depot. Over [X] per cent of ECP's total retail sales were made online; and
 - (e) Collisions & Coatings: supplying bodyshop customers with collision parts such as body panels, bumpers, paint/coatings and consumables.
- 2.5 ECP also markets approximately [X] private label brands of car parts, eg brake pads and air conditioning system parts. ECP does not have in-house manufacturing capabilities and outsources production of its private label car

³ Parties' submission 'Response to Phase 1 Decision' (9 June 2017), paragraph 2.2.

⁴ [LKQ FY16 10k filing](#).

parts to third-party manufacturers, specifying the designs and branding the car parts as its own.

- 2.6 In FY16, ECP generated total revenues of around £988 million in the UK, of which the supply of IAM car parts (wholesale IAM business) accounted for [X] million (or around [X] per cent of total revenue). Table 2.1 below sets out a breakdown of ECP's revenue in the UK over the last three financial years.

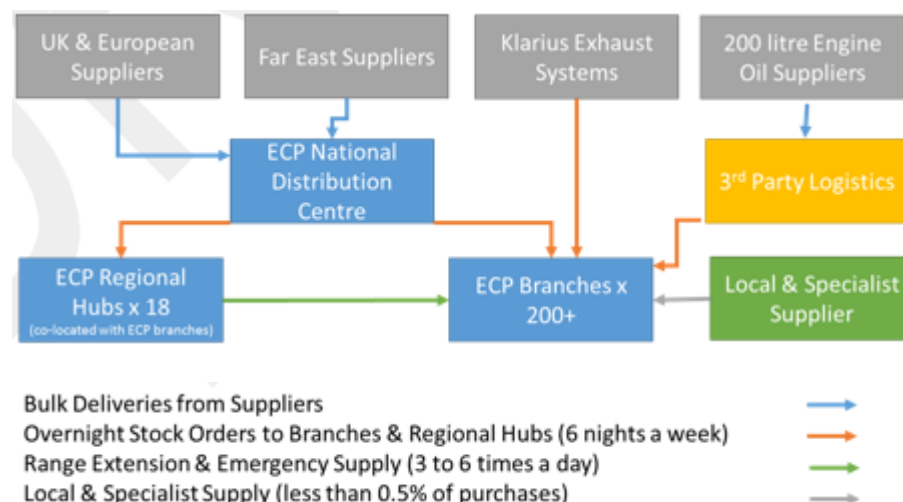
Table 2.1: ECP revenue breakdown (FY14 to FY16)

<i>FYE 31 December</i>	<i>FY14</i>	<i>FY15</i>	<i>£'000s FY16</i>
Revenues			
Wholesale IAM business	[X]	[X]	[X]
Retail IAM business	[X]	[X]	[X]
GE business	[X]	[X]	[X]
National Accounts	[X]	[X]	[X]
Collision & Coatings	[X]	[X]	[X]
Export business	[X]	[X]	[X]
Other business	[X]	[X]	[X]
	801,789	904,050	987,554

Source: ECP.

- 2.7 ECP purchases car parts from a significant number of aftermarket car part manufacturers, eg Bosch and Schaeffler, located primarily in the UK and continental Europe. ECP sources its supplies and enters into contracts with suppliers independently from LKQ. ECP's supply chain is set out in Figure 2.1 below. ECP is not part of any buying group.

Figure 2.1: ECP supply chain

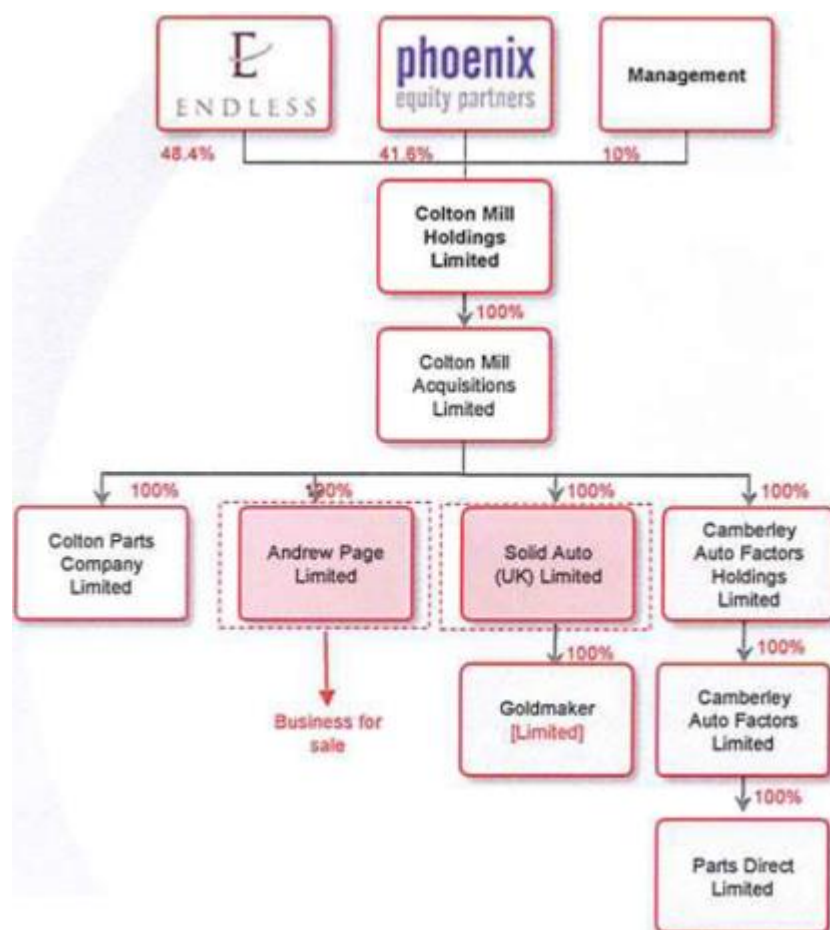


Source: ECP.

Andrew Page

2.8 AP was founded in 1917 and was wholly owned by the Page family until 2010. In 2010 it partnered with Phoenix Equity Partners (Phoenix) and in 2014, Endless LLP (Endless) co-invested in the business. Prior to the Merger, Phoenix and Endless together held 90 per cent of AP's equity, with the remaining 10 per cent held by AP management. Figure 2.2 below sets out AP's group structure at the time of the Merger.

Figure 2.2: AP Group structure (pre-Merger)



Source: AP. *Note:* Goldmaker Limited should be Goldmake Limited.

2.9 AP's primary business was the supply of IAM car parts to the IMT. It had grown from being a regional distributor with its roots in Yorkshire and Lancashire. Headquartered in Leeds, at the time of the Merger, AP operated 109 depots across Great Britain with a focus on the north east of England, Lincolnshire and East Anglia and parts of the south east of England. It also had a national distribution centre in Markham Vale and employed around 1,900 employees (FTE), of whom around 130 were located at AP's Leeds head office and the remainder at AP's local depots and the national distribution centre.

- 2.10 In addition to the sale of IAM car parts the IMT segment, AP had more recently also started selling IAM car parts directly to retail customers from its depots and online via its website. Like ECP, AP also supplied garage equipment to the IMT but this was a relatively small part of its business. AP also supplied a limited range of parts for heavy commercial vehicles from one specialist commercial vehicles branch ('CV Spares' near Heathrow which covered car-derived vans, light commercial vehicles as well as heavy commercial vehicles).
- 2.11 AP also markets one private label brand, 'Fohrenbuhl', which was used for a range of starter motors and alternators (generically known as 'rotating electrical' products). Similarly to ECP, AP outsourced production of its private label brand and did not have any in-house manufacturing capabilities.
- 2.12 In FY16, AP generated total revenue of around £172 million, of which the supply of IAM car parts to the IMT (wholesale IAM) accounted for around £[X] million (or around [X] per cent of total revenues). Table 2.2 below sets out a breakdown of AP's revenues over the last three financial years.

Table 2.2: AP revenue breakdown (FY14 to FY16)

<i>FYE September</i>	<i>FY14</i>	<i>FY15</i>	<i>£'000s FY16</i>
Revenues			
Wholesale IAM	[X]	[X]	[X]
Retail IAM	[X]	[X]	[X]
Garage equipment	[X]	[X]	[X]
Private Label	[X]	[X]	[X]
Other	[X]	[X]	[X]
	171,769	192,004	171,959

Source: AP.

- 2.13 AP operated a similar supply chain model as ECP, with AP's network consisting of local depots, regional hubs, and a national distribution centre in Markham Vale. Products were procured centrally, and could be delivered either directly to the depot or via the national distribution centre.
- 2.14 In July 2014, AP purchased out of administration Unipart's 18 depots and three distribution hubs for £[X] million. It also acquired in March 2016 for £[X] Solid Auto (UK) Ltd, a wholesale distributor of IAM car parts with a specific focus on car parts for Asian marques of vehicle and a presence in the Midlands.
- 2.15 Between 1999 and 2008 and then between July 2014 and November 2015, AP was a member of the PA buying and trading group. This enabled AP to benefit from greater volume discounts from suppliers and increased its ability to supply larger Key Accounts. When PA acquired GSF Motor Factors in

September 2015, it terminated AP's participation in the PA buying and trading group.

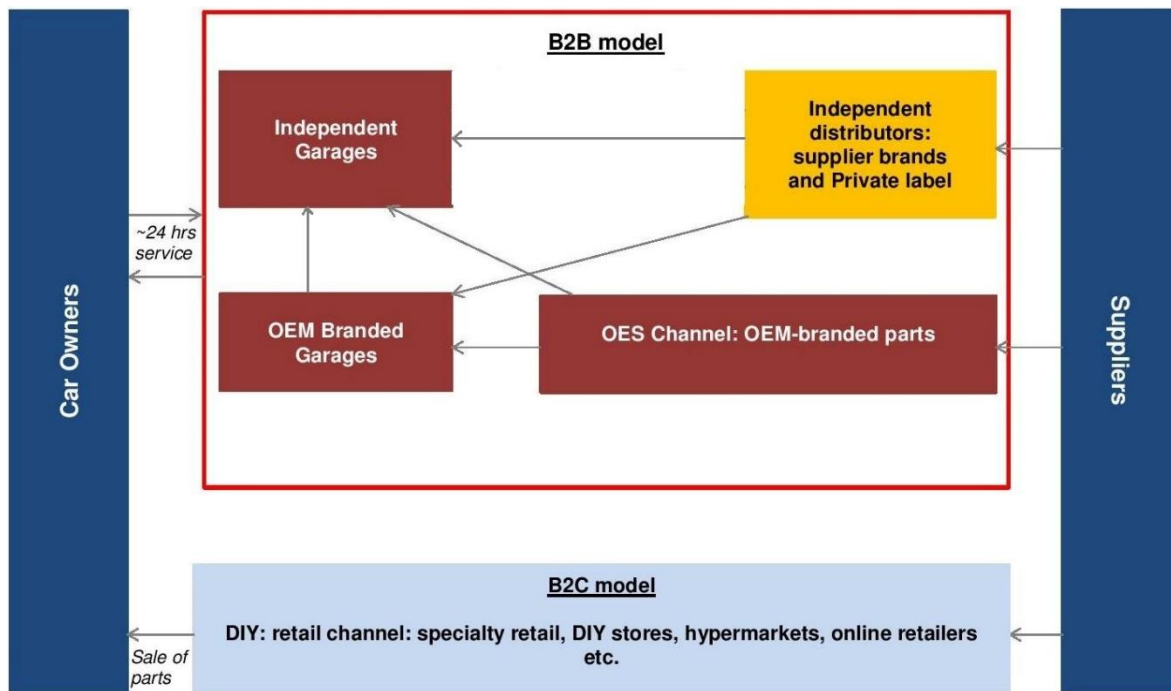
3. Industry background

- 3.1 As described above, ECP's and AP's principal business is the supply of a wide range of IAM car parts primarily to the IMT. In addition to the IMT, the Parties' supply IAM car parts to retail customers and to other motor factors. The Parties also supply garage equipment to the IMT and supply their own private label car parts.
- 3.2 In this section, we provide an overview of the supply of IAM car parts to the IMT in the UK. We then explain why we have not investigated other areas of overlap in the Parties' activities.

Supply of IAM car parts to the IMT

- 3.3 IAM car parts are replacement car parts that are not specific to one individual car marque and are not approved by vehicle manufacturers and therefore are not branded as OEM parts. They are used when garages or workshops (whether independent of or franchisees of a vehicle manufacturer), car dealers or fast-fit centres repair and service vehicles. A supplier of IAM car parts to the IMT is generally known as a motor factor.
- 3.4 OEM car parts are primarily supplied to the IMT by the car manufacturers and their dealer networks. Such OEM parts suppliers generally only supply OEM car parts for their own marques of car, and not IAM car parts or other manufacturers' parts.
- 3.5 Figure 3.1 below illustrates the distribution chain for IAM and OEM car parts and identifies the different market players at each level. The Parties are identified as independent distributors (the yellow square).

Figure 3.1: Distribution chain of car parts



Source: Parties

- 3.6 The supply of IAM car parts is highly fragmented at the supplier and customer level. Customers for IAM car parts can broadly be distinguished between a) local customers whose choice is primarily driven by the supply options in their local areas and b) larger customers which select suppliers centrally and their choice is based on a range of requirements not limited to a particular locality.

Independent garages, workshops and fast fit centres

- 3.7 Unlike OEM owned and franchised dealers,⁵ independent garages generally source most of their parts requirements from motor factors, unless a customer specifies that an OEM product be fitted or if an IAM car part is not available.
- 3.8 Some independent garages specialise in repairing and maintaining particular vehicle marques but most serve most car marques. Older cars are more likely to be serviced and/or repaired by independent garages and workshops. Because independent garages generally service and repair the full range of car marques, motor factors, such as ECP and AP, generally aim to supply as wide a range of parts for as many car marques as possible. They often stock several specifications at different price points of a particular part. Depending on its size and whether it is also a hub supplying smaller outlets, a depot typically holds stock with a value of between [£]. Both AP and ECP have a centralised distribution system whereby local depots are stocked overnight

⁵ See further paragraphs 3.12 to 3.13 below.

from a central distribution hub. Stock rotation varies significantly between different types of parts.

- 3.9 Sales teams are usually located at each depot to service local IMT customers. Pricing is generally set locally with depot managers having some discretion to determine final prices to individual customers.⁶

National or multi-regional customers

- 3.10 Whilst most independent garages are locally based requiring delivery to one or a small number of sites in a local area, some customers are national chains such as Halfords Autocentres (Halfords), ATS Euromaster and Kwik-Fit, with hundreds of sites across the UK. There are also larger customers which require deliveries across several sites within or across different regions of the UK. These include vehicle fleets associated with County Councils or the police, fire, ambulance services or specialist and commercial vehicle fleets. They also include roadside assistance and recovery companies such as the RAC. These larger national or multi-regional customers are known as Key Accounts.
- 3.11 Whilst independent customers normally have trade accounts with several motor factors, Key Accounts often tender for or directly negotiate with a primary supplier who can supply them across a wide geographic area and, on occasion, a secondary supplier. Key Accounts typically require suppliers to have broad geographic coverage in order to be able to deliver car parts quickly to all their sites, usually with a single price across all areas.

OEM owned and franchised dealers

- 3.12 OEM owned or franchised dealers generally repair and maintain cars for a specific car marque, eg Ford, BMW or Audi, and these dealers are usually appointed as part of an exclusive or selective distribution network. The Parties told us that increasingly dealers are owned by the vehicle manufacturer in order to give the manufacturer control over pricing for servicing and repairs.
- 3.13 While not compelled to use OEM parts, which are generally more expensive than the equivalent IAM part, franchised dealers are contractually incentivised to purchase OEM parts from the vehicle manufacturer. Franchised dealers may still purchase significant volumes of IAM parts from motor factors such as ECP and AP because they are in competition with independent garages for

⁶ We consider in further detail the Parties' pricing in Appendix 5.1.

repair and maintenance, particularly for older cars, and some dealers will service and repair cars of other marques.

Customer preferences

- 3.14 Our Survey evidence shows that IMT customers choose suppliers based on several parameters, particularly price, product availability, speed of delivery and quality of service.⁷ Suppliers deliver parts by van or motorbike. Product delivery time is particularly important⁸ with customers usually requiring car parts to be delivered within approximately an hour of an order being placed. This includes the time taken to process an order as well as the delivery time.
- 3.15 The Survey results indicate that IMT customers tend to order as they need the parts and may place orders several times in a day.⁹ Customers often contact several suppliers to identify part availability, delivery time and to agree price. The Parties told us that some customers will place an order for the same part with more than one supplier and return the part that is delivered second, or the higher priced part if both arrive in time. Return rates are also relatively high because customers pre-emptively order parts (eg for a service) which are then not required (eg because a service is a no show) or the vehicle owner has a different preference (eg for an OEM part rather than an IAM part).

Motor factors

- 3.16 Apart from the Parties, other larger general motor factors include PA, AAG and MPD. The sector is, however, highly fragmented with a significant number of independent motor factors, some with only one depot or a small number of depots within a local area. As mentioned above, as with AP until September 2015, some of these smaller motor factors are members of buying groups.
- 3.17 Both ECP and AP are general motor factors supplying a broad range of parts. There are also a number of motor factors, often locally based and with a limited distribution network, which specialise in a particular set of parts such as exhausts, brakes or clutches. These specialist parts suppliers do not supply the full range of car parts that general motor factors such as the Parties supply.
- 3.18 In addition to motor factors, as described above, customers can also source replacement car parts from OEM owned and franchised dealers. Whilst many

⁷ Figure 13: Most important characteristics when choosing a car parts supplier

⁸ Figure 14: Important characteristics in selecting a car parts supplier, [Customer research survey: CMA commissioned research](#).

