

## Completed acquisition by Marlowe Holdings Investments LTD of Western Electrical Holding LTD

The OFT's decision on reference under section 33(1) given on 10 March 2014. Full text of decision published 13 June 2014.

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**Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.**

### **PARTIES**

1. Edmundson Electrical Ltd ('**EEL**') distributes electrical products through more than 300 branches across the UK, including 10 branches in the South West of England. EEL is owned by Marlowe Holdings Ltd ('Marlowe'). Marlowe is, in turn, a subsidiary of Blackfriars Corporation ('Blackfriars'),<sup>1</sup> which is a private company registered in the United States. EEL's UK turnover for the year ended 31 December 2012 was £1,116.7 million.
2. Western Electrical Holding Ltd ('**WEHL**') is the UK parent company of Western Electrical Ltd ('**WE**'), which distributes electrical products through 8 branches in Devon, Cornwall, and Somerset. It has branches in Exeter, Bridgewater, Launceston, Bodmin, Truro and three branches in Plymouth. The turnover of WE for the year ended 31 January 2013 was £25 million.

### **TRANSACTION**

3. On 26 July 2013, Marlowe acquired 100 per cent of the share capital of WEHL and thus 100 per cent of the share capital of WE (the '**transaction**'). The consideration paid for the business was £[].

### **JURISDICTION**

4. As a result of the transaction, EEL and WE (together, the '**parties**') have ceased to be distinct enterprises.

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<sup>1</sup> Blackfriars owns Consolidated Electrical Distributors ('CED'), an electrical wholesaler exclusively active in the US.

5. The transaction completed on the 26 July 2013 and was not made public. The OFT first became aware of the transaction as a result of a third party complaint.
6. In cases where the OFT is not informed directly of material facts about the merger, the test under the Enterprise Act 2002 ('the **Act**') for when the four month statutory time period for investigating completed mergers commences is when material facts are made public.<sup>2</sup> Accordingly, the OFT determined the start of the four month statutory period to be on 19 August 2013 when it received the material facts about the transaction from the parties.

### **Share of supply test**

7. The parties' estimated combined share of supply by multi-product electrical wholesalers in Cornwall, Devon and Somerset is [25-35] per cent. The parties also have an estimated share of supply above 25 per cent in areas including Plymouth ([50-60] per cent) and Exeter ([40-50] per cent).
8. Section 23(4) of the Act states that the share of supply test is measured on the basis of supply in a substantial part of the UK. A substantial part of the UK has been found to refer to an area of such size, character and importance as to make it worth consideration for the purposes of merger control.<sup>3</sup> In previous decisions, the CC has considered such factors as population size and the local nature of the markets in question.<sup>4</sup>
9. Considering the sizeable population of the Cornwall, Devon and Somerset region and Plymouth and Exeter, the fact that this region and/or the relevant local areas include major cities with substantial populations, and the local nature of electrical wholesaling,<sup>5</sup> the OFT considers that Cornwall, Devon and Somerset or the Plymouth and Exeter areas may reasonably be described as a substantial part of the UK.
10. Consequently, the OFT considers that it is or may be the case that the share of supply test in section 23(3) of the Act is met and therefore that it is or may be the case that a relevant merger situation has been created. Accordingly, the OFT has jurisdiction to investigate the transaction.

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<sup>2</sup> For more information on what the OFT considers as material facts, see Jurisdictional and Procedural Guidance, paragraphs 3.44 to 3.45.

<sup>3</sup> R v MMC Ex parte South Yorkshire Transport Limited [1993] 1 W.L.R. 23 at pp. 32.

<sup>4</sup> See: CC, A report on the acquisition of the Co-operative Group (CWS) Limited's store at Uxbridge Road, Slough by Tesco plc dated 28 November 2007, CC, A report on the completed acquisition by Stagecoach Group plc of Preston Bus Limited dated 11 November 2009, CC, A report on the completed acquisition by Stagecoach Group plc of Eastbourne Buses Limited and Cavendish Motor Services Limited dated 22 October 2009 and CC, A report on the completed acquisition by Stagecoach Group plc of Preston Bus Limited dated 11 November 2009.

<sup>5</sup> See paragraphs 31-36

11. The OFT suspended the administrative and statutory clocks during the course of the investigation. The extended administrative deadline is 10 March 2014. The extended statutory deadline is 11 May 2014. The parties agreed to initial undertakings on 3 October 2013.

## **TRANSACTION RATIONALE AND COUNTERFACTUAL**

12. The parties submitted that [X], the main shareholder in WEHL, wished to sell WEHL [X]. On the basis of the evidence provided by the parties, the OFT considers that had WEHL not been sold to EEL, it is likely that the business would have been sold to another buyer.
13. Therefore, the appropriate counterfactual is the prevailing market conditions at the time of the merger, that is, WE would have remained an independent competitor to EEL.

## **FRAME OF REFERENCE**

14. The parties overlap in the wholesale supply of electrical products to professional customers including electrical contractors, facilities managers, original equipment manufacturers, local councils and DIY enthusiasts. The OFT has considered this sector in its recent EEL/EC<sup>6</sup> and Rexel/Wilts<sup>7</sup> decisions.

### **Product scope**

15. In both of these previous cases the OFT considered whether segmentation of the wholesale distribution of electrical products by product category, type of supplier and type of customer was appropriate.