⁹ Figure 8: How parts are ordered, [Customer research survey: CMA commissioned research](#).

of these dealers are small and supplying OEM parts is not their primary business, several have national or multi-regional networks which supply OEM car parts to the IMT on a more regular basis. These include Volkswagen's Trade Parts Specialists (TPS), Ford's TrustFirstParts, Vauxhall Trade Club, Nissan Trade Club and Renault Motrio.¹⁰ However, unlike motor factors, such suppliers generally only supply OEM parts and will only supply such parts for a particular marque of car. They may also not deliver with the same frequency as general motor factors.¹¹

Background information on large general motor factors other than ECP and AP

- *Parts Alliance*

- 3.19 PA is a general motor factor with 160 wholly owned depots throughout the UK. In the last few years it has expanded its network of owned depots. In 2015, it acquired GSF Car Parts, which added 75 owned branches to the PA network.
- 3.20 PA was owned by HgCapital until June 2017, when it was acquired by Uni-Select, a large Canadian operator. In the press release announcing the transaction, Uni-Select noted that PA has 'a market leadership position and national scale, a proven growth platform and an experienced management team that has demonstrated its ability to drive profitable growth both organically and through acquisitions'.¹²
- 3.21 PA is also a large buying and trading group, with a network of over 200 depots including depots owned by four affiliate members.¹³ It has also formed a strategic alliance with Independent Motor Trade Factors Associated Ltd (IFA) to serve national Key Accounts.¹⁴
- 3.22 In September 2016, as part of the sale process leading to the Merger, PA submitted a bid for 39 AP depots.

¹⁰ For more details, see Parties' submissions set out in paragraph 5.5.

¹¹ Further information on OEM parts suppliers is contained in section 5.

¹² Parties' submission 'Response to Phase 1 Decision' (9 June 2017), paragraph 4.21.

¹³ BBC, BMS, Dingbro and Qualvecom.

¹⁴ See paragraph 3.26 below.

- *Alliance Automotive Group*

- 3.23 AAG is a general motor factor active in the UK, France and, more recently, in Germany, with FY15 revenue of around €1.5 billion. It is owned by Blackstone Group.
- 3.24 In the UK, AAG operates under the brands 'Groupauto UK' and 'United Aftermarket Network'. It owns over 80 depots but also acts on behalf of approximately 360 independent motor factors with approximately 1,100 depots. The operations of AAG in the UK had revenue of around €350 million in the 12 months to 31 March 2016.
- 3.25 In August 2016, AAG entered into a £120 million agreement to acquire the Car Parts Division of Lookers plc, including FPS Distribution. Press reports indicated that the Lookers Car Parts Division had revenue of around £219 million in FY15. On 31 October 2016, the acquisition was approved by the European Commission.

- *Independent Motor Trade Factors Associated (IFA)*

- 3.26 IFA is a motor factor buying group supplying IAM parts to the IMT and to the general public. IFA has 31 members and together they have over 200 depots nationally. The Parties estimated that the aggregate annual sales of IFA's UK members are around £200 million. As described above, it has a strategic alliance with PA to supply national Key Accounts.

- *Motor Parts Direct*

- 3.27 MPD operates from 91 depots in the south and the south east of England, and also sells parts online directly to consumers. In FY15, the company's revenue was £70 million.
- 3.28 MPD submitted an offer for 23 AP depots as part of the sale process leading to the Merger.

Garage Equipment (GE)

- 3.29 ECP and AP are both active in the supply of GE, which covers a broad range of products used by garages in the repair and maintenance of customers' vehicles.

3.30 In our statement of issues¹⁵, we explained that we did not propose to investigate the competitive effects of the acquisition on the supply of garage equipment to local IMT customers. This was on the basis that:

- (a) AP's activities in this area were limited;
- (b) there are a large number of suppliers, including manufacturers of garage equipment which are able to supply both Key Accounts and local IMT customers directly; and
- (c) the supply of garage equipment is generally less time critical than the supply of IAM car parts, potentially providing a broader competitor set.

3.31 We invited comments on our intention not to investigate the supply of garage equipment further but did not receive any submissions on this area in response.

Supply to retail customers and supply of private label car parts

3.32 ECP and AP are both active in the retail supply of car parts to retail customers and the supply of private label car parts. As noted in the Issues Statement, AP's activities in both areas are minimal. On that basis, the CMA has decided not to investigate these overlaps.

4. The transaction and relevant merger situation

Events leading up to the transaction

4.1 The Parties told us that AP's historic 'aggressive expansion strategy' meant that it 'faced considerable financing challenges', and that in late 2015 and early 2016, several events took place which had the effect of weakening the company further.¹⁶ By March 2016, a number of alternative options were being considered by the AP Board and its investors, including: (a) additional funding to allow trading on a low-capital basis; (b) a funded expansion; and (c) an exit plan via sale to a third party. By early September 2016, it was decided that additional funding would not be available and that planned insolvency or an accelerated sales process were the only realistic options.¹⁷

4.2 The accelerated sale process began on 12 September 2016, managed by PwC. PwC sought interest from over 40 firms located in the UK and

¹⁵ [Issues statement](#).

¹⁶ Parties' response to the Issues Statement (29 June 2017), paragraphs 2.3 and 2.5.

¹⁷ Parties' response to the Issues Statement (29 June 2017), paragraph 2.6.

elsewhere, and with a number of private equity houses. In September 2016, ECP made an offer for essentially the whole of AP (ie 101 depots, the national distribution centre in Markham Vale and the Leeds head office), whilst PA and MPD made partial bids for a number of depots.¹⁸

- 4.3 Further details on the events leading up to the Merger are contained in section 6 where we consider the appropriate counterfactual.

Structure of the transaction

- 4.4 On 4 October 2016 ECP acquired certain assets of AP out of administration (the Assets):
- (a) AP's entire inventory (including the stock at AP's depots which were not acquired by ECP as part of the Merger);
 - (b) temporary licences to occupy, and an option for the assignment of the leaseholds for: 101 AP local depots (out of the 114 depots comprising the AP business prior to entering in administration); and (ii) AP's national distribution centre in Markham Vale and its head office in Leeds;¹⁹
 - (c) AP's business name and rights, goodwill, intellectual property, chattels (for example plant, machinery, computers, fittings and fixtures), transferred records, software; and
 - (d) certain customer and supply contracts.
- 4.5 As part of the transaction, most of AP's employees also transferred to ECP. The acquired business revenue of AP was around £[REDACTED] million (or around [REDACTED] per cent of AP's total FY16 revenue of £172 million).
- 4.6 ECP paid a total consideration of around [REDACTED] (subject to post-completion stock adjustments), broken down into: inventory/stock ([REDACTED]); plant ([REDACTED]); AP's property at Warrington ([REDACTED]); goodwill ([REDACTED]); and other assets ([REDACTED]), ie business name, rights, contracts, intellectual property, records and software.

Rationale for the transaction

- 4.7 ECP told us that it had pursued a programme of expansion in the UK, and explained that the Merger enabled it to 'expand its business more quickly and

¹⁸ Parties' response to the Issues Statement (29 June 2017), paragraph 2.11.

¹⁹ On 4 July 2017, the Administrators granted ECP Newco an extension of the property licences to [REDACTED], which committed it either to (before the property licences expired): (a) enter into an assignment, a new lease or a tenancy at will with the landlord in respect of each of the AP properties; or (b) subject to CMA approval, surrender the lease.

cheaply than would otherwise be possible', and bring on board experienced staff into its own business.

- 4.8 ECP also told us that it had looked at acquiring AP in 2015. At that time, it had carried out a synergies analysis, which concluded that there were 'a number of significant synergies', primarily in the form of procurement and back-office savings. ECP assumed that a proportion of synergies would be competed away, and 'therefore passed back to consumers', but AP could still be run more profitably under ECP's ownership. ECP told us that it did not carry out any further synergies analysis during the September 2016 accelerated sale process due to the time constraints imposed by that process. It proceeded on the basis that these synergies would still be attainable.
- 4.9 ECP told us that during the accelerated sale process it determined that a small number of depots were trading so badly as to be 'uneconomical', based on that depot's revenues and EBITDA performance, as well as the status of its existing facility, eg size, condition and layout. [✂].
- 4.10 The Parties also told us that since ECP acquired 101 depots at the same time, it had to acquire the Markham Vale national distribution centre because its own national distribution centre at Tamworth was still under development, and was not available to take on the supply functions for an additional 101 depots. They also told us that ECP acquired AP's head office in Leeds because the head office performed various back-office functions on behalf of AP's depots, and they could not be replicated in ECP's own head office in the short term.

Jurisdiction

- 4.11 Under section 35 of the Act, and pursuant to our terms of reference (see Appendix 1.1), we are required to investigate and report on certain statutory questions, the first being whether a relevant merger situation has been created. Section 23 of the Act provides that a relevant merger situation has been created if two or more enterprises have ceased to be distinct within the statutory period for reference and either the turnover test or the share of supply test (or both) specified in the Act is satisfied.

Enterprises ceasing to be distinct

Concept of enterprise

- 4.12 The Act defines an 'enterprise' as 'the activities or part of the activities of a business'. A 'business' is defined as 'including a professional practice and includes any other undertaking which is carried on for gain or reward or which

is an undertaking in the course of which goods or services are supplied otherwise than free of charge.²⁰

- 4.13 The Parties have submitted that the Assets met the definition of an 'enterprise' within the meaning of the Act because ECP has in principle acquired through the Assets most of the activities of the AP business which allow ECP (with suitable support and investment) to carry out the activities that AP used to carry out before it went into administration.
- 4.14 As set out above in paragraphs 4.4 to 4.6, the Assets constitute a very substantial part of the AP business (ie around [X]% of AP business' depots both in volume and revenue terms).
- 4.15 In line with the Interim Enforcement Order, only limited steps have been taken to integrate the Assets into the ECP business. The special purpose vehicle created by ECP to acquire the Assets, Andrew Page 1917 Limited, is operating essentially as a stand-alone business. In this context, the Assets (including chattels, employees and customer contracts) that were acquired by ECP and put into Andrew Page 1917 Limited are sufficient to continue the AP's activities as a going concern.
- 4.16 On that basis, we are satisfied that both ECP and the Assets satisfy the definition of an enterprise for the purposes of the Act as, in accordance with section 129 of the Act, they carry out the activities of a business for gain or reward and operate as a going concern with the necessary assets, employees and customer contracts.²¹

Ceasing to be distinct

- 4.17 Section 26 of the Act provides that two enterprises cease to be distinct once they are brought under common ownership or common control. As a result of the Transaction, the Assets have come under the legal ownership of ECP.
- 4.18 We are therefore satisfied that two enterprises have ceased to be distinct.

Turnover test

- 4.19 The turnover test is satisfied where the value of the turnover in the UK of the enterprise acquired exceeds £70 million.²² The turnover for the activities

²⁰ Section 129(1) and (3) of the Act.

²¹ CMA2, Mergers: Guidance on the CMA's jurisdiction and procedure, January 2014, paragraph 4.6.

²² Section 23(1)(b) of the Act.

attached to the Assets²³ during AP's latest financial year (ended 30 September 2016) was £[✂] million in the UK, well in excess of the statutory threshold. We are therefore satisfied that the turnover test is met.

- 4.20 Given the above, we are not required to consider whether the share of supply test is met.

Provisional conclusion on jurisdiction

- 4.21 We provisionally conclude that the Merger constitutes a relevant merger situation within the meaning of section 23 of the Act. As a result, we must consider whether the creation of that relevant merger situation may be expected to result in a SLC within any market or markets in the UK for goods or services.²⁴

5. Market Definition

Introduction

- 5.1 The purpose of market definition is to provide a framework for the CMA's analysis of the competitive effects of a merger. The relevant market (or markets) is the market in which the merger may give rise to a SLC and contains the products and/or services that are the most significant competitive alternatives available to the customers of the merged companies. Market definition is a useful analytical tool but is not an end in itself and identifying the relevant market involves an element of judgement. The boundaries of the market do not determine the outcome of the CMA's analysis of the competitive effects of a merger in a mechanistic way. The CMA may, for example, also take into account constraints outside the relevant market (or markets).²⁵
- 5.2 As described in sections 2 and 3 above the Parties' activities primarily overlap in the supply of IAM car parts for cars and light vehicles to the IMT. For the reasons set out in section 3²⁶, in assessing the Merger we have not considered the Parties activities in respect of garage equipment, the retail supply of car parts or private label car parts.

²³ Pursuant to section 28 of the Act, for the purposes of section 23, the value of the turnover in the UK associated with the Assets has been determined by taking the total value of the turnover in the UK of AP's business and deducting the turnover in the UK associated with the activities associated with the assets that have not been taken over by ECP.

²⁴ Section 36 of the Act.

²⁵ Merger Assessment Guidelines, paragraphs 5.2.1 and 5.2.2.

²⁶ See paragraphs 3.29 to 3.32

- 5.3 We examine in this section two dimensions of market definition: the product dimension and the geographic dimension. We also examine whether there are separate customer groups on which the Merger may impact in different ways.

Product markets

- 5.4 We have not found evidence, and the Parties have not submitted, that the product market should be narrower than the supply of IAM car parts for cars and light vehicles to the IMT. We have considered however whether it should be broader, specifically whether it should include the sale of OEM car parts for cars and light vehicles and whether it should include specialist suppliers.

Evidence from the Parties

- 5.5 The Parties stated that the market has traditionally been divided into vehicle manufacturers and their dealers (VM dealers) selling OEM car parts on the one hand and motor factors selling IAM car parts on the other. However, the Parties argued that this distinction is no longer appropriate, and that the relevant product market should be the supply of car parts to the IMT, including both OEM car parts and IAM car parts. In support of this, ECP submitted that:
- (a) VM dealers are in fierce competition with the IMT for customers. Both the CMA's and the Parties' survey data show that the IMT obtain about a quarter of its supplies from OEM parts suppliers and between 40-50% of IMT customers who do not currently use OEM parts suppliers could switch at least half their requirements to an OEM parts supplier;
 - (b) OEM parts suppliers have perceived quality advantages in supplying 'genuine' parts and in identifying correctly the right part;
 - (c) some VM dealers use IAM parts and the IMT sometimes uses OEM parts;
 - (d) ECP depots' price match against OEM suppliers and the recommended retail price of an OEM branded and IAM car part can be the same;
 - (e) OEM branded and IAM car parts can be physically the same and indeed manufactured by the same companies;
 - (f) OEM suppliers specifically target the IMT and compete directly with general motor factors. In particular, the Parties cited the following OEM parts suppliers:
 - (i) Volkswagen's Trade Parts Specialist (TPS) - launched in 2006 TPS supplies OEM branded parts from a network of over 70 depots for its Audi, Seat, Skoda and Volkswagen marques. It also markets an "all

makes” FourPlus range and a Quantum range, a ‘value’ alternative to ‘genuine’ parts, to the IMT.

- (ii) TrustFirstParts - Ford Retail operates TrustFirstParts and TrustFord with over 60 depots selling Ford branded parts and supplies a specific aftermarket parts brand called Motorcraft directly to the IMT.
- (iii) PSA, part of the Peugeot Citroen Group, offers delivery of parts for Peugeot group car marques through a newly established network of approximately 30 dealers. The Parties also referred to PSA’s Eurorepar scheme of garages and workshops who offer repairs for all vehicle marques.
- (iv) Vauxhall Trade Club who supply genuine Vauxhall parts from over 70 centres.
- (v) Nissan Trade Club who supply genuine Nissan parts from over 70 centres.
- (vi) Renault Motrio which is Renault’s garage network and offers Renault Motrio branded parts.
- (g) A large number of car dealerships will also sell OEM car parts to the IMT. Several of these dealerships have extensive distribution networks, that are larger than those of the bigger general motor factors, and a level of sales of car parts to the IMT comparable to that of AP prior to the Merger.

5.6 Whilst the Parties submitted that independent garages would not generally deal with a supplier who only sold a single car part type they also said that the ICDP Repairer Survey 2017 (the ICDP Report) showed that OEM suppliers accounted for [X] of the purchases made by respondents to that survey.

5.7 The Parties submitted an analysis by CRA comparing ECP’s discount levels in areas where it overlaps with AP with its discount levels in areas where it does not overlap with AP. The Parties said that this showed that ECP’s discount levels were not significantly higher when it faced AP as a competitor, and that this remained true when holding the number of competitors constant (eg ECP’s discounts were the same when it faced one competitor which was AP as when it faced one competitor which was not AP; and its discounts were the same when it faced AP and one other competitor as when it faced two other competitors). The Parties also said that this demonstrates that ECP faces constraints from many competitors, including specialist and OEM parts suppliers.

5.8 The Parties also submitted that specialist suppliers are viable competitors to the Parties. Specialist suppliers focus on the supply of a particular type of part, eg clutches, and do not supply the full range of car parts that general motor factors such as the Parties supply. The Parties acknowledged that most specialist suppliers do not have extensive distribution networks and are unable to deliver to the majority of IMT customers within most customers' required delivery times. They also stated that independent garages would not generally deal with a supplier which only sold a single car part type. The Parties therefore accepted that the competitive constraints from specialist suppliers are not as strong as from general motor factors such as the Parties.

Evidence from the Parties' internal documents.

5.9 The Parties' internal documents provide limited support for the Parties' submission that both OEM and specialist parts suppliers are effective competitors to general motor factors.²⁷ OEM and specialist parts suppliers are mentioned infrequently in comparison with general motor factors. In particular, while a number of general motor factors are referred to by name in internal documents, this is rarely the case for OEM and specialist parts suppliers.²⁸

Evidence from ECP's price matching data

5.10 Our analysis of ECP's Instant Price Matching (IPM) data can be found in Appendix 5.1. As noted there, OEM and specialist parts suppliers appear very infrequently (on average) in the IPM data. This suggests that OEM and specialist parts suppliers do not exert a significant competitive constraint on the Parties or other general motor factors, certainly in relation to price. However, to the extent that these categories of supplier compete more strongly on non-price parameters (and so might be less likely to appear in ECP's IPM data), we recognise that the evidence from ECP's IPM data will understate the constraint they exert on the Parties.

²⁷ There are only a few references to competition from OEM and specialist parts suppliers. For example, in its 2015 annual report, LKQ states that for its European segment specifically (ECP in the United Kingdom and Sator in the Netherlands) all suppliers of replacement repair products are viewed as competitors, including other alternative parts suppliers and OEMs and their dealer networks. In several business plan presentations, ECP notes that manufacturer dealer trade clubs are becoming more competitive. In one of its budget presentations LKQ stated that it regarded OEM parts suppliers as a strong competitive constraint which were implementing competitive pricing strategies.

²⁸ For example, OEM and specialist parts suppliers are rarely mentioned in the Parties internal documents assessing potential new depot sites and only [X] of the [X] suppliers listed in ECP's 2015 promotion database are OEM or specialist parts suppliers (in the case of the one OEM parts supplier listed, this supplier was used by the customer alongside AP). ECP's 2015 promotion database relates to a promotion run by ECP in June 2015 where each branch manager was asked to identify [X] customers who would be targeted for promotions.