### **Segmentation by product category**

16. In EEL/EC<sup>8</sup> and Rexel/Wilts,<sup>9</sup> the OFT did not consider that segmentation by product category was necessary for a number of reasons, including the fact that customers often purchase bundles of products and electrical wholesalers typically stock a similar range of products.<sup>10</sup>
17. The parties supported this conclusion and no third parties who responded to the OFT's market investigation suggested a different approach. The OFT has

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<sup>6</sup> *Edmundson Electrical Limited/Electric Centre (EEL/EC)*, OFT decision of 11 May 2012.

<sup>7</sup> *Rexel UK Limited /Wilts Wholesale Electrical Company Limited (Rexel/Wilts)*, OFT decision of 26 October 2012.

<sup>8</sup> EEL/EC

<sup>9</sup> Rexel/Wilts

<sup>10</sup> Rexel/Wilts, paragraph 23

therefore assessed the transaction with reference to wholesaling of electrical products.

### Segmentation by supplier type

18. EEL submitted that the wholesale supply of electrical products should, in addition to electrical wholesalers, include supply by:
  - industrial suppliers
  - manufacturers
  - specialist distributors
  - distributors and trade retailers (such as B&Q Trade Point, Toolstation and Wickes)
  - builders and plumbers merchants (such as Buildbase/Plumbase, Jewson, Plumb Center and Travis Perkins), and
  - internet based sales.
19. The OFT has considered whether each different type of supplier would be credible competitors to the parties such that the competitive constraint from them is sufficiently strong that it is appropriate to include them within a credible competitor set for filtering purposes.
20. The parties submitted that the competitive constraint from these suppliers is shown, for example, by the range of products supplied, customer use of these alternative suppliers, evidence of orders being lost to these suppliers from branches (branch evidence) and the fact that some customers may use alternative suppliers as a negotiation tool. For example, EEL submitted that the results of a survey it carried out<sup>11</sup> (the '**customer survey**') show that 76 per cent of customers said that they negotiate prices and that 45 percent of these said that they use the internet as a negotiation tool.
21. In EEL/EC and Rexel/Wilts the OFT did not find sufficient evidence to justify widening the product scope beyond electrical wholesalers. Comments from customers in those cases suggested that other supplier types accounted for only a small proportion of total spend on electrical products and that most customers did not see other supplier types as a general replacement for electrical wholesalers. However, in those cases the OFT took account of the evidence on the constraint from other types of supplier as demonstrated by the

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<sup>11</sup> EEL commissioned GfK, a third party market research company, to undertake telephone surveys of customers at the overlapping 8 WE branches and 10 EEL/EC branches. The other major outputs of the customer survey are discussed further at paragraphs 49 and 60.

evidence for each specific area (for example, diversion demonstrated by survey evidence or other evidence of a competitive constraint).

22. Comments from third party customers in response to the OFT's market investigation in this case broadly confirm the OFT's previous findings in EEL/EC and Rexel/Wilts. Most third parties suggested that industrial suppliers were seen to offer specialised products and pricing was very rarely competitive against a wholesaler. Similarly, third parties generally considered that they did not purchase sufficient volumes of any particular electrical product to make direct manufacturer purchases competitive and were concerned about credit and delivery terms. Generally, third parties who replied to the OFT's market investigation were dismissive of trade retailers as a credible option for supply, stating that whilst they might make small purchases from them from time to time for convenience, they did not have the level of service, stock or price competitiveness to compete directly against electrical wholesalers. In relation to online sales, the majority of third parties submitted that there were a number of factors which undermined the ability of online sales offerings to compete effectively with branch based electrical wholesalers, including credit, warranty and delivery terms, the lack of service and relationship, and the lack of availability of collection that branch based wholesalers offer (particularly for smaller customers). The OFT also considers on the basis of the evidence it found that customers spending some money with a supplier does not necessarily mean that the supplier will be a fully credible competitor to an electrical wholesaler, especially if the spend is a relatively small proportion of total spend.
23. These comments are reflected by the fact that most customers who responded to the customer survey did not indicate they would switch their spend to other types of supplier in response to a 10 per cent increase in price by the merged entity. Only three respondents to the customer survey indicated that they would consider switching some of their spend to specialist distributors. No customers who replied to the OFT's market investigation said they would turn to a single product wholesaler or builders' or plumbers' merchant in order to replace a multi-product wholesaler, and the majority of customers said they did not spend at trade retailers and would not increase their spend at these retailers if electrical wholesalers in the area were to close.
24. EEL submitted that the customer survey demonstrates that diversion does in fact take place to these other types of supplier. Notwithstanding the OFT's concerns about the probative value of the customer survey, discussed below at paragraph 60, the OFT notes that overall weighted and unweighted diversion to these alternative types of supplier is generally low (at between zero and two per

cent for industrial suppliers, one percent or below for trade retailers, internet suppliers and builders and plumbers' merchants).

25. The OFT considers that the above evidence is consistent with the findings in previous cases, and indicates that alternative types of suppliers should not be considered part of the relevant frame of reference.

### **Segmentation by customer type**

26. In EEL/EC and Rexel/Wilts, the OFT distinguished between large/national, multi-local/regional and small/local customers, although the OFT left the precise customer segmentation open. The OFT also distinguished customer types by the nature of their business as it found they differed in their product requirements and the way they purchase products.
27. EEL has submitted that there is no basis for formally segmenting customers by size, spend, business type or geographic coverage. However, the parties recognise that demand and supply characteristics for large and small customers may differ. In particular, the set of credible suppliers for larger customers may differ and larger customers may multi-source products, have more buyer power and buy in bulk.
28. Third party responses to the OFT's market investigation revealed some differences between customer requirements depending upon their level of spend, with a number of customers who spend over £100,000 per year commenting on the inability of some independent suppliers to meet their needs.
29. In its market investigation, the OFT has found no concerns when assessing the merger by relevance to alternative customer segmentation. It has therefore not found it necessary, for the purposes of the frame of reference, to segment by size, level of spend or business type in this case. However, in its competitive assessment the OFT has taken into account, where relevant, whether the merger may have a greater or lesser effect on customers of a certain size, level of spend or business type.

### **Conclusion on product scope**

30. The OFT therefore considers that the relevant product scope consists of the supply of electrical products by electrical wholesalers.

### **Geographic scope**

31. The OFT found in EEL/EC and Rexel/Wilts that there was evidence to support national, regional and local dimensions to the geographic scope of the market,

although it did not find it necessary to conclude in either case. In this case, the OFT has not identified any competition concerns in relation to a national or regional dimension and so has focussed on competition at a local level.

32. In EEL/EC and Rexel/Wilts, the OFT applied a 10-mile radius around each of the Electric Centre ('EC')/Wilts branches as an initial filter to identify local areas of potential concern, and excluded electrical wholesalers with less than £10 million turnover per annum. In the competitive assessment of each such local area, the OFT then also took into account competition from suppliers outside this area where appropriate.
33. In this case, EEL provided evidence indicating that the area in which 80 per cent of a branch's customers are located varies between 6.2 and 23.2 miles, based on customer invoice addresses for the South West of England only. EEL submitted similar evidence based on the delivery addresses of customers and their invoice addresses, even if these were based outside of the South West. The OFT notes that the catchment areas proposed by the parties do not change the competitive analysis materially from the 10 mile filter.
34. The OFT further notes from the results of the customer survey and third party responses that although a high proportion of goods are delivered in this industry, collections are still used for some purchases by most customers and account for around 20–30 per cent of all purchases with the parties according to WEHL and EEL computer records. The OFT considers that the invoice address of the customer may be more relevant than the site of work in determining many customers' choice of electrical wholesaler, as responses to the OFT's market investigation indicated that customers are likely to work across a number of different areas but may value relationships with their local branches.
35. Third party views on the geographic area were mixed, with some supporting an area of 10 miles or less, and others suggesting they would purchase from a larger area. Some customers highlighted that they would be concerned about maintaining good relationships with branches over too far a distance, and others questioned the viability of meeting testing deliveries if the supplier was based too far from the branch.
36. On the basis of the evidence it found, and given that the catchment areas proposed by the parties do not materially alter the competitive analysis, the OFT did not consider it necessary to depart from the 10 mile radius it has used as a filter in previous cases (the '**10 mile radius**')<sup>12</sup> for the purposes of the geographic frame of reference in this case. The OFT has had regard to the

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<sup>12</sup> EEL/EC and Rexel/Wilts

particular local characteristics of each area as part of its competitive assessment.

### **Conclusion on frame of reference**

37. The OFT has assessed the transaction for the supply of electrical products by electrical wholesalers, using the 10 mile radius to identify affected local markets.

### **HORIZONTAL ISSUES**

38. The OFT has considered the possibility that the transaction could give rise to unilateral effects in relation to multi-local/regional customers, and each local overlap, by increasing the ability and incentive of the merging parties to increase prices or reduce quality or service post-merger.

### **Multi-local/regional customers**

39. The parties submit that at a regional level there will remain a significant number of suppliers which are able to deliver across the region (same day or next day), including CEF, each of the Rexel brands, Devondale, G&R, YESSS, TLC, Rowse, C&S, County Electrical and Screwfix.
40. Based on the information available to the OFT, there will remain four national wholesalers active in the South West of England post-merger, CEF, Rexel, YESSS and EEL, along with the independent wholesaler Devondale, which has six stores across the South West and is a member of the ANEW buying group (as was WE). There are also a number of other smaller independents, such as G&R (two branches) that may provide some constraint across the region.
41. The OFT's market investigation also supported the lack of concerns on a regional basis, with third parties who replied to the OFT's market investigation suggesting that for all but the very largest customers, EEL branches operate independently and do not offer terms that apply across a number of branches.
42. Based on the evidence above, in particular, the existence of four nationals and one large independent in the area, the OFT considers that there is no realistic prospect of a substantial lessening of competition for customers with a regional dimension in the South West.

### **Local customers**

43. Given the small number of overlaps, it was not necessary for the OFT to carry out a filtering process to focus its assessment of local concerns. Instead, it has considered whether there is a realistic prospect of a substantial lessening of competition in each overlap area based on a range of evidence, discussed below.