Third party supplier views

- 5.11 We received responses to our questionnaire from four OEM parts suppliers²⁹ out of the six OEM parts suppliers we contacted. Three out of the four OEM parts suppliers said that they competed with general motor factors such as AP and ECP to supply the IMT only in relation to a subset of the products which general motor factors supply. However, Bluegrasscoms, told us that it competed strongly with the Parties across all the products general motor factors supply. This may reflect the wider range of car marques on behalf of which Bluegrasscoms supplies car parts.
- 5.12 The responses confirmed that OEM parts suppliers predominately supply parts for only specific car marques (albeit in the case of Bluegrasscoms a wide range of car marques). The respondents also noted that ECP's and AP's strategy and focus are different from theirs since OEM parts suppliers focus on the supply of car parts for particular car marques whereas general motor factors focus on medium to fast moving parts generally supplying multiple grades of the same parts across most car marques.³⁰
- 5.13 TPS' and Renault Motrio's responses also illustrated that their supply of "all makes" parts was limited. TPS noted that [over 90%] of its revenue was derived from the supply of parts for its own car marques. TPS described its Quantum "all makes" range as limited to the supply of general consumables (eg oil and coolant) and stated that sales of these products account for [less than 10%] of overall turnover (approximately [£]). Likewise, Renault Motrio noted that it sells a limited volume of "all makes" parts, consumables and paint which are not specific to their car marques with a total revenue of only approximately [£] pa.
- 5.14 In addition, OEM parts suppliers are less likely to deliver on demand or as frequently as the Parties and other general motor factors and are therefore less likely to compete on delivery times. For example, Bluegrasscoms confirmed that it delivers between two to three times per day and TPS' delivery frequency to local IMT customers varies by depot, by part and customer location but is generally between two to four times per day.
- 5.15 Three buying/trading groups (AAG, PDP and PA) provided us with views on the extent of competition between general motor factors and OEM parts

²⁹ TPS, Quickco (part of Pendragon Group supplying OEM parts for a number of VMs including Ford, Vauxhall, Renault and Nissan), Renault UK (Motrio Programme) and Bluegrasscoms supplying parts for a number of OEMs. Bluegrasscoms is a telesales and marketing consultancy that manages these services for a number of VM trade clubs including Vauxhall, Ford, Renault and Volkswagen.

³⁰ For example, TPS and Renault Motrio.

suppliers. AAG and PDP told us that they compete with other general motor factors as well as OEM and specialist parts suppliers. AAG said that certain OEM parts suppliers such as Vauxhall Trade Club and TPS have strong trade programmes and AAG competes against those activities.

- 5.16 PA told us that it competes with other general motor factors and specialist suppliers but only to a limited extent with OEM parts suppliers. PA said that it competes with specialist suppliers only in relation to certain products, so the competitive element depends on the availability of a specific part, with price and service being a secondary consideration. PA also told us that OEM parts suppliers target supplying parts for vehicles in the first years of registration (3-4 years) as well as offering products to which the aftermarket has limited access or limited interest in supplying. Whilst PA sources OEM products from OEM parts suppliers on behalf of garage customers to offer a complete service, it did not view OEM parts suppliers as direct competitors.
- 5.17 We received 16 responses from the approximately 500 smaller independent car parts suppliers we contacted and which were identified as general motor factors by the Parties. Given the limited number of responses we received from these suppliers we have exercised caution when interpreting this evidence.
- 5.18 We asked whether these suppliers considered that they competed with general motor factors, specialist motor factors and/or OEM parts suppliers. As Table 5.1 shows, most general motor factors responded that they compete with other general motor factors but were less likely to say that this was the case for specialist and/or OEM parts suppliers.³¹

Table 5.1: Number of respondents that responded that they compete with other suppliers

<i>Number of general motor factors that compete with:</i>	<i>Other general motor factors</i>	<i>Specialist motor factors</i>	<i>OEM suppliers*</i>
Yes	14	8	10
No	1	5	3
No response	1	3	3

Source: CMA.

* Nine general motor factors submitted additional comments. In one case these comments indicated that, even though the respondent said that they competed with an OEM or specialist supplier, general motor factors are still their main competitors and they compete with OEM and specialist suppliers only to a limited extent.

³¹ A few OEM parts suppliers were mentioned by name in the responses, the most common was Volkswagen/TPS mentioned 4 times.

Customer views

- 5.19 We received 14 responses from the 19 Key Accounts we contacted.³² We asked these customers whether they would consider using an OEM parts supplier, or a number of OEM parts suppliers, as an alternative to a general motor factor.
- 5.20 Four customers replied that they would not use an OEM parts supplier. The main reason given for not considering an OEM parts supplier is that prices of OEM parts are too high. Some customers also mentioned that the service is poor, that it would require them to use multiple dealers to supply their entire network and that OEM parts suppliers try to direct all retail business through their own workshops.
- 5.21 Three customers responded they are already using an OEM parts supplier as one of their suppliers. These customers said that they use a combination of OEM and IAM car parts suppliers, depending on their requirements. The other four customers said that they would only use OEM car parts if this was specifically requested by their customer, if they needed a specific OEM part not available as an IAM part or if this is required by the manufacturer's warranty.

Survey responses

- 5.22 Survey respondents were asked a number of questions about the characteristics which were important to them, the suppliers they had used in the last three months and the extent to which they could use alternative suppliers. The Survey results indicated that:
- (a) quality of parts and speed of delivery were the criteria which were most frequently mentioned by respondents. Price was also an important factor with consistently cheap prices being mentioned by a quarter of respondents and competitive prices by a fifth of respondents. Stock availability was mentioned by approximately a fifth of respondents.³³
 - (b) half of respondents said that speedy delivery was required for more than 75% of their orders. Only around one in three respondents said that

³² We have not used three of the responses received as the customers told us they did not purchase mechanical car parts. Two (British Car Auctions and Nationwide Accident Repair) only purchased body shop parts while the other (McLaren) only purchased consumables.

³³ See Figure 13 of [Customer research survey: CMA commissioned research](#).

delivery in less than an hour is not required for the majority of their orders.³⁴

- (c) 65% of the suppliers which had been used in the last three months were described by respondents as general suppliers.³⁵
- (d) Survey respondents were also asked which were their top three suppliers. 74% described their main suppliers as a general supplier.³⁶ 72% described their second supplier as a general supplier³⁷ and 62% described their third supplier as a general supplier.³⁸
- (e) a third of respondents said that they did not know how much business they could switch to OEM or specialist parts suppliers. Of those who said that they did know, approximately 70% said that they could switch half or less of their business to specialist suppliers and 75% said that they could switch half or less of their business to OEM parts suppliers. Only approximately 20% of respondents believed that they could switch all of their business to specialist and/or OEM parts suppliers.

Our assessment of the evidence

- 5.23 Overall the evidence from the Parties' internal documents and from third party suppliers does not support the Parties' submissions that OEM and specialist parts suppliers are a significant competitive constraint on the Parties and other general motor factors.
- 5.24 Moreover, the importance of price and stock availability to customers, both to Key Accounts and to local IMT customers, suggests that there is a limit to the competitive constraint OEM and specialist parts suppliers can provide on general motor factors. OEM and specialist parts suppliers tend to have a limited product range (whether limited to particular marques of cars or particular types of part). The evidence also suggests that such suppliers typically do not price as competitively as general motor factors and typically do not offer multiple parts at different price points.

³⁴ [Customer research survey: CMA commissioned research.](#)

³⁵ Responses to S01 and Q15. The percentage increases to 77% once obvious misclassifications of suppliers are corrected (e.g. ECP not identified as a generalist).

³⁶ Responses to Q15 and Q16. The percentage increases to 89% once obvious misclassifications of suppliers are corrected (e.g. ECP not identified as a generalist).

³⁷ Response to Q15 and Q17. The percentage increases to 86% once obvious misclassifications of suppliers are corrected (e.g. ECP not identified as a generalist).

³⁸ Response to Q15 and Q18. The percentage increases to 71% once obvious misclassifications of suppliers are corrected (e.g. ECP not identified as a generalist).

- 5.25 The Survey results also indicate that speed of delivery is important to customers, with over 90% of respondents saying that they “order parts as and when I need them during the day” and half of respondents saying that they need delivery within an hour for more than 75% of orders.³⁹ The responses to our questionnaires indicate that OEM parts suppliers generally deliver less frequently than general motor factors. Specialist suppliers generally also do not appear to offer fast delivery. In contrast ECP and AP generally offer customers delivery as and when required. This suggests that OEM parts suppliers and specialist suppliers do not offer an equivalent service to that offered by general motor factors and are only able to compete with general motor factors in a limited number of circumstances.
- 5.26 The Parties submitted that the Survey supported their submission that OEM suppliers are a ‘strong constraint’. In particular, they noted that 20% of suppliers used by customers in the last 3 months were described by respondents as OEM parts suppliers. In response, we note that:
- (a) The above figures are based on the categorisation given to the supplier by each Survey respondent. However, it is clear that there were some inconsistencies in how Survey respondents described suppliers. For example, only 78% of respondents described ECP as a general supplier. Once a number of such obvious misclassifications are corrected the 77% of the suppliers used in the last three months were general suppliers whilst only 14% were OEM parts suppliers.
 - (b) It is unclear whether responses to this question identified suppliers who were substitutable for or complementary to one another. For example, in some cases parts can only be sourced from an OEM parts supplier so such suppliers may be used to fulfil requirements which general motor factors cannot satisfy. Respondents were also asked a question directly about who else could have met their requirements for their last order from ECP or AP. For the unprompted response to this question, 78% of suppliers mentioned were described as general suppliers by respondents whilst only 13% were described as OEM parts suppliers.^{40,41}
- 5.27 The Parties also noted that ‘between 70 and 78% of those customers who hadn’t been using an OEM supplier could switch at least some of their

³⁹ For example, half of respondents said that they needed delivery within an hour for more than 75% of orders.

⁴⁰ Responses to Q27, Q15 and Q28. Again, these percentages change once obvious misclassifications of suppliers are corrected (e.g. ECP not identified as a generalist). It appears that 88% of suppliers mentioned in response to this question were generalists whilst only 7% were OEM suppliers.

⁴¹ This is also reflected in the low frequency with which individual OEM parts suppliers were mentioned in response to this unprompted question. For example, only 4% of respondents in areas where the Parties’ listed TPS as a competitor mentioned TPS without being prompted (CMA analysis of responses to Q27).

business to an OEM supplier'. In response, we note that this needs to be considered in light of the evidence that a significant number of respondents incorrectly categorised suppliers.⁴² Furthermore, as noted at paragraph 5.22 above, in general respondents felt that they could only switch a limited proportion of their purchases to OEM parts suppliers.

- 5.28 Regarding the ICDP survey submitted by the Parties, we note that the sample size for this survey is relatively small (900 responses) and is not confined to the UK. Moreover, the Parties have provided limited information about the methodology used. Therefore, we have treated the results of this survey with caution. However, in the context of the Parties' submissions, we note that the survey also suggests that OEM suppliers only compete with general motor factors in relation to certain purchases. This suggests a limit to the competitive constraint such suppliers provide. Specifically, the ICDP report stated that, in [X] of cases in which OEM branded parts were used, it was because the required parts were 'not available at all through any independent parts distributor'. Consequently, the ICDP report also noted that 'OEM-branded parts [compete] with IAM products in [X] of total orders'.
- 5.29 Contrary to the Parties' submissions, CRA's analysis does not provide any evidence related specifically to OEM and specialist parts suppliers. We discuss CRA's analysis in more detail at Appendix 5.1. As explained, we have some reservations about the available data and the methodology used. However, even setting those reservations aside and taking the results at face value, CRA's analysis only demonstrated that where ECP does not face AP as a competitor, it faces other equally strong competitive constraints. The analysis does not identify the source of these constraints and did not establish that these competitors include OEM and/or specialist parts suppliers rather than general motor factors.
- 5.30 We note the following regarding the specific OEM parts suppliers cited by the Parties and noted at paragraph 5.5(f) above:
- (a) The focus of each of these suppliers is on the supply of car parts for their particular vehicle marques. This contrasts with general motors factors who focus on supplying as wide a range of parts for as many vehicles as possible. Additionally, third party responses and the Parties' ICDP survey report indicate that a significant focus of OEM parts suppliers is on the supply of car marque specific parts which are less likely to be supplied by general motor factors. This indicates that the competitive constraint any individual OEM parts supplier exerts on a general motor factor is limited

⁴² For example, only 80% of respondents described ECP as a general supplier.

because OEM parts suppliers and general motor factors are only alternatives for a limited number of customers in a limited range of circumstances.

- (b) Some OEM parts suppliers also provide “all makes” ranges. However, the evidence indicates that these “all makes” ranges are limited in both the range of products supplied and the value of sales made. [X]. Renault Motrio also described its sales of “all makes” parts as ‘limited’ and its sales of these parts and consumables accounted for less than [X].⁴³
- (c) The Survey responses all suggested that purchases from OEM parts suppliers were generally complementary to, rather than substitutable with, purchases from general motor factors (ie OEM parts suppliers were often used to purchase parts which are unlikely to be available from general motor factors). For example, only 14% of the Survey respondents who had used TPS (the most commonly mentioned OEM parts supplier) in the last 3 months said that TPS was an alternative to the Parties unprompted.

Provisional conclusion on the relevant product market

- 5.31 Based on the evidence we have received, we provisionally concluded that the product market is the supply of IAM car parts by general motor factors for cars and light vehicles to the IMT. OEM and specialist parts suppliers appear to be alternative suppliers to general motor factors in a limited range of circumstances and therefore exert only a limited competitive constraint on general motor factors such as the Parties. As a result, we do not propose to consider OEM and specialist parts suppliers as part of the relevant product market.

Customer segmentation

- 5.32 Our Merger Assessment Guidelines provide that relevant markets can be defined for separate groups of customers if the effects of a merger on competition to supply a specific group of customers may differ from its effects on the other groups of customers and require separate analysis.⁴⁴ In this case we have considered the possibility of separate customer groups for local IMT customers and Key Accounts.
- 5.33 As described in section 3, IAM car parts are supplied primarily to smaller IMT customers, mostly garages and workshops that operate locally from one site (local IMT customers). Respondents to the customer Survey were generally

⁴³ Renault Motrio response

⁴⁴ Merger Assessment Guidelines, paragraph 5.2.28.

small businesses: 75% of respondents had five employees or fewer, and a majority had an annual turnover of £250,000 or less (excluding those who did not know/refused to say).

- 5.34 IAM car parts are also supplied to a range of larger IMT customers with multiple sites across a region or across the UK, so-called Key Accounts.
- 5.35 The Parties set out a number of criteria which distinguish Key Accounts from other IMT customers (although they noted that some Key Accounts do not meet all of these criteria):
- (a) Key Accounts are usually large, generally making purchases in excess of [REDACTED] per year;
 - (b) Key Accounts often require consistent pricing across all of their sites;
 - (c) Some Key Accounts have specific requirements for the product range that can be purchased by their sites; and
 - (d) Key Accounts generally require centralised management, invoicing and back-office support.
- 5.36 Key Accounts can vary significantly in size and geographic coverage. Some Key Accounts are truly national, with hundreds of sites across the UK and annual purchases in the millions or tens of millions of pounds, whereas others have a few sites within a region and much smaller purchase levels. There is no clear segmentation between different types/size of Key Accounts but rather a continuum of sizes. Some Key Accounts are unlikely to differ from local IMT customers in their requirements (for example customers which operate a small number of sites in a small geographic area) whereas national Key Accounts will have different requirements.
- 5.37 Most Key Accounts told us that they would consider using (or already do use) suppliers which can supply only some of their sites. However, Key Accounts appear to prefer to use a single supplier for the majority of their requirements. With the exception of Kwik Fit, every Key Account which provided data on its purchases used one supplier for over [REDACTED] of its purchases and, of these, all apart from [REDACTED] used one supplier for over [REDACTED] of its purchases. This is consistent with what several Key Accounts told us about their purchasing strategies, for example:
- (a) BT Fleet told us that it has a primary supplier and in addition tends to have backup suppliers;

- (b) Micheldever told us it aims to give 80% of its business to a primary supplier, up to 20% of its business to a secondary supplier and up to 5% to other suppliers including local motor factors, in order to maintain a good delivery service and to be able to 'always say yes' to its own customers;
- (c) RAC told us that it selects a 'core' provider but also purchase from other suppliers;
- (d) Axle Group told us that it commits to purchasing 90% of its volumes through a contract with a first line supplier but uses second line suppliers for the remainder, and that this is the best split to ensure the best price and service possible; and
- (e) ATS Euromaster told us it has two 'First Choice Suppliers' (one for batteries and oil and one for all other parts) and then also some alternative suppliers which can only be used when the 'First Choice Supplier' would not be able to deliver the ordered part within the required delivery time.

5.38 Therefore, it appears that, while most larger Key Accounts may be willing to consider using a wide range of suppliers for a proportion of their requirements, the majority of Key Accounts sales go to suppliers which are able to deliver to a significant majority of a customer's sites. Therefore, a sufficiently broad geographic coverage is necessary for suppliers competing to be a Key Account's primary supplier.

5.39 Whilst recognising the continuum between Key Accounts and local IMT customers, we therefore provisionally concluded that the impact of the Merger on local IMT customers and the impact on Key Accounts in particular larger national/multi-regional Key Accounts is likely to differ and we therefore consider them separately.

Geographic market

Local IMT customers

5.40 The Parties submitted that the relevant geographic market for the supply of IAM car parts to local IMT customers is local. This is because local IMT customers require motor factors to supply parts within a specified amount of time. In the Parties view an appropriate catchment area for a depot is about five miles (because of the need to deliver products to such customers within an hour of an order being placed).