## **Types of evidence regarding affected local areas**

### **Credibility of competitors**

44. The parties submitted that electrical wholesaling is largely an undifferentiated product market, in which evidence of diversion between competitors do not provide evidence of the parties' incentive to raise prices or closeness of competition. In support of this, they noted that customers have weak brand preferences and seek the supply of homogeneous electrical products at a particular location and time.
45. The OFT considers, based on its market investigation, that there is a degree of differentiation between electrical wholesalers across a number of dimensions, including the service that accompanies products bought, the range of products offered and to a lesser extent the availability of credit and the branch location. The OFT found evidence that smaller independent wholesalers are able to compete against larger wholesalers by differentiating themselves on the quality of their service.
46. However, an important parameter in this market is price, as shown by the way in which prices are set and negotiated. The OFT received evidence that customers obtain quotes from multiple suppliers, and that customers will agree broad annual account terms which effectively set a ceiling on the price they receive from that wholesaler. Customers then negotiate further discounts during the course of the year on an ad hoc basis through price matching. When assessing the impact of the transaction, the OFT's starting point is therefore to consider whether there are sufficient competing credible fascia in a given local area to provide a constraint post merger.
47. In EEL/EC and Rexel/Wilts the OFT defined a 'credible supplier' for the purpose of its filter as an electrical wholesaler with a UK turnover in excess of £10m per annum. In its substantive analysis it widened its definition of credible suppliers where there was evidence allowing it to do so, for example from diversion ratios and internal branch documents.
48. EEL submits that it agrees with [X] the OFT's overall aim in establishing credibility in previous cases. However, it submits that UK turnover is a poor proxy for the credibility of an electrical wholesaler.

49. EEL used the customer survey to propose one primary measure and five secondary measures of credibility. Their primary measure of credibility is the proportion of survey respondents who said that they would consider switching some or all of their business to a supplier if the price at EEL/EC or WE were to increase by 10 per cent. They also proposed five secondary measures of credibility.<sup>13</sup> EEL then compared potential competitors against the parties' scores for each of the credibility measures, and submitted that any supplier that scores more highly than one of the parties in any measure must be deemed credible.
50. EEL submitted that the results of this approach show that smaller independents impose strong constraints on the parties where they are active. EEL also submitted that membership of buying groups allows independent wholesalers to compete on price with larger chains.
51. Third party responses on the strength of local independents were mixed. A number of third parties indicated that, despite membership of a buying group, independent wholesalers were not always able to compete on price with larger chains across a broad basket of goods. Third parties also told the OFT that some independents were unlikely to be able to compete effectively against the merged entity on price or stock availability and range, particularly in the provision of some branded goods that small independents might struggle to get access to. The OFT also notes that the parties acknowledged that it may not be appropriate to treat all independents as exerting a strong constraint on the national players. Some customers who replied also commented that smaller independents with smaller delivery fleets would be unlikely to meet their stringent delivery requirements.
52. Accordingly, the OFT considers that there is insufficient evidence to allow it to consider all independent wholesalers as credible competitors on a prima facie basis. The credibility of each independent wholesaler has therefore been assessed on a case by case basis, and the OFT has also had regard to a wide range of evidence, including third party views and diversion ratios from the customer survey. Branch turnover and shares of supply may also give some indication of relative competitive strength.
53. The parties also submitted in particular that Screwfix is a credible electrical wholesaler through its tradecounter Electricfix. They submit that this is supported by customer survey evidence and examples of branches competing. However, the OFT notes from the customer survey results that, with the

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<sup>13</sup> These included the proportion of customers who currently spend with the supplier, whether a customer would divert spend, the average spend diverted from customers that would divert and the unweighted and revenue weighted diversion ratios.

exception of a few stores, Screwfix/Electricfix performed relatively poorly compared to the parties in diversion measures,<sup>14</sup> and in particular in the revenue weighted diversion measure.

54. As with some independent wholesalers, third parties who replied to the OFT's market investigation were sceptical about their ability to source significant amounts of electrical products from Screwfix. They considered the reasons for this included:
- screwfix not being competitive on price for a bundle of goods
  - differing service quality
  - minimum order amounts to qualify for free delivery, and
  - lower stock availability.
55. The OFT considers that, based on the consistent third party evidence outlined above, whilst some customers, and in particular small customers, can and do purchase electrical products from Screwfix, they may not be a sufficient competitive constraint to prevent a substantial lessening of competition in this case.
56. On a cautious basis, the OFT has not therefore considered Screwfix as a credible competitor on a prima facie basis, but has assessed the extent it may constrain the parties in each local area.

### **Local shares of supply and branch turnover**

57. The OFT considers that shares of supply and the turnover of branches may give an indication of the parties' local competitive position (that is, if the merging branches are substantially larger than other competing branches present in the area). This may also indicate that they have better service or stock levels, factors which customers who responded to the OFT's market investigation indicated were important. The OFT notes this is consistent with the previous decision in Rexel/Wilts, where the OFT had regard to the turnover of competitors' branches as compared to the parties' branch turnover.<sup>15</sup> However, as shares of supply and branch turnover do not take into account the relative closeness of competition between the parties and between the parties and other competitors, the OFT has not placed significant weight on them and has, in any event, analysed them in conjunction with other evidence.
58. EEL provided the OFT with a detailed breakdown of its share of supply calculations. The OFT has calculated estimates of local shares of supply and

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<sup>14</sup> See paragraph 60 for an explanation of these measures.

<sup>15</sup> Rexel/Wilts, paragraph 70

branch turnover using this data combined with data supplied by some third parties during the OFT's market investigation, and sets these out in its assessment of each local area below.<sup>16</sup>

59. The OFT has counted the number of independent and credible fascia and shares of supply using the 10 mile radius used in previous cases as a starting point. Where shares of supply differ significantly if based on the 80 per cent catchment area, the OFT has also calculated shares of supply on this basis. The OFT notes that fascia counts were not affected by changing the geographic area of the 80 per cent catchment area.

### **Customer survey, diversion ratios and pricing pressure tests**

60. EEL commissioned GfK, a third party market research company, to undertake telephone surveys of customers at the overlapping eight WE branches and 10 EEL/EC branches. One of the outputs from the customer survey consists of estimates of the diversion of sales between the parties and other competing fascia in the event of a 10 per cent increase in price ('diversion ratios').
61. As noted above at paragraph 45, the OFT considers that competition in the market is likely to be sufficiently differentiated such that diversion ratios may be useful in determining the credibility of competitors.<sup>17</sup> The OFT also considers that, in principle, diversion ratios between the parties provide a measure of the closeness of competition between them. However, the OFT considers that in this case there are certain factors that generate uncertainty in the diversion estimates which reduce the weight that can be attached to them as a source of evidence for the purposes of drawing any conclusions as to the likelihood of unilateral effects. These factors are also identified by EEL as follows:
- the sample sizes are generally small, particularly so for the revenue weighted diversion ratios, and confidence intervals<sup>18</sup> are wide
  - this is accentuated by the fact that respondents with larger spends account for a significant proportion of the diversion in each case.
62. The OFT has therefore considered the estimated diversion ratios (both revenue weighted<sup>19</sup> and unweighted) as a measure of the credibility of competitors and

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<sup>16</sup> The OFT was unable to verify branch turnover figures for all competitors, and has taken account of this in the weight placed on particular figures.

<sup>17</sup> OFT/CC Commentary on Retail Mergers, paragraphs 4.1 and 4.7

<sup>18</sup> The OFT calculated the 95 per cent confidence intervals for diversion from each customer survey branch to the other party's branch(es). These confidence intervals reflect, for example, the response rates to the customer survey and the pattern of branch expenditures covered by the sample, and suggest that the actual diversion ratios could be higher or lower than the central estimated value.

<sup>19</sup> Revenue weighted diversion ratios are used to indicate the proportion of revenue which would divert to another branch.

the closeness of competition between the parties in each local market, but will consider the appropriate weight it places on this source of evidence in each case taking into account the factors identified above.

63. EEL provided margin data for each branch such that upward pricing pressure measures could be calculated and provided GUPPI<sup>20</sup> estimates. The OFT undertook its own analysis on the customer survey and margin data and also calculated GUPPI and IPR<sup>21</sup> estimates for each branch. In general, the OFT's estimates of pricing pressure were higher than those submitted by the parties, largely down to differences in calculating variable profit margins,<sup>22</sup> but also due to differences in the assumptions used to estimate diversion ratios. However, given the generally wide confidence intervals<sup>23</sup> and small effective sample sizes observed, in the specific circumstances of this case, the OFT does not consider it appropriate to place significant weight on GUPPIs or IPRs as an indicator of likely unilateral effects concerns. The OFT has primarily found the customer survey evidence useful as a way of assessing the credibility of competitors and the closeness of competition between the parties in a given local area.

#### **Other evidence**

64. EEL submitted a variety of internal documents from EEL and WE branch managers in the relevant areas. These included branch evidence of lost orders and branch forecasts which set out five named competitors for each EEL and EC branch.
65. Finally, for some affected local areas, EEL submitted that entry by Electricbase was imminent. The OFT considered the timeliness, likelihood and sufficiency of this entry in relation to each local area.

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<sup>20</sup> Gross Upward Pricing Pressure Index. This seeks to indicate the upward pricing incentive for the merging parties.

<sup>21</sup> Illustrative price rise. This incorporates the diversion ratio from a branch and the variable profit margin of the branch, which provides some indication of price sensitivity of demand of the branch's customers and whether a branch therefore has the incentive to raise its prices.

<sup>22</sup> Variable profit margins can provide an estimate of the incremental cost of additional output, and the OFT considers they are therefore an appropriate basis for GUPPI and IPR analysis.

<sup>23</sup> See footnote 17.

## Affected local areas

**Table 1: Overlap branches, applying approach to credible competitors outlined above**

Area	Parties' overlap branches (10 mile basis from primary WE branch)	Fascia reduction
Plymouth	WE Plymouth WE Marine WE Dockyard EEL Plymouth EC Plymouth EEL Dockyard	4:3
Redruth/Truro	WE Truro EEL Redruth	4:3
Bodmin/St. Austell	WE Bodmin EEL St. Austell	5:4
Exeter	WE Exeter EEL Exeter EC Exeter EEL Exeter Harding	5:4
Bridgwater/Taunton	WE Bridgwater EEL Bridgwater EC Taunton	5:4

## Plymouth

### Constraint between the parties

66. EEL will operate six stores post-merger in Plymouth: two EEL branches, one Electric Centre (EC) branch and three WE branches. The branches are concentrated within a four mile area in the city centre, although the EC and main WE branches are 0.1 miles apart. Three of the branches in Plymouth specialise in meeting particular customer needs:

- a. EEL Dockyard is a satellite of the main Plymouth branch and is mainly focussed on serving the Ministry of Defence (MoD).
- b. WE Dockyard is focused on serving customers at the Naval Dockyard.
- c. WE Marine is focused on commercial boat building.