- 5.41 We agree that the relevant geographic market for the supply of IAM car parts to local IMT customers is local. As set out in our analysis of ECP's pricing and price matching data at Appendix 5.1, prices vary on a local basis. This is in response to competitive conditions which vary locally depending on the number of competing independent motor factors, speed of delivery and product range.
- 5.42 Our Merger Assessment Guidelines state that, when assessing a merger in markets involving a large number of locally based suppliers and customers, we may examine the geographic catchment area within which the great majority of an individual outlet's custom is located. Catchment areas are a pragmatic approximation for a candidate geographic market to which the hypothetical monopolist test can be applied.⁴⁵
- 5.43 We therefore undertook an analysis of catchment areas to inform our geographic market definition for local IMT customers. Both AP and ECP provided us with customer sales data for 2016 for a selection of depots. This data included the identity and location of most of the customers of each depot. We used this data to calculate catchment areas for each depot. Appendix 5.2 contains further details of the data and the methodology used in this analysis.
- 5.44 The analysis shows that each ECP and AP depot serves customers in a relatively narrow geographic area. Whilst the catchment areas for AP depots are slightly larger on average than for ECP depots, for both Parties, the average catchment areas are relatively small (less than a six mile radius on average for 70% catchment areas). The average catchment areas also increase gradually as the revenue thresholds increase. The 90% catchment areas are, on average, about twice the radius of the 60% catchment areas.
- 5.45 Our analysis also shows that there is a degree of variation in catchment areas across depots. For both Parties, using any revenue threshold, there is a wide variation in the size of catchment areas. For example, taking catchment areas for AP depots calculated on the basis of an 80% revenue threshold, while almost 20% of depots have a catchment area with a radius of less than [X] miles, more than 20% of depots have a catchment area with a radius of [X] or more miles.
- 5.46 Average catchment areas are only intended as a starting point for our competitive assessment. In our local competitive assessments, we assess in each local area identified as an area of potential concern (see section 7) the features, including the actual locations of customers, which affect the extent of

⁴⁵ Merger Assessment Guidelines, paragraph 5.2.25.

competition between suppliers in that local area. In general, customer catchment areas may be narrower than the geographic market identified using a hypothetical monopolist test and we recognise that our catchment area analysis is based on data from ECP and AP only and not from other suppliers. We have taken this into account in our approach to filtering and importantly, where relevant, we also consider in our local competitive assessments, the constraints posed by suppliers located further away.

Key Accounts

- 5.47 The Parties told us that the supply of car parts to Key Accounts is national because Key Accounts have sites across different regions of the UK and would not consider a supplier that did not have depots across the UK/several regions.
- 5.48 As described above, Key Accounts are customers which have multiple sites; some are truly national whereas others purchase across a few sites within a region. Since Key Accounts tend to prefer to use a small number of suppliers across most or all of their sites, those Key Accounts with a larger number of sites have a more limited set of suppliers available to them. A supplier will therefore require a broad geographic coverage to supply larger Key Accounts as a primary supplier.
- 5.49 To provide an insight into how large the required geographic coverage is for the Parties' Key Accounts, we examined the number of ECP depots each Key Account customer purchased from and the total value of revenue ECP received from these customers in 2016.⁴⁶ The distribution of the number of depots that ECP's Key Account customers bought from is shown in Figure 5.1 and the distribution of their sales in 5.2.

Figure 5.1: Distribution of ECP Key Account customers on number of depots bought from in 2016

[✂]

Source: ECP Key Accounts sales data.

Figure 5.2: Distribution of sales from ECP Key Account customers by number of depots bought from in 2016

[✂]

Source: ECP Key Accounts sales data, Section 109 Notice, Annex 7.

- 5.50 As shown in Figure 5.1, the majority ([✂]) of ECP's Key Accounts ([✂] customers) bought products from 10 or fewer ECP depots in 2016. These

⁴⁶ Equivalent data was not available for AP.

customers are likely to be smaller, regional customers. Only [X] of customers ([X] customers) bought from more than 50% of ECP's depots (105 depots), while [X] of customers ([X] customers) bought from more than [X] of ECP's depots in 2016. These customers are likely to be national Key Accounts.

- 5.51 As shown in Figure 5.1, national customers make up the highest proportion of revenues for ECP. The [X] of customers who buy from more than 105 ECP depots made up [X] (c. [X] million) of the total revenue ECP earned from Key Accounts in 2016 ([X] million in total), while the [X] of customers purchasing from 10 or fewer depots accounted for only [X] of ECP's revenue from Key Accounts (c [X] million).

Provisional conclusion on the geographic market

- 5.52 We provisionally concluded that the relevant geographic market is local to each depot for the supply of IAM car parts by general motor factors to local IMT accounts. For Key Accounts, we provisionally concluded that the geographic market is national.

Provisional conclusions on the relevant market

- 5.53 We have provisionally found that the relevant product market is the supply of IAM car parts by general motor factors for cars and light vehicles to the IMT. IMT customers can be segmented broadly between locally based IMT customers (primarily independent garages and workshops) and larger (in sales) nationally or multi-regionally based Key Accounts respectively although we recognise the spectrum in terms of required geographic coverage for Key Accounts.
- 5.54 The available evidence suggests that OEM and specialist parts suppliers of car parts are not part of the relevant product market as these suppliers are not generally seen by the IMT as substitutable for general motor factors and therefore only exert a limited constraint on the Parties and other general motor factors.
- 5.55 We provisionally find that the geographic market for local IMT customers is local to each depot. For Key Accounts, we provisionally conclude that the geographic market is national. We will consider as part of our competitive assessment differences in the competitive strength of different suppliers in supplying Key Accounts, in particular differences in their geographic coverage.

6. Counterfactual

- 6.1 To assess the effects of the Merger on competition we need to consider what would have been the competitive situation without the Merger. This is called the 'counterfactual'.⁴⁷
- 6.2 The CMA's approach to the counterfactual is set out in our Merger Assessment Guidelines.⁴⁸ The counterfactual is an analytical tool to provide a benchmark against which to assess whether the Merger has or may be expected to result in a SLC.⁴⁹ It does this by providing the basis for a comparison of the competitive situation with the Merger against the likely future competitive situation absent the Merger.⁵⁰
- 6.3 The counterfactual takes into account events and circumstances, and their consequences, which are foreseeable.⁵¹ In this section we set out our assessment of, and provisional conclusions on the appropriate counterfactual in relation to each relevant market.
- 6.4 One situation where the CMA may consider a counterfactual that is different from the prevailing conditions of competition (the pre-merger situation) is the 'exiting firm scenario'.⁵² The Parties have submitted that AP was a 'failing firm' and that the appropriate counterfactual against which to assess the Merger is one in which AP had exited the market. As an alternative, the Parties submitted that a less realistic counterfactual in their view was the exit of AP from the market as a separate business but with a limited number of local depots being purchased by PA and/or MPD.⁵³
- 6.5 Our Merger Assessment Guidelines state that we will consider the following three limbs in forming a view on an 'exiting firm scenario':⁵⁴
- (a) whether the firm would have exited (through failure or otherwise); and if so;
 - (b) whether there would have been an alternative purchaser for the firm or its assets to the acquirer under consideration; and, if not,

⁴⁷ [Merger Assessment Guidelines](#), paragraph 4.3.1.

⁴⁸ [Merger Assessment Guidelines](#), Section 4.3.

⁴⁹ [Merger Assessment Guidelines](#), paragraph 4.3.1.

⁵⁰ [Merger Assessment Guidelines](#), paragraphs 4.3.1 & 4.3.6

⁵¹ Paragraphs 4.3.1 and 4.3.2 of the Merger Assessment Guidelines.

⁵² Other situations referred to in the Merger Assessment Guidelines are the loss of a potential entrant scenario and where there are competing and parallel transactions. None of these is applicable in the present case.

⁵³ For example, Parties' response to the Issues Statement (29 June 2017).

⁵⁴ Paragraphs 4.3.8 and 4.3.11 of the Merger Assessment Guidelines.

(c) what would have happened to the sales of the firm in the event of its exit.

- 6.6 The first two of these are discussed below. The final limb is considered as part of our assessment of the effects of the Merger on competition.⁵⁵
- 6.7 In this case, the counterfactual selected in each local area has important implications for the circumstances in which a SLC might arise in any local area. Therefore, we have sought to determine the appropriate counterfactual for each of the 101 depots acquired by ECP as well as the AP head office and national distribution centre. The identification of a counterfactual for each depot in this case is consistent with past decisional practice, where an exiting firm scenario was tested on a location-by-location basis.⁵⁶ Appendix 6.3 sets out the relevant counterfactual we have provisionally identified for each of the AP depots acquired by ECP.

Would AP have exited the market (through failure or otherwise) absent the Merger?

- 6.8 Our Merger Assessment Guidelines state that, in the context of a firm exiting for reasons of financial failure, consideration is given both to whether the firm is unable to meet its financial obligations in the short term, and to whether it is unable to restructure itself successfully.⁵⁷
- 6.9 We therefore considered AP's historical financial performance, the availability to AP of additional funding and the actions taken by AP management to improve AP's financial position.
- 6.10 In addition to evidence from the Parties, as part of our assessment, we examined AP's financial information over the last five years (ie FY12 to FY16) and its internal documents, and spoke to AP's former shareholders, Phoenix and Endless, AP's former CEO,⁵⁸ and PwC (acting as the administrators of the seller).
- 6.11 The Parties stated that, at the time of the Merger, AP could not pay its debts as they fell due and it was in administration. The Parties added that successive attempts by AP's management to turn the business around including through additional funding and restructuring had been unsuccessful.

⁵⁵ Paragraph 4.3.11 of the Merger Assessment Guidelines. See section 7 for our assessment of the effects of the Merger on local IMT customers and section 8 for our assessment of the effects of the Merger on Key Accounts.

⁵⁶ See for instance *Anticipated acquisition by Tesco of five Kwik Save stores* (ME/3387/07).

⁵⁷ Paragraph 4.3.14 of the Merger Assessment Guidelines.

⁵⁸ Mark Saunders joined AP in February 2014 as an interim Chief Operating Officer when Endless co-invested in AP, before being appointed AP's permanent CEO in February 2015.

- 6.12 AP's financial information is set out in further detail in Appendix 6.1. This confirms that AP experienced a sharp decline of around [£] million in annual revenues in the financial year ended October 2015 (FY15). In addition, AP's FY16 EBITDA performance showed a significant and sharp decline compared with historical levels, with EBITDA declining from [£] million in FY15 to £ [£] million in FY16.
- 6.13 Based on AP's cashflow analysis produced in [£], which forecast AP's cashflows from August to November 2016, AP would have required a cash injection of at least £ [£] by early October 2016 and a further £[£] by early November 2016 to maintain its commercial activities as a going concern. Moreover, in the period leading up to October 2016, AP's borrowings continued to rise, with AP's total net debt increasing from around £[£] million as at September 2014 to around £[£] million as at July 2016.⁵⁹
- 6.14 The Parties told us that in August 2016, AP management had approached AP's shareholders, Phoenix and Endless, to secure an additional [£] million of funding to enable a solvent solution to be explored.⁶⁰ As described in Appendix 6.1, while Phoenix and Endless had supported AP in the past and had provided financial support as recently as June 2016, by August/September 2016, they were keen to exit from AP to avoid further losses.
- 6.15 In August 2016, AP's management had also explored with a commercial lender – PNC – the possibility of an additional [£] facility. However, on [£], PNC indicated that it would not provide any 'over-lending' on AP's debt facility, but would support AP during the accelerated sale process. PNC therefore no longer had any appetite to continue funding AP and, like Phoenix and Endless, sought an exit as soon as possible.
- 6.16 In parallel to the above, AP's management attempted to raise additional equity or debt from third parties and undertook various cost-cutting exercises, details of which are set out in Appendix 6.1. However, the evidence confirms that, by the time AP went into administration in October 2016, despite AP management's efforts, AP had exhausted all credible options.

Our provisional view on exit

- 6.17 Based on the evidence set out above and in Appendix 6.1, our provisional view is that AP would have failed financially and exited through failure at the

⁵⁹ As at July 2016, total net debt [£].

⁶⁰ See further Appendix 6.1.

latest by October 2016 without a sale of the business. This is because at the time of the Merger:

- (a) With further cash injections required in early October and early November 2016, and with little prospect of further funding either from AP's equity and debt investors or third parties, the option to keep AP trading, either in whole or in part, was likely no longer to be viable.
- (b) AP would have been unable to meet its financial obligations or restructure itself successfully in the near future and it was necessary for AP to go into administration.
- (c) The only viable option remaining for AP was a sale of the business. Given AP's circumstances and the exhaustion of alternative options, an accelerated sale was required and was regarded to be in the best interests of AP's creditors.
- (d) PwC, the administrator of the AP business, told us that, without a sale of the business, AP would have become insolvent on around the 5 October 2016 and would have ceased trading.

Would there have been an alternative purchaser(s) of AP or its assets?

6.18 An alternative purchaser might produce a better outcome for competition than the merger under consideration. When considering the prospects for an alternative purchaser, we look at the available evidence supporting any claims that the merger was the only possible outcome (ie that there was genuinely only one possible purchaser for the firm or its assets).⁶¹ If we consider that there was an alternative purchaser(s), we try to identify who the alternative purchaser(s) might have been and take this into account when determining the counterfactual.⁶² However, even if there was more than one viable alternative purchaser, it may not be necessary to carry out a detailed investigation to identify which alternative purchaser was the most likely purchaser, where the substantive assessment does not depend on us doing so.⁶³

6.19 The accelerated sale process was run by PwC. PA and MPD were the only bidders other than ECP to submit initial and final round bids during the accelerated sale process. Further details of the accelerated sale process, of

⁶¹ Paragraph 4.3.17 of the Merger Assessment Guidelines.

⁶² Paragraph 4.3.11 of the Merger Assessment Guidelines.

⁶³ Paragraph 4.3.6 of the Guidelines.

the bids made, including the depots for which they bid and the terms of the bids are contained in Appendix 6.2.

6.20 The Parties told us that:

- (a) the sale process in September 2016 was ‘only the very final stage in what had been over 12 months of marketing effort by three different financial advisers’ and all ‘realistic prospective buyers in the market should have known’ that AP was ‘up for sale’, and both financial and trade buyers had been approached;
- (b) there was no evidence to suggest that any additional offers (other than those from ECP, PA and MPD) would have been forthcoming even if the administration process had not required there to be an expedited deadline for the sale. According to the Parties, ‘AP was failing and did not have the luxury of waiting for further bids to materialise’ and there was no possibility that ‘with more time, another buyer or buyers could perhaps have been found or that the other bids were in some respects preferable to that made by ECP’;
- (c) only ECP made an offer for nearly all of AP’s physical assets (ECP bid for 101 depots,⁶⁴ AP’s national distribution centre and its Leeds head office). PA and MPD each made partial bids of a number of APs depots.⁶⁵ Consequently, the ‘only possible alternative to the Merger’, the Parties argued, would have been the closure of the majority of the AP network, including its head office and national distribution centre, and the acquisition by PA and MPD of a limited number of depots each; and
- (d) the alternative bids were ‘not realistic given the actual financial situation in which AP found itself’, and the AP business was in ‘far worse shape than ECP thought when it bought the business’. The Parties told us that since completion, ECP had had to invest a further [£] million to cover ‘significant additional costs that were not identified at the time of the accelerated sale process and had only come to light post-completion’. The Parties argued that had these ‘costs been identified during the accelerated sale process’, PA and MPD would not have decided to make the offers that they did make and/or PA and MPD would have proceeded to close any AP depots they had acquired.⁶⁶

6.21 As part of our assessment, we therefore considered:

⁶⁴ The remaining eight depots were closed by the administrators.

⁶⁵ Parties’ response to the Issues Statement (29 June 2017), paragraph 2.11.

⁶⁶ Parties’ response to the Issues Statement (29 June 2017), paragraph 2.15.

- (a) the availability of likely alternative purchasers and the likely scope of their bids, in terms of both the number and location of depots (bid footprint); and
- (b) the likely response of each alternative purchaser upon discovering (post completion) the post-transaction issues highlighted by ECP in relation to the AP business, and the subsequent investment required to resolve them.

Availability of likely alternative purchasers

- 6.22 We agree with the Parties that all realistic alternative purchasers would have had sufficient opportunity to come forward and participate fully in the various sale processes. There had been extensive efforts made to market and sell AP in the past, with the earliest attempt going back to late 2014, as described in Appendix 6.2.
- 6.23 Based on our review of the evidence,⁶⁷ we established a shortlist of possible alternative purchaser candidates:⁶⁸ PA; MPD; AAG; Halfords; and Marubeni.
- 6.24 The evidence available in relation to each of these additional alternative purchaser candidates is set out in Appendix 6.2. Neither AAG, Halfords nor Marubeni were involved in the accelerated sales process. PwC told us that, whilst there was no statutory deadline dictated by the administration process within which to find a purchaser, the target date for completion of 5 October 2016 arose as a result of the serious nature of AP's financial position.
- 6.25 We therefore agree with the Parties that while AAG, Halfords and Marubeni had shown interest in acquiring AP and had all been approached by PwC to take part in the accelerated sale process they had declined to do so and would not have been likely alternative purchasers within that timeframe for that process.
- 6.26 However, in relation to PA and MPD, which both participated in the accelerated sale process, the evidence set out in Appendix 6.2 shows that:
- (a) There was a very willing seller, PwC (acting as administrators of the seller), who told us that:

⁶⁷ Parties' submissions, AP's Board meeting minutes and calls with Phoenix, Endless, the former AP CEO, PwC and a selection of third parties who had engaged in the previous AP sales processes (either in whole or in part).

⁶⁸ This shortlist was based on their level of past engagement in one or more of AP's sale processes since late 2014, as well as their involvement in the accelerated sale process that ultimately led to the Merger.