67. EEL provided an 80 per cent catchment area based on invoice addresses in the South West of 16 minutes or a six mile radius. Given that this is smaller than the 10 mile radius considered above, the OFT estimated local shares of supply and fascia counts on this basis (although the OFT notes that it does not alter the results in a substantial way).
68. Based on the share of supply data and the OFT's initial views on which competitors are credible, the OFT estimated a combined local share of supply for the parties of [60-70] per cent, with an increment of [20-30] per cent from WE. The OFT notes that if all independent wholesalers and Screwfix are included, the parties have a combined share of supply in Plymouth of [50-60] per cent with an increment of [15-25] per cent.
69. The merger will involve the two largest branches in Plymouth, EEL Plymouth with a turnover of £[ⓧ] per year and WE Plymouth with a turnover of £[ⓧ] per year.
70. The OFT notes that there is evidence from the parties' internal documents that the parties were close competitors of each other before the merger, with both the EEL and EC branch forecasts listing WE as one of their five closest competitors. The customer survey and diversion figures (on both a weighted and unweighted basis) also supported this in part, indicating that EEL/EC may be the best alternative for WE customers. However, diversion from EEL customers to WE was not so significant and was lower than or comparable to a number of other competitors. The OFT has not placed significant weight on any specific diversion figure from this area, as the effective sample sizes<sup>24</sup> and 95 per cent confidence intervals are very wide from the two main branches.

### **Other credible competitors**

71. Rexel and CEF both have a number of branches in the area. The majority of these competing branches are located close to one of the parties' branches, although there are no competitors within the immediate vicinity of the two dockyard branches. The majority of [ⓧ] competing branches are [ⓧ] on a turnover basis than the parties' main branches, although [ⓧ] the EC branch, and have turnovers of [ⓧ] per year. However, there is [ⓧ].
72. The OFT notes that there is evidence from the parties' internal documents that CEF and Rexel are close competitors to the parties. CEF and Rexel were both listed in EEL branch forecasts as being one of their five closest competitors.

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<sup>24</sup> The effective sample size reflects an adjustment to the sample size to reflect the unequal sampling units (that is, unequal spend weights).

Further, the customer survey and diversion figures (on both a weighted and unweighted basis) flagged Rexel as a significant competitive constraint on both parties, and the strongest constraint on EEL. CEF was flagged as the second most significant constraint for EEL customers. Considering diversion ratios from the main WE Plymouth branch, EEL/EC, Rexel and CEF showed broadly equivalent levels of diversion when considering both weighted and unweighted diversion figures.

### **Other competitors**

73. Other fascia present in this area are Screwfix/Electricfix, and two independent wholesalers (G&R and Rowse Electrical). EEL submitted that Screwfix/Electricfix, G&R and Rowse also represent a significant competitive constraint on the parties leading to a reduction in fascia from seven to six and raising no competition concerns. The OFT considered the credibility of suppliers operating in Plymouth. In relation to Screwfix/Electricfix, the evidence does not support them as a credible constraint across all of the products. Nor were Screwfix named as competitors in the branch forecasts for any of the EEL or EC branches. Whilst the customer survey indicated some low levels of diversion to Screwfix/Electricfix, the OFT does not consider that Screwfix/Electricfix is a fully credible competitor for the reasons expressed above at paragraph 53.
74. The OFT considered to what extent G&R and Rowse may be considered credible competitors. The OFT notes that they were not named as competitors in the branch forecasts.
75. Third party responses to its market investigation were mixed on the constraint from smaller independents such as G&R and Rowse Electrical. In particular, several customers who replied to the OFT's market investigation said that smaller independent wholesalers could struggle to compete directly on price with larger independents such as WE and would generally have a lower level of stock.

### **G&R**

76. G&R has been active in Plymouth since the 1980s. EEL's customer survey indicated that there is some diversion to G&R, particularly from WE customers. On both weighted and unweighted diversion measures, diversion from WE customers to G&R was comparable to diversion to CEF (on both weighted and unweighted measures) and Rexel (on the unweighted measure). However, diversion from EEL customers to G&R was low. As noted above, the OFT has not placed significant weight on any specific diversion figure from this area.

However, the OFT notes that the overall view that G&R is a good alternative for WE customers is consistent with third party comments from the local area.

77. G&R told the OFT that [REDACTED].
78. The OFT received evidence from other third parties that G&R deals with sizeable customers and contracts and has previously held a very large contract with [REDACTED]. Evidence from branches also showed evidence of the parties losing orders from a large customer, [REDACTED], to G&R, and individual lost orders of up to £12,000. The customer survey also indicated that 38 per cent of WE customers considered G&R a viable alternative (the parties' preferred credibility measure).
79. The parties provided information showing that G&R stocks a wide range of major brands. It also provided 25 examples of branch evidence from Plymouth, which showed that some substantial orders were lost or price matched to G&R. The OFT notes that the turnover of the G&R branches is similar to that of competitors which the OFT has previously considered as credible.
80. On balance, and taking the evidence in the round, the OFT considers that G&R is a close competitor for WE customers and presents a competitive constraint to the merged parties in this area.

## **Rowse**

81. Rowse was established in 2004 and is located in a different part of Plymouth from the parties, nearly 4 miles away from the main WE branch. It performed more poorly than G&R in the customer survey. Weighted and unweighted diversion to Rowse from both WE and EEL customers was low, comparable to Screwfix, and considerably lower than Rexel and CEF. Again, the OFT has not placed significant weight on any specific diversion figure from this area but has assessed them in conjunction with the other evidence.
82. The parties provided some branch evidence demonstrating seven lost orders to Rowse and four other references to them as a competitor, including evidence of customers getting quotes from them alongside both EEL and WE. The OFT received evidence indicating that Rowse has some customers with sizeable accounts and that its branch is a similar size to CEF and Rexel. On the parties' preferred measure of credibility, 33 per cent of WE customers considered Rowse to be a credible alternative.
83. One large customer told the OFT that it considered Rowse a credible alternative, but another also expressed concerns about range.