- (i) absent the Merger, the likely preferred route would have been to complete a transaction with PA and MPD and, if possible, negotiate to increase their respective bid footprints;
 - (ii) it was in the best interests of creditors to sell as many depots as possible on a going concern basis, to realise more from the sale, and reduce the crystallisation of claims at the depots which could not be sold (both preferential creditor claims arising from staff redundancies and landlord claims); and
 - (iii) as described above, the target date for the completion of the transaction was 5 October 2016, therefore limiting PwC's ability to seek other potential purchasers, or consider alternative options (noting that AP management had already exhausted other options by that time).⁶⁹
- (b) Both PA and MPD would have been willing buyers:
- (i) both submitted final round offer letters, after completing their respective due diligence and investigation into the AP depots;
 - (ii) PwC told us that both PA and MPD had the necessary funds to complete a transaction; in the case of MPD, PwC confirmed that it had received proof of funding from MPD to complete its proposed transaction; PA and MPD told us that they had more than enough funds in place to fund both the acquisition and any potential post-completion investment;
 - (iii) MPD and PA were respectively incumbent regional and national general motor factors, and considered the acquisitions of their respective bid footprints as a strategically attractive opportunity. In MPD's case, the depots it had bid for could each be served by its existing regional hub network. For PA, the depots would have expanded the geographic coverage of PA's own branch network;⁷⁰
 - (iv) both had experience of acquisitions in this sector, and both had stated to PwC that a transaction could be completed by the target completion date. Both had instructed professional advisers to assist them in this respect and whilst 5 October 2016 was the target date for

⁶⁹ See further appendix 6.2. In particular, PwC told us that those AP depots unable to be sold through these transactions would likely have been required to be sold out of administration on a 'break-up' basis, as opposed to a business within a depot. PwC also told us that during a 'break-up' sale, this did not preclude the possibility of a depot being sold on a going concern basis

⁷⁰ See Figure 8.2 in Section 8.

completion, this did not preclude the possibility of a depot being sold as a going concern after this date; and

- (v) both expressed their willingness to PwC to amend their bids to get the deal done and both bidders subsequently confirmed to the CMA that they would potentially have been willing to expand their respective bid footprints to complete the transaction (although, as noted below, they did not specify how they would have done so).

6.27 Neither PA nor MPD bid for AP's national distribution centre or Leeds head office and both told us that they would not have sought to acquire either. We therefore consider that PA and MPD were likely to have been alternative purchasers for a number of local AP depots only.

6.28 PA and MPD told us that they might have been willing to bid for more depots than were specified in their final round offer letters. PwC also told us that it would have tried to negotiate with PA and MPD to increase their respective bid footprints (ie to maximise the potential sale proceeds to make distributions to AP's creditors, and to reduce claims from preferential creditors). However:

- (a) Both MPD and PA had already taken the opportunity to improve on their respective initial indicative offers when they submitted their final round offers (see Table 1 in Appendix 6.2). MPD informed PwC after submitting its final offer that it wanted to acquire only two more depots (on top of the 21 depots it had bid for in its final round offer letter, although MPD also told us that it planned to close these two depots if it had been successful in its bid.⁷¹), and PA was unable to identify to us (when asked) which, if any, additional depots it might have bid for.
- (b) The strategic rationale for their respective bids suggested that there were specific reasons for each depot forming part of each bidder's bid footprint: (i) to expand its own depot footprint (PA); or (b) to bid for depots that could be supplied by its current regional hub network (MPD).
- (c) There was an extremely short timeframe for any negotiation to take place (see paragraph 6.24 above), given that their final offers were submitted on 28 (MPD) and 29 (PA) September 2016, and the target completion date was 5 October 2016.

6.29 In view of the above, we consider that it would be too speculative to determine how many, or which, additional depots for which each of PA and MPD might

⁷¹ [REDACTED].

have been willing to bid as part of any negotiation with PwC, other than those depots specified in their final bid offers.

Post-transaction issues

- 6.30 The Parties argued that the post-transaction issues and investment requirements in relation to the PA depots which ECP encountered post-acquisition would have made it likely that PA and/or MPD would not have completed the transaction or would have closed the depots they had acquired rather than make the necessary investment. The evidence the Parties provided in support of this is set out in Appendix 6.2.
- 6.31 Given that ECP only discovered the issues post-completion, we have assumed the same for our assessment, ie that these issues would have been discovered post-completion by PA and MPD. The evidence set out in Appendix 6.2 does not support the Parties' contention that PA or MPD would have been likely to close any acquired depots post-acquisition. Each of PA and MPD had clear strategic rationales for acquiring the depots for which they bid; their offers reflected the financial state of the AP business; and the potential transaction provided an opportunity to acquire the relevant depots at a deep discount compared with the cost of organic entry. Moreover, there were different options available to them other than closure of a depot (see further Appendix 6.2) and finally both PA and MPD have told us that they budgeted for, and had available financing to support, significant financial investment post-acquisition.

Our provisional conclusion on the most likely alternative purchaser and their bid footprint

- 6.32 Based on the above and the evidence set out in Appendix 6.2, our preliminary conclusion is that PA and MPD were likely alternative purchasers and that there were no other likely alternative purchasers. We also provisionally find that the scope of their combined bid footprints would most likely have been limited to those depots for which they made a final bid.
- 6.33 As noted above MPD told us that it planned to close two depots for which it had made a bid.⁷² We consider that this would effectively have amounted to an exit of the two AP depots concerned. Therefore, we have proceeded for the purposes of identifying the appropriate counterfactual that MPD would have bid for only 21 depots (ie excluding [X]).

⁷² [X].

- 6.34 Therefore, our preliminary conclusion is it is more likely than not that 52 depots would have been purchased by either PA or MPD, absent the Merger (ie 39 depots bid for by PA plus 21 bid for by MPD which it would continue to operate less eight overlapping bid depots). These are set out in Appendix 6.3.

Provisional conclusion on the appropriate counterfactual

- 6.35 We provisionally concluded that AP would have been likely to have exited the market as a result of financial failure absent the Merger.
- 6.36 We also provisionally concluded that PA and MDP would have been likely to be alternative purchasers for the depots for which they bid in the accelerated sale process. The appropriate counterfactual against which to assess the effects of the Merger for these 52 AP depots which were acquired by ECP is therefore acquisition by either PA or MPD.
- 6.37 Eight of those 52 depots were bid for by both PA and MPD. For those eight depots, it may not be necessary to carry out a detailed assessment for the purposes of choosing the most likely alternative purchaser if the intensity of competition would have remained broadly the same in the relevant market regardless of the identity of the alternative purchaser. In local areas where neither of the alternative purchasers is present, we did not consider that the identity of the alternative purchaser (whether PA or MDP) materially affected our competitive assessment. In local areas, where only one of the alternative purchasers is present, we adopted the alternative purchaser which is not present in the area as the appropriate counterfactual. This is on the basis that an alternative purchaser which is present in the area concerned may be more likely to give rise to competition concerns.⁷³ In those areas where both alternative purchasers are present, we considered as part of the local assessment whether the precise identity of the alternative purchaser would affect our assessment (see further section 7).
- 6.38 In relation to the remaining 49 depots, AP's head office and national distribution centre in respect of which there was no alternative bids, the appropriate counterfactual for our competitive assessment is exit of the relevant AP assets.
- 6.39 Appendix 6.3 sets out, for each overlapping AP depot acquired by ECP, whether the counterfactual is either acquisition by PA or MPD or exit.

⁷³ [Merger Assessment Guidelines](#), paragraph 4.3.23.

7. Assessment of the competitive effects of the Merger on local IMT customers

- 7.1 This section considers whether the Merger is likely to lead to a substantial lessening of competition in the supply of IAM car parts to local IMT customers relative to the counterfactual in each local area.
- 7.2 In section 5, we set out our provisional conclusions on the relevant markets for the purpose of this assessment. The catchment area analysis we undertook (described in Appendix 5.1) explains how we identified local areas where the Parties' depots may compete to supply the same customers and, therefore, areas in which competition concerns may arise.
- 7.3 In section 6, we set out our methodology for identifying the relevant counterfactual in each local area in which ECP acquired an AP depot. In respect of 49 depots, we identified that the appropriate counterfactual against which to assess the effects of the Merger is exit by AP. In respect of 52 depots, we identified that the appropriate counterfactual against which to assess the Merger is acquisition by an alternative purchaser, whether PA or MPD.
- 7.4 As part of our assessment, we first identified those local areas in which an AP depot does not overlap with any ECP depot to any material extent and therefore where, in our view, the Merger does not have the potential to create competition concerns. Our catchment area analysis set out in Appendix 5.1, identified three such local areas: Scarborough; Gatwick; and the Isle of Wight.⁷⁴
- 7.5 In the absence of any material overlap between the ECP and AP depots in these three areas, we provisionally conclude that, in these three relevant local markets, the Merger may not be expected to give rise to a SLC. We therefore focus our competitive assessment on the remaining 98 AP depots acquired by ECP which overlap with ECP depots and where, in the relevant areas where both the depots are located, the Parties may compete to a material extent.
- 7.6 We have undertaken a different assessment for the purposes of analysing the effects of the Merger depending on whether the appropriate counterfactual in the relevant local area is exit of the AP depot from the local market or acquisition by an alternative bidder. In this section, we first assess those

⁷⁴ As set out in Appendix 5.2, only one of the depots (AP Scarborough) acquired by ECP has a catchment area that does not overlap with the catchment area of any ECP depot's catchment area. However, AP Gatwick only serves Gatwick Airport and ECP does not compete to supply that customer. We therefore consider that there is no overlap in respect of AP Gatwick. In addition, whilst AP Isle of Wight's catchment area technically overlaps with those of a number of ECP depots on the mainland, given the sea separation, we have provisionally concluded that there is no actual overlap.

areas where the counterfactual is exit of the AP depot from the local market and then consider those areas where the counterfactual is the acquisition of the AP depot by an alternative purchaser.

Methodology for assessing local areas where the counterfactual is exit of the AP depot

- 7.7 When assessing the potential for a merger to lead to horizontal unilateral effects, concerns usually arise from the fact that a merger will lead to a reduction in the number of competitors relative to the counterfactual. However, when the counterfactual is the exit of the target undertaking from the relevant market, the number of competitors is the same following the merger and in the counterfactual.
- 7.8 The Merger Assessment Guidelines suggest that there may be circumstances in which a merger could reduce competition from a counterfactual of exit. This could arise, for example, if a merger strengthened the local market position of the merged firm relative to its competitors in an area where it already had a strong market position, to an extent which is materially different compared to what would have happened in the counterfactual.
- 7.9 For the purposes of assessing whether a merger could give rise to a SLC relative to a counterfactual involving exit of the target undertaking, the CMA takes into account the differences between the merger and the counterfactual. With respect to the Merger, these may include:
- (a) The distribution of sales – as a result of the Merger, ECP will, at least initially, acquire all of the sales made by the AP depot, whilst the distribution of sales might be different under the counterfactual scenario.
 - (b) The number and location of depots operated by the Parties and their competitors in a local area – as a result of the Merger, ECP will, at least initially, operate an AP depot which it would not otherwise have operated to serve customers in that local area.
- 7.10 We identified several market characteristics⁷⁵ which lead us to consider that, where the counterfactual is the exit of the AP depot, the Merger will not affect ECP's or third party suppliers' ability to compete in a local area. In particular, local customers usually shop around before placing orders and tend to have trading accounts with several suppliers. Customers also typically expect products to be delivered to their sites at short notice. These characteristics suggest that the level of competition will depend primarily on the number of

⁷⁵ See section 3.

available suppliers, and their respective ability to deliver car parts in time to customers across the relevant local area.

- 7.11 Therefore, we consider that the competitive constraints on ECP would be substantially the same following the Merger and in the counterfactual. We have not received submissions, nor seen evidence, suggesting that the ability of existing suppliers to compete in a local area would be materially affected by the acquisition by ECP or the exit of the AP depot. The redistribution of a portion of AP's sales to competing suppliers under the counterfactual (rather than the acquisition of all AP's sales, at least initially, to ECP following the Merger) would not materially affect other suppliers' operational costs (eg through economies of scale)⁷⁶, nor would it materially affect their ability to deliver car parts from their current location.
- 7.12 Similarly, we have not received submissions, nor seen evidence, suggesting that ECP's operational costs would materially vary as a result of a different distribution of AP's sales (eg through economies of scale) or an increase in the number of depots it operates in an area.
- 7.13 In an area where there is a significant distance between the ECP and AP depots, and where, before the Merger, ECP had been unable to provide satisfactory service to customers more conveniently located to the AP depot, the acquisition of the AP depot would strengthen ECP's overall customer offer and would be likely to increase its market share. However, because the strengthening of ECP's position in this local market would have arisen from an improvement in its ability to serve customers, the overall effect would be to enhance competition compared with the counterfactual.
- 7.14 On the evidence available, we therefore consider it unlikely overall that the exit of an AP depot from the relevant local market would lead to a more competitive outcome than if the AP depot continued to operate under ECP's ownership.
- 7.15 On this basis, we provisionally concluded that the acquisition of the 49 AP depots for which the counterfactual is exit of the AP depot may not be expected to give rise to a SLC.

⁷⁶ We reviewed ECP's synergy model prepared during the William-Blair-run sale process (which ran from September 2015 to mid-2016). The only economies of scale benefits identified by ECP related to purchasing. ECP estimated that AP's cost of sales would fall by [X] percent if its depot network increased by 180 per cent and ECP's cost of sales would fall by [X] per cent if its network increased by 55 per cent. [X]. This suggests that an increase in sales at a supplier's depot following exit of the AP depot would lead to negligible procurement savings. See further details in section 8.

Methodology for assessing local areas where the counterfactual is an alternative purchaser

7.16 In cases where the counterfactual is the acquisition of the AP depot by an alternative purchaser, we have used the following four steps to assess the effects of the Merger on competition in those local areas:

- (a) Step 1: we used all of the information available for all ECP and AP depots⁷⁷ based on ECP's price matching data, Survey responses⁷⁸ and ECP's 2015 promotion⁷⁹ data to identify, on the basis of the criteria set out in paragraph 9 of Appendix 7.1,⁸⁰ those suppliers across the UK which impose a significant competitive constraint on at least one ECP or AP depot ('Effective Competitors'). We refer to the long list of such Effective Competitors as the 'Set of Effective Competitors';
- (b) Step 2: using the same available evidence (to ensure consistency with the approach used to identify Effective Competitors) but specific to each ECP and AP depot, as well as information on suppliers' locations, we identified which of the Effective Competitors are actually present in the area local to those depots and may therefore compete with the Parties ('Actual Competitors').
- (c) Step 3: we applied initial filters to filter out depots which we unlikely to be problematic for competition in the relevant markets. The purpose of this approach is to focus our more detailed local analysis on areas where competition concerns may arise. As set out in out in more detail at Appendix 7.1, these filters used a combination of three criteria: i) the extent of the sales overlap between the Parties' depots (see paragraphs 42 to 43); ii) a fascia count (see paragraphs 44 to 46) and iii) a store count (see paragraphs 47 to 49). Fuller details regarding our use of filters are set out in paragraphs 50 to 55 of Appendix 7.1; and
- (d) Step 4: we then used the outcome of our filters to inform our further analysis of each depot. For each depot which was not identified by our filter as potentially problematic, we undertook an initial review to assess

⁷⁷ This stage of the analysis was based on an analysis of the evidence concerning all of the AP depots and ECP depots for which evidence was available and not only, for example, for the overlap depots or those depots for which there was an alternative bidder. This allowed us to maximise the evidence available with which to make our assessments.

⁷⁸ The limitations and challenges arising from the use of the Survey evidence is set out in paragraphs 24 to 31 of Appendix 7.1.

⁷⁹ Data submitted by ECP that relates to a promotion run by ECP in June 2015 where each branch manager was asked to identify five customers who would be targeted for promotions. More details are set out in paragraphs 32 to 33 of Appendix 7.1.

⁸⁰ The rationale for the criteria used to identify Effective Competitors is set out in paragraphs 15 to 33 of Appendix 7.1.

the accuracy of our filters (see paragraph 56 of Appendix 7.1). For the depots which were identified by our filters as potentially problematic, we conducted a detailed competitive assessment. These assessments used all of the evidence available in relation to the focal depot and the evidence in relation to any other depots located nearby.

- 7.17 We adopted a conservative approach to the initial filtering process so that we were confident we would identify all the depots that potentially might be a concern. This approach is consistent with the CMA's typical approach in cases involving a significant number of local areas.⁸¹ However, in view of our conservative initial approach, a significant number of depots identified by the filter were likely to be unproblematic after more detailed scrutiny. In this case, we have not used the filter as the basis for provisionally concluding that a SLC arises in any individual local area. Rather, where we have provisionally concluded that a SLC arises this is based on a detailed assessment of the evidence concerning the local area.
- 7.18 Appendix 7.1 sets out in more detail our methodology (paragraphs 58 to 61), including our assessment of the Parties' representations on our approach (paragraphs 62 to 90), together with the results of the filtering exercise.

Results of the filtering process

- 7.19 52 AP depots were identified where the counterfactual is an alternative bidder, two of which (Scarborough and the Isle of Wight) do not overlap with an ECP depot.⁸² Our catchment area analysis identified 79 ECP depots whose 80% catchment areas overlap with the remaining 50 AP depots. We therefore applied the filters to these 129 depots (79 ECP plus 50 AP).
- 7.20 The filtering exercise undertaken at Step 3 identified 35 AP and ECP depots which appeared unlikely to raise competition concerns, and 94 AP and ECP depots where a more detailed local analysis was required. We reviewed a number of the areas where neither the AP nor the ECP depot were identified by our filters as requiring a detailed analysis and concluded, based on these reviews, that the evidence was sufficient to conclude that competition concerns did not arise in these areas.
- 7.21 In areas where one of the Party's depots was identified as requiring further analysis but the other Party's depot in the same area was not, we conducted a further analysis of both of the depots to ensure that all of the evidence

⁸¹ The CMA's [Retail mergers commentary \(CMA62\)](#) describes the CMA's general approach to filtering in more detail. For an example of its application, see [Celesio/Sainsbury](#).

⁸² See paragraphs 7.4 to 7.5 above. The third depot without an overlap, Gatwick, did not receive an alternative bid.

concerning the area was considered. This resulted in five additional depots which had been identified by the filter as unlikely to give rise to competition concerns being the subject of further analysis.

- 7.22 We therefore provisionally find that the acquisition of the 30 AP depots identified by our filter process as unlikely to give rise to competition concerns may not be expected to result in a SLC.