84. On balance, and taking the evidence in the round, the OFT considers that Rowse may constrain the parties post-merger in this area.

### **Other evidence**

85. The majority of customers in Plymouth who responded to the OFT's market investigation were not concerned about the transaction and considered they had sufficient choice of suppliers. These eight customers were of varying sizes. The other five customers which responded did express concerns. In particular they were concerned that WE's excellent service levels would be lost and two were concerned about the loss of a competitor.
86. The parties submitted that Electricbase will shortly be entering the Plymouth area and that it is currently recruiting for staff. The parties submitted branch forecasts from other areas where they face Electricbase as a competitor and submitted that these demonstrated that Electricbase will also be a credible competitor when the Plymouth branch opens. The OFT was unable to verify this entry with Electricbase, but has not needed to conclude on the timeliness, likeliness or sufficiency of entry as it considers no competition concerns arise in Plymouth.

### **Conclusion**

87. The evidence available to the OFT shows that Rexel and CEF will continue to exert a strong competitive constraint on the merged entity post-merger. G&R also provides a strong constraint to WE in this area and will continue to do so post-merger. The OFT is also conscious that Rowse will exert a degree of constraint for WE customers. Overall, there remains a number of viable options for customers for their electrical products. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in Plymouth.

### **Redruth/Truro**

#### **Constraint between the parties**

88. EEL will operate two stores post-merger in the Redruth and Truro area, an EEL in Redruth and a WE in Truro. The branches are 7.3 miles apart.
89. EEL calculated an 80 per cent catchment area based on invoice addresses in the South West of 11 miles and 25 minutes. The OFT estimated combined shares of supply of [50-60] per cent, with an increment of [20-30] per cent based on the competitors initially considered to be credible. If all independent

wholesalers and Screwfix are included, the combined share of the parties [40-50] per cent with an increment of [15-25] per cent.

90. As in Plymouth, the merger will involve the combination of the two largest branches in the area, EEL Redruth with an annual turnover of approximately £[ⓧ], and WE Truro with an annual turnover of approximately £[ⓧ]. The OFT notes that the internal EEL branch forecast in Redruth lists WE as one of its five closest competitors. However, the customer survey did not indicate that the parties were necessarily each other's closest competitor. On the weighted diversion measure for WE customers, EEL appears the strongest constraint, but on the unweighted measure it does not. For EEL customers, the customer survey indicates that Rexel and CEF present a stronger constraint than WE. The effective sample sizes are larger and 95 per cent confidence intervals are narrower in this area, suggesting that it may be appropriate to place more weight on the diversion ratios.

#### **Other credible competitors**

91. Other fascia present in this area include branches of CEF and Rexel in Redruth. The 10 mile radius around the WE store also covers Newquay, where there is a CEF branch, and Penryn, where there is a Rexel branch.
92. The majority of competitors in this area have branch turnovers ranging from [ⓧ].
93. The OFT notes that there is evidence from the parties' internal documents that CEF and Rexel are close competitors to the parties. CEF and Rexel were both listed in EEL branch forecasts as being one of their five closest competitors. Further, the customer survey and diversion figures (on both a weighted and unweighted basis) flagged Rexel and CEF as significant constraints. For WE customers, weighted diversion was highest from WE to EEL, but was also significant to Rexel and CEF. The unweighted figures indicated that most diversion went to CEF, followed by Rexel and EEL.

#### **Other competitors**

94. EEL submitted that Screwfix/Electricfix, G&R and County Electrical each represent a significant competitive constraint on the parties and that there is therefore a reduction in fascia from six to five which should not raise any competition concerns.
95. The OFT considered the credibility of suppliers operating in Redruth and Truro. Whilst the customer survey indicated some diversion to Screwfix/Electricfix, the

OFT does not consider that Screwfix/Electricfix is a credible competitor for the reasons expressed above at paragraph 53.

96. As noted above at paragraph 75, third party responses to the OFT's market investigation were mixed on the constraint from smaller independents. The OFT examines these in turn below.

## **G&R**

97. G&R's Redruth branch was not named as a competitor in the branch forecasts for the EEL branch. However, EEL's customer survey indicated that there is diversion to G&R, particularly from WE customers, on both the weighted and unweighted diversion measures. In this area, diversion from EEL customers was also consistently higher on both measures.
98. As noted above at paragraph 77, G&R told the OFT that [REDACTED]. The branch in Redruth has an estimated turnover of £[REDACTED] million per year.
99. Local third party responses also confirmed that G&R is a good alternative for WE customers. In Redruth/Truro the customer survey indicated that 35 per cent of WE customers considered G&R a viable alternative (the parties' preferred credibility measure) and compares to 48 per cent for EEL. EEL customers appeared to have a similar perception of G&R and WE in Redruth/Truro, with 25 per cent of EEL customers considering G&R a viable alternative and 27 per cent considering WE a viable alternative. One large customer told the OFT that it had not used G&R but considered it was a credible alternative, and another large customer told the OFT that G&R met all of its requirements.
100. The parties provided information showing that G&R stocks a wide range of major brands. It also provided 10 examples of branch evidence from Redruth/Truro, which showed that some orders were lost or price matched to G&R. The OFT notes that the estimated turnover of the G&R branch is similar to that of the parties' individual branches and competitors who the OFT considers as 'credible'.
101. On balance, and taking the evidence in the round, the OFT considers that G&R is a competitor for EEL customers and a close competitor for WE customers and is highly likely to exert a competitive constraint to the merged parties in this area.