Local assessments

- 7.23 In order to conduct the more detailed local assessments of the remaining 99 depots, we grouped the depots into areas and considered all of the evidence available to us in each local area. We identified 60 such local areas. This allowed us to assess the strength of the competitive constraints on the Parties and the closeness of competition between ECP and AP using as much of the evidence as possible.
- 7.24 The information we used included the number, identity and location of the overlapping ECP and AP depots and of Actual Competitors to each ECP and AP depot together with the locations of the customers of the focal depot. We also considered a range of additional evidence to inform our view of the strength of suppliers in the local area. This included evidence relating to:
- (a) The prevalence of different suppliers in ECP's price matching data.
 - (b) Survey responses from customers in the relevant area.
 - (c) Evidence of other suppliers which may provide a constraint on the Parties and which our filtering methodology did not identify as Actual Competitors but where we have other relevant evidence.
 - (d) Submissions from the Parties on the competitive conditions in these local areas.
 - (e) The identity of the alternative purchaser under the appropriate counterfactual⁸³ and whether it is present in the overlap areas.
- 7.25 The detailed local area assessments are set out in Appendix 7.2. We have identified 50 local areas where we provisionally considered that the Merger does not give rise to a SLC.
- 7.26 We identified 10 areas where we considered the Parties to be sufficiently close competitors and where the competitive constraints provided by other

⁸³ See section 6 for our approach for those depots where PA and MPD both bid.

suppliers are such that we have provisionally concluded that the Merger may be expected to be substantially less competitive than acquisition by the alternative purchaser. These local areas are set out below together with a summary of the main features of the area.

Blackpool

- 7.27 AP Lytham and ECP Blackpool were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Lytham and ECP Blackpool are close to each other and serve substantially the same customers. [X] was the alternative bidder for AP Lytham and our analysis indicates that [X] is not present in the area.
- 7.28 Our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual. EK Motor Factors and Andrew Currans both appear to be effective competitors to the Parties in Blackpool, but we found no evidence that other suppliers are likely to exert a significant constraint on the Parties in this area. TPS was mentioned by some Survey respondents but its range is limited to predominately Volkswagen parts, and many of the other suppliers listed by the Parties as being among their top ten competitors were not used by any of the Survey respondents who also, when prompted, consistently stated that they would not use these suppliers.
- 7.29 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Blackpool because:
- (a) The Parties' depots compete closely to supply customers in the local area;
 - (b) After the Merger, ECP will only be constrained by two competitors; and
 - (c) The alternative purchaser in the counterfactual, [X] does not currently compete with the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

Brighton

- 7.30 AP Hove and ECP Brighton were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Hove and ECP Brighton are close to each other and serve substantially the same customers. [X], we have assessed the effects of the Merger relative to the counterfactual of [X] acquiring AP Hove.

7.31 Our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual. CPA and Jayar appear to be effective competitors to the Parties in Brighton, but we found limited evidence that other suppliers are likely to exert a significant constraint on the Parties in this area:

- (a) Frenches Autos was little used by respondents of the Survey for AP Hove, who had often not heard of it, and it was not listed as a top 10 competitor to ECP Brighton and so was not included in the Survey for ECP Brighton. Frenches Autos is also located in Worthing at some distance from the Parties' depots, and the Parties' customers.
- (b) TPS only competes with the Parties in relation to a limited range of the parts they supply as it predominately supplies Volkswagen parts.
- (c) Although a number of ECP Brighton Survey respondents said they could use Autolec Motor Factors, it is located 11 miles away from the Parties' depots, and the Parties' sales are [REDACTED]. This indicates that Autolec Motor Factors' ability to compete with the Parties in this area is limited.
- (d) Other suppliers which the Parties submitted were competitors in Brighton were either not viewed by Survey respondents as alternatives to the Parties or were OEM suppliers, which only exert a limited competitive constraint on general motor factors such as the Parties, as discussed in paragraphs 5.23 to 5.31 of Section 5.

7.32 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Brighton because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will only be constrained by two competitors; and
- (c) The alternative purchaser, [REDACTED], does not currently compete with the Parties. The acquisition of the AP depot by [REDACTED] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

Gloucester

7.33 Both AP Gloucester and ECP Gloucester were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Gloucester and ECP Gloucester are close to each other and

serve substantially the same customers. [REDACTED] was the alternative bidder for AP Gloucester and our analysis indicates that [REDACTED] is not present in the area.

- 7.34 The Parties appear to compete closely in Gloucester: AP accounted for just under [REDACTED] of ECP Gloucester's price matching after the acquisition,⁸⁴ and [REDACTED].
- 7.35 Furthermore, our analysis indicates that the Parties will face competition from only two competitors post-Merger. PA (as GMF and GSF) and Autoparts & Diagnostic appear to compete effectively with the Parties in Gloucester. We found limited evidence that other suppliers are likely to exert a significant constraint on the Parties in this area:
- (a) TPS only competes with the Parties in relation to a limited range of the parts they supply as TPS predominantly supplies Volkswagen parts.
 - (b) In Gloucester, neither Party listed Jaystock as one of its top 10 competitors and so Survey respondents were not specifically asked about it, although no Survey respondents referred to it in this area. Jaystock is included in the set of Effective Competitors in our filtering process because it is included in ECP's price matching and 2015 promotion data in a small number of areas, but it does not appear to be an effective competitor in other areas. The Parties listed Jaystock as one of their top 10 competitors at 14 depots, and so across the entire Survey 139 customers were asked about Jaystock. Only two (1%) said they had used it in the past three months, only one (1%) mentioned it unprompted as an alternative supplier they could have used had the focal AP/ECP depot been closed and, when prompted about whether they could have used Jaystock, only 39 customers (28%) said yes while 58 (42%) said no. [REDACTED].
 - (c) Five Survey respondents had also used J. E. Clarke Motor Factors in the last three months (although no respondents said that this supplier was an alternative for their last purchase from ECP or AP). However, J. E. Clarke Motor Factors is located in Stroud and so we believe that its ability to compete with the Parties to supply the majority of the Parties' customers, who are located in Gloucester itself, is limited. Consistent with this we note that all five Survey respondents who had used J. E. Clarke Motor Factors are located in or to the south of Stroud, which is not where the majority of the Parties' customers are located.

⁸⁴ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted for over [REDACTED] of ECP Gloucester's price matching.

- (d) Other suppliers in the surrounding areas (Cotswold Motaquip, Leamoco and HM Motor Factors) are at too great a distance to be able to compete effectively for the Parties' customers in Gloucester.
- (e) Other suppliers which the Parties submitted were competitors in Gloucester were not viewed by Survey respondents as alternatives to the Parties.

7.36 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Gloucester because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will only be constrained by two competitors; and
- (c) The alternative purchaser in the counterfactual, [X], does not currently compete with the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

Liphook

7.37 AP Liphook was identified by the fascia count filter as potentially raising competition concerns, while ECP Haslemere was identified by the store count filter as potentially raising competition concerns. AP Liphook and ECP Haslemere are close to each other and serve substantially the same customers. [X] we have assessed the effects of the Merger relative to the counterfactual of [X] acquiring AP Liphook.

7.38 Our analysis indicates that the Parties will face competition to supply the majority of their customers from only one competitor post-Merger, compared with two under the counterfactual in which the AP depot had been acquired by [X]. CPA appears to compete effectively with the Parties in Liphook, but our analysis indicates that the Parties are each other's closest competitors and face limited competition from other suppliers in the area:

- (a) For both AP Liphook and ECP Haslemere, more Survey respondents mentioned the other Party as an alternative supplier they could use than

any other supplier, and AP accounted for over [X] of price matches by ECP Haslemere after the acquisition.⁸⁵

- (b) Dorset Auto Spares and MPD were used by some Survey respondents, but are not near to the Parties' primary customer groups. We also spoke to Dorset Auto Spares and MPD, [X].
- (c) Pages Motor Accessories features in the IPM data for ECP Haslemere but is also located at some distance from the Parties' customers. Additionally, only 2 of 23 Survey respondents said they had used Pages Motor Accessories in the last three months and only one Survey respondent mentioned this supplier unprompted as an alternative to ECP or AP.
- (d) Other suppliers which the Parties submitted were competitors in Liphook were not viewed by Survey respondents as alternatives to the Parties.

7.39 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Liphook because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will only be constrained by one competitor when supplying the majority of the Parties' customers in this area; and
- (c) The alternative purchaser in the counterfactual, [X], is currently a weak competitor to the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

Scunthorpe

7.40 AP Scunthorpe and ECP Scunthorpe were identified by both the fascia count and store count filter as potentially raising competition concerns. AP Scunthorpe and ECP Scunthorpe are close to each other and serve substantially the same customers. [X] was the alternative bidder for AP Scunthorpe and our analysis indicates that [X] is not present in the area.

⁸⁵ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted for [X] of ECP Haslemere's price matching.

- 7.41 The Parties appear to compete closely in Scunthorpe: AP accounted for just over [X] of ECP Scunthorpe's price matching after the acquisition,⁸⁶ and [X].
- 7.42 Furthermore, our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual. Parkers and FMS Autoparts both appear to be effective competitors to the Parties, but we found limited evidence that any other suppliers are likely to exert a significant constraint on the Parties in this area:
- (a) Wilco Motor Spares was listed by the Parties as a competitor in this area. However, this supplier appears to be a retailer rather than a motor factor. Moreover, it did not feature in the ECP IPM data, none of the 18 Survey respondents in the area said they had used it in the past 3 months or mentioned it unprompted, and only 3 of 18 respondents said, when prompted, that Wilco Motor Spares would have met their requirements if AP's or ECP's depot had been closed.
 - (b) The Parties also listed A K Motor Spares as a competitor in this area. However, this supplier did not feature in the ECP IPM data, none of the 18 Survey respondents said they had used this supplier in the last 3 months and only 1 respondent said that they could have used it as an alternative without prompting. Only 2 of 17 Survey respondents said that they could have used this supplier when prompted and 8 respondents said that they did not know about this supplier.
 - (c) TPS only competes with the Parties in relation to a limited range of the parts they supply as TPS predominantly supplies Volkswagen parts.
 - (d) Other suppliers which the Parties submitted were competitors in Scunthorpe were either not viewed by Survey respondents as alternatives to the Parties or were OEM parts suppliers, which only exert a limited competitive constraint on general motor factors such as the Parties, as discussed in paragraphs 5.23 to 5.31 of Section 5.
- 7.43 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Scunthorpe because:
- (a) The Parties depots compete closely to supply customers in the local area;
 - (b) After the Merger, ECP will only be constrained by two competitors; and

⁸⁶ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted for [X] of ECP Scunthorpe's price matching.

- (c) The alternative purchaser in the counterfactual, [X], does not currently compete with the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

Sunderland

- 7.44 AP Sunderland and ECP Sunderland were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Sunderland and ECP Sunderland are close to each other and serve substantially the same customers. [X] was the alternative bidder for AP Sunderland and our analysis indicates that [X] is not present in the area.
- 7.45 Our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual where the AP depot would have been purchased by [X]. Carparts Trade Supplies and NPA Motor Factors both appear to be effective competitors to the Parties in Sunderland, but we found limited evidence that other suppliers are likely to exert a significant constraint on the Parties in this area.
- 7.46 TPS, Quicko and Bristol Street Motors were mentioned by some Survey respondents but these are OEM suppliers and their ranges are limited to specific car marques. In addition, Quicko only offers next-day delivery. Many of the other suppliers listed by the Parties among their top 10 competitor lists were not used by any of the Survey respondents who also, when prompted, consistently stated that they would not use these suppliers.
- 7.47 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Sunderland because:
 - (a) The Parties' depots compete closely to supply customers in the local area;
 - (b) After the Merger, ECP will only be constrained by two competitors; and
 - (c) The alternative purchaser in the counterfactual, [X], does not currently compete with the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP which will otherwise be lost as a result of the Merger.

Swindon

- 7.48 AP Swindon and ECP Swindon were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Swindon and ECP Swindon are close to each other and serve substantially

the same set of customers, as shown by the heatmaps. [X] we have assessed the effects of the Merger relative to the counterfactual of [X] acquiring AP Swindon.

- 7.49 The Parties appear to compete closely in Swindon: AP accounted for [X] of ECP Swindon's price matching after the acquisition⁸⁷ and, in the Survey, AP was mentioned unprompted more often than any other supplier.
- 7.50 Furthermore, our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual where the AP depot would have been purchased by [X]. GSF and APD both appear to be effective competitors to the Parties in Swindon, but we found limited evidence that other suppliers are likely to exert a significant constraint on the Parties in this area.
- 7.51 Of the other suppliers listed by the Parties in this area:
- (a) Swindon Motaquip had been used by relatively few respondents; 3 of 20 respondents said they had used it in the last three months. Only one respondent mentioned this supplier as an alternative to the Parties unprompted and six respondents did not view it as an alternative when prompted. In addition, this supplier did not feature in the ECP IPM data.
 - (b) Car Truck Services Swindon accounted for a very small percentage [X] of price matches in the ECP IPM data.⁸⁸ This supplier had only been used by 1 of 20 Survey respondents in this area in the last three months.
 - (c) Survey respondents also referred to TPS, Now Vauxhall Swindon and Swindon Audi. However, these suppliers only compete with the Parties in relation to a limited range of the parts they supply as they focus on supplying OEM parts which are specific to particular car marques.
 - (d) Motorists Discount Centres is located in Swindon and appears in the ECP IPM data. However, this supplier was not listed as a competitor by AP Swindon, no Survey respondents at ECP Swindon had used this supplier, only 1 of 10 respondents said that they could have used this supplier when prompted and 1 respondent indicated that it is a retail supplier.

⁸⁷ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted [X] of ECP Swindon's price matching.

⁸⁸ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), Car Truck Services Swindon would still have accounted for [X] of ECP Swindon's price matching.

- (e) Survey respondents said they had not used other suppliers, which are located in Swindon such as Motorsave West Swindon and Braymarc Commerical Components, and did not refer to these suppliers unprompted. Most Survey respondents did not view these suppliers as alternatives when prompted. In addition, these suppliers did not appear in ECP's IPM data.
- (f) Some Survey respondents referred to suppliers such as Cotswold Motaquip and Autoparts & Diagnostic, which are located at some distance (over 10 miles away in Cirencester) from the Parties and their customers [REDACTED]. In addition, these suppliers do not feature in the ECP IPM data and were relatively infrequently used by Survey respondents or not used at all.

7.52 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Swindon because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will only be constrained by two competitors; and
- (c) The alternative purchaser in the counterfactual, [REDACTED], is currently a weak competitor to the Parties. The acquisition of the AP depot by [REDACTED] would lead to ECP facing a significantly stronger constraint than will otherwise be the case as a result of the Merger.

Wakefield

7.53 Both AP Wakefield and ECP Wakefield were identified by the store count filter as potentially raising competition concerns. AP Wakefield and ECP Wakefield are close to each other and serve substantially the same customers. [REDACTED] was the alternative bidder for AP Wakefield and our analysis indicates that prior to the Merger [REDACTED] was a weaker constraint on ECP than AP.⁸⁹

7.54 Our analysis indicates that the Parties were the closest competitors to each other and will face limited competition from other suppliers post-Merger:

- (a) The Parties appear to compete closely: 10 of 11 ECP Wakefield Survey respondents and 7 of 10 AP Wakefield Survey respondents mentioned the other Party unprompted as the alternative they would have used had

⁸⁹ [REDACTED] are located at a distance from the Parties and their customers in [REDACTED]. Only the depot in [REDACTED] appears in the ECP IPM data and to a limited extent, only a small number of Survey respondents referred to this depot and [REDACTED] Survey respondents who were prompted about this supplier said that they could not have used them.

the focal AP/ECP depot been closed. AP accounts for over [X] of ECP Wakefield's price matching,⁹⁰ [X].

- (b) A-Z Motor Spares has a site in Wakefield and additional sites in the area, but very few survey respondents said they had used it and it only received [X] of ECP Wakefield's price matches.⁹¹
- (c) Wood Auto Factors in Wakefield was included in both Surveys but, while 7 of 21 respondents said they could have used it as an alternative when prompted, only one respondent mentioned it unprompted and 8 said they could not have used it as an alternative, with some respondents stating they had never heard of Wood Auto Factors and others that it didn't stock the parts they needed or that its prices were not competitive. In addition, this supplier had only been used by 2 of 21 Survey respondents in the last 3 months.
- (d) Trust Ford Wakefield, which a number of ECP customers said they could have used as an alternative when prompted, is an OEM parts supplier whose focus is on the supply of parts for Ford vehicles and so only competes with the Parties in respect of a limited part of their range.
- (e) Few Survey respondents had used any of the other suppliers listed by the Parties as competitors in the area, and in each case, when prompted more respondents had said they would not be able to use them as an alternative to the AP/ECP focal depot than said they would be able to use them.

7.55 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Wakefield because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will face only limited constraints from other competitors in the area; and
- (c) The alternative purchaser in the counterfactual, [X], is currently a weak competitor to the Parties. The acquisition of the AP depot by [X] would

⁹⁰ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted for over [X] of ECP Wakefield's price matching.

⁹¹ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), A-Z Motor Spares would still have accounted for only [X] of ECP Wakefield's price matching.

lead to the ECP facing a significantly stronger constraint than will otherwise be the case as a result of the Merger.

Worthing

- 7.56 Both AP Worthing and ECP Worthing were identified by both the fascia count filter and the store count filter as potentially raising competition concerns. AP Worthing and ECP Worthing are close to each other and serve substantially the same customers. [X] was the alternative bidder for AP Worthing and our analysis indicates that [X] is not present in the area.
- 7.57 Our analysis indicates that the Parties will face competition from only two competitors post-Merger, compared with three under the counterfactual where the AP depot would have been purchased by [X]. CPA and Frenches Autos both appear to be effective competitors to the Parties in Worthing, but we found limited evidence that other suppliers are likely to exert a significant constraint on the Parties in this area:
- (a) TPS only competes with the Parties in relation to a limited range of the parts they supply as TPS predominantly supplies Volkswagen parts.
 - (b) Few survey respondents had used any of the other suppliers listed by the Parties as competitors in the area, and in each case, when prompted, more respondents said they would not be able to use them as an alternative to AP and ECP when prompted than said they would be able to use them.
- 7.58 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in Worthing because:
- (a) The Parties' depots compete closely to supply customers in the local area;
 - (b) After the Merger, ECP will only be constrained by two competitors; and
 - (c) The alternative purchaser in the counterfactual, [X], does not currently compete with the Parties. The acquisition of the AP depot by [X] would maintain a significant source of competitive constraint on ECP, which will otherwise be lost as a result of the Merger.

York

- 7.59 AP York was identified by both the fascia count filter and the store count filter as potentially raising competition concerns, while ECP York was identified by the store count filter as potentially raising competition concerns. AP York and

ECP York are close to each other and serve substantially the same customers. [REDACTED] was the alternative bidder for AP York and our analysis indicates that prior to the Merger [REDACTED] was a weaker constraint on ECP than AP.⁹²

7.60 The Parties appear to compete closely in York: AP accounted for over [REDACTED] of ECP York's price matching after the acquisition,⁹³ was mentioned unprompted as an alternative to ECP by six of thirteen Survey respondents, and was [REDACTED].

7.61 Our analysis indicates that the Parties will face competition from only one competitor post-Merger, compared with two under the counterfactual. York Motor Factors appears to compete effectively with the Parties in York, but we do not consider that other suppliers are likely to impose a significant constraint on the Parties:

- (a) As discussed at paragraph 7.42(a) above in relation to the Scunthorpe area, Wilco Motor Spares is a retailer rather than a motor factor so does not compete with the Parties in the supply of IAM car parts to local IMT customers. Wilco Motor Spares was not listed by the Parties as one of the top 10 competitors to either ECP York or AP York, and it did not feature in the IPM data for ECP York.
- (b) No respondents to the AP York Survey said they could use Millgate Motor Factors 1999 as an alternative to AP (unprompted or prompted), and it did not feature in the price matching for ECP York. [REDACTED].
- (c) In York, neither Party listed Fleet Factors as one of its top 10 competitors and so Survey respondents were not asked about it. However, although Fleet Factors is included in the set of Effective Competitors in our filtering process because it reaches the Survey score threshold for AP Newcastle, it does not appear to be a strong competitor in other areas. The Parties listed Fleet Factors as one of their top 10 competitors at 13 depots, and so across the entire Survey 126 customers were asked about Fleet Factors. However only 5 (4%) said they had used it in the past three months, only 3 (2%) mentioned it unprompted as an alternative supplier they could have used had the focal AP/ECP depot been closed and, when prompted about whether they could have used Fleet Factors, only 21 customers (17%) said yes while 63 (50%) said no.

⁹² [REDACTED] has a depot located in [REDACTED] which is located at a distance from the Parties and from their customers. Furthermore, this depot does not appear in the ECP IPM data, was not listed as a top 10 competitor to the Parties in this area and was not referred to by any Survey respondents.

⁹³ This figure is based on ECP's IPM data covering the period from September 2016 to December 2016. If we instead used data covering the period from October 2016 to December 2016 as the Parties have suggested (as discussed in footnote 3 of Appendix 7.1), AP would still have accounted for [REDACTED] of ECP York's price matching.

(d) Other suppliers listed by the Parties as competitors in York are either OEM parts suppliers and so only able to exert a limited constraint on the Parties because of their limited range, or were not viewed by Survey respondents as viable alternative to the Parties.

7.62 Therefore, we provisionally concluded that the Merger may be expected to give rise to a SLC in York because:

- (a) The Parties' depots compete closely to supply customers in the local area;
- (b) After the Merger, ECP will only be constrained by one competitor; and
- (c) The alternative purchaser in the counterfactual, [X], is currently a weak competitor to the Parties. The acquisition of the AP depot by [X] would lead to ECP facing a significantly stronger constraint than will otherwise be the case as a result of the Merger.

Effects of the Merger

7.63 In respect of ten areas, we have provisionally identified that the Merger may be expected to be substantially less competitive than acquisition by PA and/or MPD. In those local areas, the AP and ECP depots will no longer compete with one another and there are insufficient competitive constraints on ECP from both within and outside the relevant market post-Merger.

7.64 Given our provisional conclusions as to lack of sufficient competitive constraints in each of those local markets, our current assessment of the available evidence is that ECP may have an incentive to increase prices and/or reduce the quality of service available to local IMT customers in those ten local areas.

Countervailing factors

7.65 The Merger Assessment Guidelines indicate that, in considering whether a merger may be expected to result in a SLC, the CMA will consider factors that may mitigate the initial effect of a merger on competition ('countervailing factors'), which in some cases may mean that there is no SLC. These factors include:

- (a) the responses of others in the market (rivals, customers, potential new entrants) to the merger, for instance the entry into the relevant market of new providers or expansion by existing providers;
- (b) the ability of customers to exercise buyer power; and

(c) the effect of any rivalry-enhancing efficiencies arising as a result of the Merger.

- 7.66 However, the CMA has not seen evidence of the existence of any countervailing factors that could have been relevant to our assessment of competition in the ten local areas identified.
- 7.67 We considered whether entry and expansion by effective competitors could be expected to be timely, likely and sufficient to prevent the SLC that might otherwise arise in each of the local areas provisionally identified. All three of these criteria (timeliness, likelihood and sufficiency) would have to be met for a SLC to be prevented. Appendix 7.4 sets out the evidence on barriers to entry. The evidence provided by the Parties and third parties, the evidence on past expansion and the presence of a large number of small independent motor factors suggests that barriers to entry and expansion in local markets are not particularly high.
- 7.68 However, and importantly in the context of our provisional finding of the lack of competitive constraints on ECP post-Merger in the ten local areas described at paragraphs 7.27 to 7.63 above, we have not received any evidence of potential entry or expansion in any of these local areas within the next two years which would mitigate the effects of the Merger in those areas.
- 7.69 The Parties have not submitted any arguments and, given the characteristics of local IMT customers, we have not seen evidence to suggest that local IMT customers have buyer power sufficient to protect them from the effects of the Merger identified in each of the ten local areas.
- 7.70 The Parties have identified a number of efficiencies from the acquisition. As described in section 4, these are mainly procurement and back office synergies, some of which the Parties expect would be passed on to their customers because of competitive pressures. We provisionally concluded, on the basis of the limited evidence provided by the Parties that such efficiencies are unlikely to be specific, timely, likely and sufficient to prevent a SLC arising in each of the ten local areas identified in paragraphs 7.27 to 7.63 above.
- 7.71 We therefore provisionally concluded that the Merger may be expected to give rise to a SLC in the ten local areas as set out in paragraphs 7.27 to 7.63 above.

8. Assessment of the competitive effects of the Merger on Key Accounts

- 8.1 In this section, we consider whether the Merger may be expected to give rise to a SLC in the supply of IAM car parts by general motor factors to Key Accounts. We describe how Key Accounts differ from other customers in

section 5 and why we consider that the effects of the Merger are likely to differ between local IMT customers and Key Accounts.

- 8.2 We first set out the framework for the assessment of the effects of the Merger on competition for Key Accounts, in particular with regard to how this assessment is affected by the counterfactual. In that context, we look at AP's and other suppliers' ability to compete for Key Accounts pre-Merger. Finally, we examine the evidence regarding whether competition from PA and/or MPD would have increased significantly in the counterfactual and set out our provisional conclusions.

Framework for our assessment

- 8.3 As set out in section 6, we have provisionally concluded that the most likely counterfactual is that 52 of the 101 AP depots acquired by ECP would have been acquired by a combination of PA and MPD, and that the remaining 49 depots would have closed. Therefore, in our competitive assessment, we considered whether the acquisition of almost all of AP's depots by ECP results in a significantly less competitive outcome than the counterfactual in which some combination of PA and MPD acquired the depots up to which they bid and where the remaining AP depots are closed.
- 8.4 For the reasons described below this assessment requires that we answer the following three questions:⁹⁴
- (a) Would the closure of 49 depots have increased competition compared to the Merger?
 - (b) Would acquiring up to 39 additional depots have significantly increased PA's ability to compete to supply Key Accounts?
 - (c) Would acquiring up to 21⁹⁵ additional depots have allowed MPD to become an effective competitor to supply Key Accounts?

⁹⁴ We do not believe that the acquisition of the AP depots will materially affect ECP's ability to compete to supply Key Accounts relative to the pre-Merger situation. This is because, as we discuss later, the geographic coverage of a supplier is a significant factor in a supplier's ability to compete to supply Key Accounts. ECP is already able to supply Key Accounts from its existing network of depots and the acquisition of the AP depots will not materially affect ECP's geographic coverage and therefore its ability to supply Key Accounts. In only three areas did we identify no overlap between ECP's existing depots and the acquired AP depots.

⁹⁵ As described in section 6 above, MPD bid for 23 depots but intended to close two depots. This would effectively mean that the two depots would have exited the relevant local area. We have therefore proceeded on the basis that MPD would bid for up to 21 depots for the purposes of our assessment.

Would the closure of 49 depots have increased competition compared to the Merger?

8.5 In principle, the closure of the remaining 49 depots could have resulted in increased competition relative to the outcome in which these depots were acquired by ECP, depending on how the sales to Key Accounts from these depots were redistributed amongst competitors and if this redistribution would have led to a more competitive outcome. However:

- (a) It is likely that a substantial majority of these sales would have been redistributed to ECP in any event, as ECP is by far the largest supplier to Key Accounts⁹⁶; and
- (b) We have not seen evidence suggesting that any other suppliers gaining sales as a result of the closure of the AP depots would consequently be able to compete more strongly for Key Accounts. Given the relatively small size of AP's Key Accounts business, this would not represent a significant increase in scale for such suppliers. Additionally, as is explained below, one of the main factors in competing to supply Key Account customers is having sufficient geographic coverage to supply these customers. This would not be affected by the closure of the AP depots.

8.6 We therefore do not consider this element of the counterfactual further.

8.7 Prior to turning to the remaining two questions set out in paragraph 8.4 above (ie whether competition from PA and/or MPD would have increased significantly in the counterfactual relative to the Merger), we consider first the evidence on the following:

- (a) AP's ability to compete for Key Accounts pre-Merger; and
- (b) Other competitors for Key Accounts.

AP's ability to compete for Key Accounts

8.8 While AP would not have continued to compete independently for Key Accounts in the counterfactual (as it would not have continued to operate independently⁹⁷), it is nevertheless informative to consider the extent to which AP was able to compete for Key Accounts prior to its acquisition, for two reasons:

⁹⁶ As explained further below.

⁹⁷ See Section 6 on the counterfactual.

- (a) much of the available evidence relates to the pre-Merger period in which AP was competing to supply Key Accounts, at least to some extent. Therefore, understanding precisely how AP competed pre-Merger helps inform our view of the competitive effects of the Merger relative to the counterfactual; and
- (b) understanding the extent to which AP competed may inform our assessment of whether MPD would have been a viable competitor for Key Accounts had it acquired the AP depots for which it bid. MPD would have had 112 depots had it acquired all of the AP depots for which it bid, which is a similar size to AP's pre-Merger 107 depots.⁹⁸

8.9 In assessing AP's ability to compete for Key Accounts, we particularly consider whether AP remained a viable competitor following its exit from PA in late 2015, and whether this was true for larger as well as smaller Key Accounts.

Parties' views

8.10 The Parties said that AP did not represent a strong competitor to ECP for Key Accounts, particularly after leaving PA in November 2015. They submitted that AP was significantly weakened by leaving PA, because:

- (a) it had benefited from the PA branch network (in that, by being part of PA, it could offer customers a wider coverage than it would have been able to alone);
- (b) it had benefited from being able to bid for tenders without active competition from PA;
- (c) it had benefited from access to the buying, product management and cataloguing functions that had been performed by PA; and therefore
- (d) as a result of leaving PA, [REDACTED].⁹⁹

8.11 The Parties argue that consequently, prior to the Merger, AP should be considered to have been a distant third competitor alongside a number of other smaller competitors.

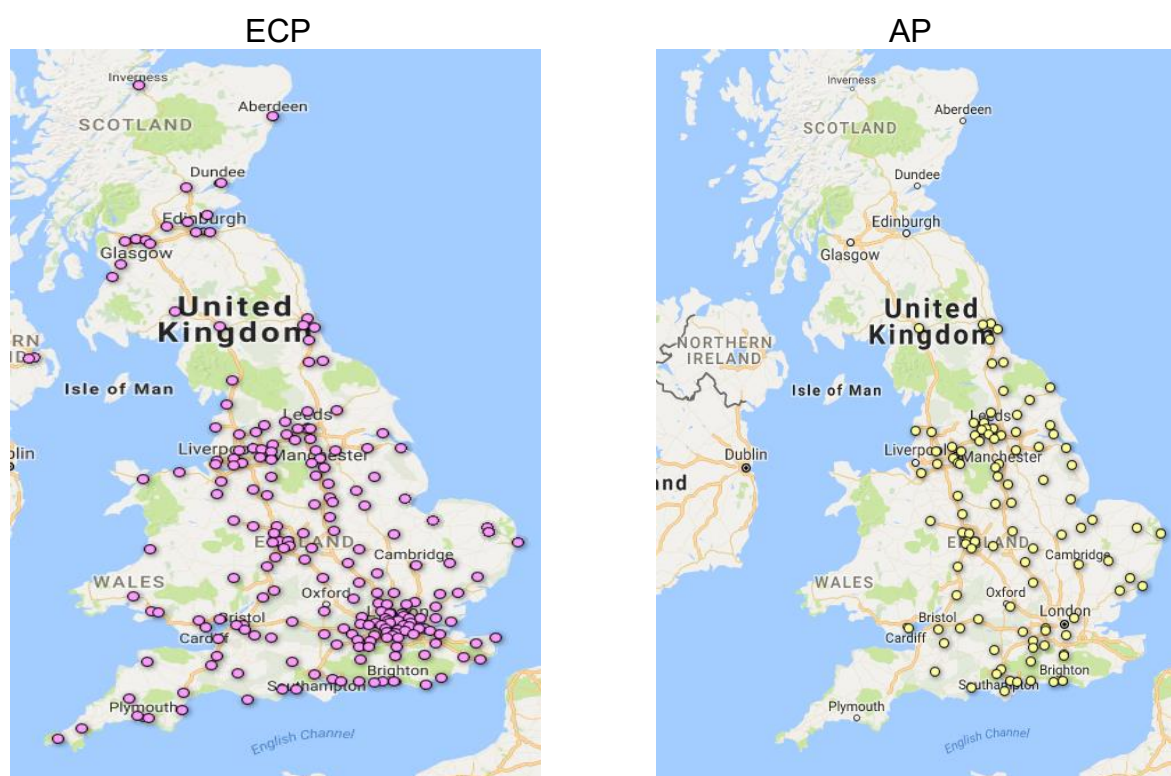
⁹⁸ Although we recognise that the geographic distribution of a supplier's depots is more important in competing for Key Accounts.

⁹⁹ Parties response to Issues Statement, p 4.9-4.10.

Evidence regarding AP's ability to compete for Key Accounts prior to the Merger

- 8.12 To assess AP's ability to compete for Key Accounts prior to the Merger, we have considered the geographic coverage of ECP and AP, tender and sales data provided by the Parties, the Parties' internal documents and third party views.
- 8.13 The preference¹⁰⁰ of Key Accounts to use a single supplier for at least the majority of their requirements across their network is likely to make geographic coverage an important element of competition for Key Accounts, particularly for national customers. The maps below show the locations of each of the Parties' depots in the UK.

Figure 8.1: Parties' geographic coverage



Source: Parties and CMA.

- 8.14 ECP's geographic coverage is clearly significantly greater than that of AP, as a) there are regions including Scotland, Wales, Northern Ireland and the south west of England where ECP has a number of depots and AP has very few or none and b) in regions where ECP and AP are both present, ECP often has a denser network, e.g. in and around London.
- 8.15 However, AP's depots do cover a significant proportion of the UK, even if it does not have a full national coverage. AP's regional coverage suggests it

¹⁰⁰ See section 5 at paragraph 5.37.

could compete strongly to supply Key Accounts in some regions, in particular in the north of England.

- 8.16 The Parties provided bidding data detailing the tenders or negotiations in which ECP and AP have taken part over the period 2014-2016.¹⁰¹ Appendix 8.1 sets out our analysis of this data together with additional evidence on other suppliers to Key Accounts. Our analysis suggests that ECP tendered for more larger Key Accounts than AP¹⁰² and that ECP exerted a stronger constraint on AP than the constraint exerted by AP on ECP.¹⁰³
- 8.17 We compared AP's tender win rates while being part of the PA buying and trading group with the rates after it left the PA buying and trading group in order to assess the impact of AP leaving the PA group on its ability to compete for Key Accounts.¹⁰⁴ This analysis shows that after leaving PA, AP slightly increased the frequency with which it participated in tenders and that the proportion of tenders that it won fell slightly.¹⁰⁵ Most customers for which AP won tenders after leaving PA were regional rather than national customers, making their purchases from a relatively small number of AP depots, and with fairly low bid values.¹⁰⁶
- 8.18 We also compared the customers of the tenders that ECP won in that same period.¹⁰⁷ This indicated that ECP was significantly more focused on larger national customers, which is consistent with other evidence we considered.
- 8.19 There are a significant number of tenders by Key Accounts which neither of the Parties won – either tenders in which the Parties both competed and both lost, or tenders in which one of the Parties did not compete and the other Party lost anyway. Our analysis of the tenders won by neither of the Parties suggests that the Parties face more competition for local/regional Key Accounts, and may face competition from specialist suppliers when customers tender for narrow product categories. However, as we explain below, the evidence indicates that for larger national customers tendering for a wider range of car parts, only PA appears to compete with the Parties.

¹⁰¹ Some Key Account customers issue formal tenders when selecting a supplier, while others negotiate supply more informally. For simplicity, we refer to both types of negotiation as 'tenders'. [X] per cent of ECP's tenders were formal agreements, while [X] per cent was informal. Of the [X] AP tenders for which extent of formality is known, [X] per cent were formal agreements, whereas [X] per cent were informal.

¹⁰² See in particular Tables 2 and 4 of Appendix 8.1.

¹⁰³ See in particular Tables 5 and 6 of Appendix 8.1.

¹⁰⁴ See Appendix 8.1, paragraphs 14 to 17.

¹⁰⁵ See Table 11 of Appendix 8.1.

¹⁰⁶ See Table 12 of Appendix 8.1. The exception is [X], which is a national customer with a bid value in the millions of pounds. However, this tender was described as being for 'open supply', which may indicate that the actual value of the tender to AP could be significantly lower than £ [X] – and indeed, as discussed below, AP's sales to [X] in 2016 were significantly below [X].

¹⁰⁷ See Table 12 of Appendix 8.1.

- 8.20 The Parties indicated that AP's total sales for Key Accounts decreased significantly after AP left PA. We assessed this using AP's sales data for Key Accounts, comparing 2015 with 2016 figures, as AP was part of PA for most of 2015 (until November) while it was not part of any buying group in 2016. As shown in Table 8.1 below, its total Key Accounts revenues decreased by [REDACTED] from 2015 to 2016:

Table 8.1: AP customer and sales figures, 2015 and 2016

Year	Sales in £
2015	[REDACTED]
2016	[REDACTED]

Source: Parties and CMA.

- 8.21 Moreover, the absolute total value of AP's sales in 2016 is low in the context of individual Key Accounts (with sales of over [REDACTED]).
- 8.22 To assess whether this decline was experienced uniformly across AP's Key Accounts or whether different customers reacted differently, we looked at the revenue figures for AP's top 10 customers in 2015 and 2016. AP's revenues decreased for all of AP's top 10 customers between 2015 and 2016, with decreases ranging between [REDACTED] and [REDACTED]. This indicates that leaving PA had a negative effect on AP's sales to all of its largest customers, although it is notable that one customer accounted for nearly half of AP's overall revenue decline.
- 8.23 The number of depots purchased from by a Key Account shows to what extent AP's top 10 customers appear to have used AP on a national basis following its exit from PA. Only [REDACTED] customers purchased car parts from more than [REDACTED] of AP's depots in 2016, suggesting that the other customers used AP only on a regional (or even local) basis where we might expect the implications of leaving PA to be less significant. This is also consistent with the identity of the customers with which AP won tenders after leaving PA. These customers made purchases from a relatively small number of AP depots and the value of the tenders was low.

Internal documents

- 8.24 AP repeatedly mentions in its internal documents that it experienced a significant reduction in national account sales after leaving the PA buying group in November 2015. According to AP's information memorandum, "withdrawal from the Parts Alliance in November 2015 resulted in the Group working with a smaller number of national accounts. Whilst this reduced turnover, it also resulted in improved margins as retained national accounts were dealt with directly. Following this change the business was restructured

to reduce branch costs, including vans, reduced employee numbers and closure of underperforming branches.”

- 8.25 Internal documents from soon after AP left PA were initially positive: in a market report by AP from December 2015, it was noted that national accounts were panning out broadly as anticipated. Halfords was stated as increasing in market share, and Formula One, National Tyres and Micheldever were said to be doing well. The only issue customer account highlighted as of concern was Kwik Fit t which was described as seeing fledgling recovery.
- 8.26 However, in AP’s CEO Report of January 2016, it was reported that revenues in national accounts had decreased. Apparently, this was entirely because of the decrease in the Kwik Fit account as the revenues in the accounts of Halfords grew strongly and the account revenues of National Tyres, Micheldever and Formula 1 modestly increased. The reduction of turnover in national accounts was also regularly noted in other AP board documents.
- 8.27 The former AP CEO told us that while AP continued to participate in national account tenders, the ‘reality’ was that AP did not have the national coverage required to be awarded ‘primary supplier’ status – at best it would be awarded ‘secondary supplier’ status. Phoenix also told us that AP’s role in Key Accounts was mostly one of ‘local supply fulfilment’ for a national contract held by PA or another supplier.

Third party views

- 8.28 Overall, the evidence from third party responses on the strength of AP as a competitor for Key Accounts is mixed. Whilst some agreed with the Parties’ contention that, after leaving PA, AP was no longer an effective competitor, some others, including national customers, appeared still to view AP as a viable alternative.
- 8.29 When asked to score various competitors, Key Accounts generally agreed that AP was not as strong a competitor as either ECP or PA. However, no customer scored any other competitor (apart from ECP and PA) higher than AP.
- 8.30 Customer views on the effects of AP leaving PA were varied. A number of Key Accounts agreed that AP’s competitive offering was weakened as a result of leaving PA, noting in particular that AP was no longer able to offer national

coverage as a result.¹⁰⁸ However, other customers did not find that AP's ability to compete was weakened as a result of leaving PA.¹⁰⁹ This was not limited to smaller customers – two of the largest Key Accounts, [X] and [X], were among those which said that AP's ability to compete to supply them was unaffected by leaving PA.

- 8.31 However, AP accounted for only [X] of [X] purchases and [X] of [X] purchases in 2016. Moreover, as shown above both customers reduced their purchases from AP in 2016, [X]. It may be the case that AP's ability to act as a secondary supplier to large Key Accounts was not significantly affected by its departure from PA, but its ability to be the primary supplier at least for national Key Accounts was. This is consistent with the fact that all but one of the Key Accounts who provided data on their purchases used AP for less than [X] of their overall purchases.¹¹⁰

Our assessment of AP's ability to compete for Key Accounts

- 8.32 Leaving the PA buying group appears to have significantly weakened AP's ability to compete for Key Accounts. However, taken in the round, the evidence suggests that AP was still able to compete to supply regional customers and act (at least) as a secondary supplier for larger national Key Accounts. The fact that AP won a new tender for at least one large Key Account after leaving the PA buying group indicates that it was still capable of competing for national Key Accounts, despite its more limited geographic coverage.

Other competitors for Key Accounts

- 8.33 The Parties argued that ECP faces a number of other competitors for Key Accounts in particular PA, MPD, AAG, IFA and TPS. The evidence we have obtained in relation to each of these suppliers is set out in Appendix 8.2. This evidence supports the Parties' contention that PA¹¹¹ is an effective competitor for all Key Accounts. MPD,¹¹² however, is currently only a marginal constraint on ECP when competing for Key Accounts, and is not able to compete to be the primary supplier for even the smaller Key Accounts. Similarly, it is unlikely that IFA¹¹³ exerts more than a marginal constraint on ECP for Key Accounts

¹⁰⁸ Responses of [X]. All stated that AP was less competitive in some way after leaving PA, although [X] response referred to issues with stock levels and invoicing rather than reduced coverage.

¹⁰⁹ Responses [X].

¹¹⁰ The exception was [X], which purchased [X] of its requirements from AP.

¹¹¹ See paragraphs 2 to 3 of Appendix 8.2.

¹¹² See paragraphs 4 to 5 of Appendix 8.2.

¹¹³ See paragraphs 9 to 11 of Appendix 8.2.

outside its participation in PA contracts. We do not consider that AAG¹¹⁴ exerts any competitive constraint on ECP in competing for Key Accounts, at least at present.

- 8.34 For the reasons set out in section 5 above, we have provisionally concluded that OEM parts suppliers are not part of the relevant market. Whilst Key Accounts may use Vauxhall Trade Group or TPS to fulfil customer requirements for OEM parts, the evidence does not suggest that they would consider them as potential primary suppliers.¹¹⁵

Our assessment of current competitors' ability to compete for Key Accounts

- 8.35 Our preliminary view on the competitors the Parties face in competing for Key Accounts is that PA is the only supplier which competes with ECP to a significant extent, with smaller general motor factors, such as MPD, exerting only a limited constraint to supply Key Accounts with more limited geographic coverage requirements.

Would competition from PA and/or MPD have increased significantly in the counterfactual?

- 8.36 As discussed above in paragraph 8.4, in order to assess whether the Merger may be expected to give rise to a SLC in respect of competition for Key Accounts, we need to consider whether competition would have been increased significantly in the relevant counterfactual in which PA and MPD had acquired the depots up to which they bid.

Parts Alliance

- 8.37 PA bid for 39 of the AP depots, which would have increased its total number of owned depots to 195. Associate members of PA increase this footprint further to 229.

Parties' Views

- 8.38 The Parties argue that the acquisition of the AP depots by PA would not add to the constraints already placed by PA on ECP pre-Merger, because it was already the primary constraint on ECP for Key Accounts and was already present in the local areas for each of the depots for which it bid, through its

¹¹⁴ See paragraphs 6 to 8 of Appendix 8.2.

¹¹⁵ See paragraphs 12 to 17 of Appendix 8.2.

own branches in 26 areas and through its associate members in the remaining 13.¹¹⁶

PA's Views

- 8.39 PA agreed that acquiring the AP depots for which it bid would not improve its coverage from a customer's perspective, as it already offers national coverage to customers. This is because, where PA is not present, it uses supply partners to fulfil contracts.
- 8.40 Instead, PA told us that [REDACTED].

Our assessment regarding PA

- 8.41 As noted above, the available evidence indicates that ECP is a stronger competitor to supply Key Accounts than PA. In particular, PA is smaller than ECP in terms of sales to Key Accounts.¹¹⁷ Additionally, Key Accounts tended to rate ECP more highly than PA. Of eleven customers responding to questionnaires, five viewed ECP as a stronger competitor than PA, while only two viewed PA as a stronger competitor than ECP.
- 8.42 Therefore, it is possible that acquiring the AP depots would allow PA to compete for Key Accounts more effectively, in which case the acquisition of the AP depots by PA would lead to a more competitive outcome overall. The most obvious way in which acquiring these depots would improve PA's competitiveness is through expanding its geographic coverage.
- 8.43 To assess the extent to which PA's geographic coverage would be improved, the figure below shows the locations of PA's existing member branches (in green for PA owned members and in turquoise for PA associate members) and the locations of the 39 AP depots for which it bid (in yellow where PA was the only bidder and in brown where MPD also bid).

Figure 8.2: PA's geographic coverage with AP depots¹¹⁸

[REDACTED]

Source: PA and CMA.

- 8.44 As shown above, many of the AP branches that PA bid for are located in areas in which it already owns a large number of depots. However, the

¹¹⁶ Parties' response to Issues Statement, p 4.16.

¹¹⁷ This is the case even if we only include ECP's sales to customers spending over £ [REDACTED] per year, PA's threshold to consider a customer to be a Key Account.

¹¹⁸ The AP depots depicted on this map include all of the AP depots bid for by PA, including those also bid for by MPD.

acquisition of these depots would also expand PA's coverage into some regions where its coverage is currently limited, in particular [REDACTED] of England.

- 8.45 The figure above does not include the branches of PA's supply partners. As explained above, these suppliers are used by PA to supply customers where there are gaps in its own network. To the extent that the AP branches bid for by PA overlap with these supply partners, the improvement in PA's coverage in the counterfactual is reduced since PA is already able to supply customers in these areas.
- 8.46 In addition, as described in section 2 and 6, in November 2015 PA stopped using AP as a supply partner for its Key Accounts. This indicates that PA was able to supply Key Accounts without using any of AP's depots, and suggests that its bid for the AP depots was not primarily motivated by a wish to expand its geographic coverage to supply Key Accounts.
- 8.47 It is possible that replacing supply partner depots with owned depots could make PA a more effective competitor. Indeed, this is what PA did when it stopped using AP as a supply partner in 2015 following its acquisition of GSF. As noted above, PA finds it more costly to use these supply partners, and so reducing reliance on such suppliers could result in efficiencies which might allow PA to compete more aggressively when bidding for Key Accounts.
- 8.48 Some of the Key Accounts which rated PA as a less effective competitor than ECP gave inconsistency in PA's service and quality across different regions as a reason for this.¹¹⁹ This could be, at least in part, because of PA's use of supply partners over which it asserts less control to supply Key Accounts. However, we have seen no evidence to support a conclusion that these cost benefits to PA of acquiring the AP depots would have been likely to have significantly increased the competitive constraints it imposes on ECP.
- 8.49 Finally, we have considered the evidence on whether a wider network would have significantly increased PA's buyer power which might have made PA a more effective competitor to supply Key Accounts. In particular, we reviewed ECP's synergies model, which analysed the potential synergies arising from a potential acquisition of the whole of AP by ECP during the William Blair-run sale process (which ran from around September 2015 to mid-2016).
- 8.50 Based on ECP's synergies model, and taking the number of depots as a proxy for scale or output levels, ECP estimated that: (a) AP's 'cost of sales' would fall by [REDACTED] per cent if its depot network increased from around [REDACTED] to around [REDACTED] (an increase of around 180 per cent); and (b) ECP's 'cost of sales'

¹¹⁹ [REDACTED].

would fall by [X] per cent if its depot network increased from around [X] to around [X] (an increase of around 55 per cent).

- 8.51 This suggests that the acquisition of a smaller number of additional depots' sales would not have a significant impact on a firm's overall procurement costs. In the case of PA's acquisition of up to 39 depots, this would represent an increase of around 25 per cent (from 156 to 195 depots).¹²⁰ On the basis outlined above, we consider that increased sales resulting from a moderate increase in the number of depots would not have a significant impact on procurement costs, and, if any, this would be offset to some extent by the additional 'depot overheads' associated with any additional depot.
- 8.52 We therefore do not consider that PA would become a more effective competitor for Key Accounts as a result of increased geographical coverage, replacement of supply partners with owned depots¹²¹, or increased buyer power following the acquisition of some or all of the AP depots for which it bid.

Motor Parts Direct

- 8.53 MPD bid for 21 of the AP depots, which would have increased its total number of owned depots to 112. Eight of these depots were also bid for by PA.

Parties' views

- 8.54 The Parties argued that the constraint exerted by MPD would not be significantly increased had it acquired these depots. This is because:
- (a) MPD is already able to compete for regional Key Accounts, and adding the AP branches it bid for would not significantly alter the competitive landscape for these customers; and
 - (b) To the extent that MPD cannot currently attract larger Key Accounts, the addition of 13 to 21 branches, of which 7 are in areas MPD is already present, would not be sufficient to attract these customers.¹²²

¹²⁰ This only includes PA's owned depots. Including PA's associate members, the acquisition of up to 39 AP depots would increase PA's total number of depots from 190 to 225, an increase of around 21%.

¹²¹ While the replacement of supply partners with owned depots could have led to efficiencies, we have not received evidence which suggests that these efficiencies would have been sufficiently large or sufficiently likely to be passed through to customers, such that PA in the counterfactual would have exerted a significantly stronger constraint on ECP than it did before the Merger.

¹²² Parties' response to Phase I decision, p 4.22.

Motor Parts Direct's views

- 8.55 MPD told us that it currently lacked the coverage to supply national Key Accounts, and that this would not be changed as a result of acquiring up to the 21 AP depots for which it bid.
- 8.56 However, MPD said that acquiring these depots would have improved its ability to compete for smaller regional Key Accounts. This is because acquiring these depots would have improved its coverage and increased its buyer power, which would allow it to make a higher margin – whereas presently it considers that it cannot compete with the prices offered by ECP/AP.

Our Assessment regarding MPD

- 8.57 As noted above, we do not consider that MPD currently exerts a significant constraint on ECP in competing for Key Accounts. Therefore, if acquiring the AP depots it bid for would be sufficient to allow MPD to begin to exert a significant competitive constraint on ECP, that would be a more competitive outcome than the Merger.
- 8.58 The potential improvement to MPD's geographic reach from acquiring the AP depots can be seen in the map below. The map shows the location of all of MPD's depots (in red) and the locations of the AP depots it bid for (in yellow where MPD was the only bidder and in brown where PA also bid).

Figure 8.3: MPD geographic coverage with AP depots



Source: MPD and CMA.

Note: The AP depots depicted on this map include all of the AP depots bid for by MPD, including those also bid for by PA.

- 8.59 While it does appear that acquiring the AP depots would expand MPD's network into new areas, it is also apparent that MPD's coverage would still be limited compared to ECP, PA and pre-Merger AP. MPD would not be able to offer national coverage, nor even the near-national coverage that AP had been able to offer prior to the Merger, due to its lack of depots in the north of England and limited presence in the Midlands.
- 8.60 The Parties' argument that acquiring the AP depots would be insufficient to allow MPD to serve the larger Key Accounts it cannot currently compete for therefore appears to be correct. There is a possibility that MPD would find it easier to compete for some multi-regional customers in the south of England, but it is not clear that this would be a significant difference. Moreover, given that a significant majority of ECP's sales to Key Accounts come from large

national customers, increased competition from MPD for smaller customers would be unlikely to constrain ECP post-Merger significantly.

- 8.61 Finally, the acquisition of up to 21 AP depots would increase MPD's total number of depots from 91 to 112, an increase of around 23%. For the reasons mentioned in paragraphs 8.49 to 8.51 above, we consider that increased sales resulting from a moderate increase in the number of depots would not have a significant impact on procurement costs, and, if any, this would be offset to some extent by the additional 'depot overheads' associated with any additional depot.
- 8.62 We therefore do not consider that MPD would become a more effective competitor for Key Accounts as a result of increased geographic coverage or increased buyer power following the acquisition of some or all of the AP depots for which it bid.

Provisional conclusion on the effects of the Merger on Key Accounts

- 8.63 We consider that, in order for a SLC to be found in relation to Key Accounts, this would need to be based on evidence that competition for Key Accounts would have been significantly stronger in the counterfactual where at least 49 depots would have closed and where PA and MPD would between them have acquired up to the 52 depots for which one or both of them had bid.
- 8.64 For the reasons set out in this Section, we considered that:
- (a) the closure of 49 AP depots, and redistribution of their sales among existing suppliers, would not have been likely to have enabled other suppliers to compete more strongly for Key Accounts;
 - (b) PA's acquisition of any or all the 39 depots it bid for would not have been likely to result in a material increase in its ability to compete for Key Accounts. Before the Merger PA already represented a competitive constraint on ECP. This constraint might have increased had PA acquired up to the 39 AP depots it bid for through cost and other efficiencies arising from replacing supply partners with PA-owned depots. However, we have not received evidence which suggests that these efficiencies would have been sufficiently large or sufficiently likely to be passed through to customers, such that PA in the counterfactual would have exerted a significantly stronger constraint on ECP than it did before the Merger; and
 - (c) MPD's acquisition of any or all the 21 depots it bid for would not have been likely to result in a material increase in its ability to compete for Key Accounts. MPD's geographic coverage would not have been sufficiently increased to allow it to pose more than the marginal competitive

constraint it currently exerts and would not have significantly increased MPD's buyer power.

- 8.65 On that basis, we provisionally concluded that the Merger may not be expected to lead to competition concerns in the supply of IAM car parts to Key Accounts in the UK.

9. Overall provisional conclusions

- 9.1 As a result of our assessment we have provisionally found:

- (a) that the Merger has resulted in the creation of a relevant merger situation; and
- (b) that the Merger has resulted, or may be expected to result, in a SLC in the supply of IAM car parts by general motor factors to local IMT customers in the local areas set out below and that this may be expected to lead to adverse effects for local IMT customers in terms of an increase in prices and/or a reduction in the quality of service in those ten local areas.
 - (i) Blackpool
 - (ii) Brighton
 - (iii) Gloucester
 - (iv) Liphook
 - (v) Scunthorpe
 - (vi) Sunderland
 - (vii) Swindon
 - (viii) Wakefield
 - (ix) Worthing
 - (x) York