## **County Electrical**

102. The OFT does not, on the basis of the evidence available to it, consider that County Electrical will provide a significant constraint on the parties post-merger

for the following reasons. First, third parties who replied to the OFT's market investigation said that County Electrical is a small wholesaler who generally competes for different customers than the parties and many considered that it was unlikely to compete with the parties on price. Second, the overall weighted diversion to County Electrical is extremely low on both an unweighted and weighted basis from WE and around seven per cent on both bases from EEL. It was not named as a competitor in the branch forecasts for the EEL branch. Finally, the OFT also notes that County Electrical is a single store independent wholesaler located in Penzance outside of the 80 per cent catchment area, 15 miles from Redruth and 25 miles from Truro.

## **Conclusion**

103. The OFT considers that there is strong competition between WE and EEL in this area. However, the evidence on whether WE and EEL are each other's closest competitor is mixed. Moreover, it is clear from the evidence that Rexel and CEF exert a strong competitive constraint on WE and EEL. This constraint will remain post-merger. The OFT further considers that G&R will also be able to exert a constraint on the merged parties. The OFT is therefore confident that sufficient rivalry and credible choice will remain for customers for electrical products in the area. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in Redruth/Truro.

## **Bodmin/St. Austell**

### **Constraint between the Parties**

104. The merged parties will control two stores within a 10 mile radius of the WE Bodmin store: an EEL 8.8 miles away in St. Austell and the WE in Bodmin.

105. The OFT calculated local shares of supply based on a conservative 10 mile radius, as the 80 per cent catchment area did not materially change the analysis.

106. On the 10 mile radius, and including only the competitors the OFT initially considered to be credible the parties have an estimated combined market share of [20-30] per cent (with an increment of [5-15] per cent). This reduces to a combined share of [15-25] per cent (with an increment of [5-15] per cent) if all independent wholesalers and Screwfix are included.

107. In Bodmin and St. Austell the merger does not involve the largest branches by turnover. The revenue weighted diversion figures from the EEL St. Austell branch indicate that WE may be the closest competitor, however, the OFT

cannot place significant weight on these given that they are affected by the spend of a single customer and the confidence intervals around them are extremely wide. On both a weighted and unweighted basis, the diversion figures from the WE branch indicated that the EEL branch is not a particularly close competitor. Similarly, the unweighted figures from EEL St. Austell indicated that the parties are not closest competitors.

### **Credible competitors**

108. In Bodmin, there are branches of YESSS Electrical and CEF. In St Austell, there are branches of CEF and two Rexel branches. [X] these branches are [X] the merging parties' branches.
109. The OFT considers that there is evidence that CEF and Rexel are close competitors to the parties. CEF and Rexel were both listed in EEL branch forecasts as being one of their five closest competitors. Further, the customer survey and diversion figures (on both a weighted and unweighted basis) flagged Rexel and CEF as significant constraints. For WE customers, diversion was higher on both measures to CEF, Rexel and YESSS than it was to EEL. For EEL customers, diversion was significant to Rexel and CEF on both measures, particularly the unweighted diversion figure.

### **Other credible competitors**

110. EEL submitted that Screwfix/Electricfix and YESSS each represent a significant competitive constraint on the parties and that there is therefore a reduction in fascia from six to five which should not raise any competition concerns.
111. The OFT considered the credibility of suppliers operating in Bodmin/St.Austell. Whilst the customer survey evidence indicated some diversion to Screwfix/Electricfix, the OFT does not consider that Screwfix/Electricfix is a credible competitor for the reasons expressed above at paragraph 53.

### **YESSS**

112. YESSS Electrical has been present in Bodmin since July 2013. Its group turnover is around £100m, and it has 80 stores nationwide.
113. The customer survey indicated that YESSS is a strong constraint on the parties notwithstanding that it has been present in the area for less than a year. The OFT has not placed significant weight on the figures from the EEL branch due to the extremely wide confidence intervals, but notes that both weighted and unweighted diversion ratios from the WE branch to YESSS were significant and

substantially in excess of diversion to the EEL branch, and that YESSS appears a closer competitor for WE customers than EEL.

114. Third parties who spoke to the OFT confirmed that YESSS would be a credible option for them post merger, and some commented that they expected the constraint presented by YESSS to increase since the branch is still relatively new.

### **Other evidence**

115. On the whole, customers who replied to the OFT's market investigation were confident that there would remain sufficient choice available post-merger. Of the 7 customers who responded, 5 were unconcerned, and some specifically mentioned the entry of YESSS as providing an additional competitive constraint. The two concerned customers submitted that WE Bodmin had recently opened a new specialist lighting showroom and were concerned that this might close as a result of the merger. The OFT found no evidence to indicate that there would be a loss of competition in the supply of specialist lighting in Bodmin/St.Austell as a result of the merger.

### **Conclusion**

116. The OFT considers that there is strong competition between the parties in this area. However, the OFT considers that Rexel, CEF and YESSS will continue to exert a strong competitive constraint on the merged entity. As such, there will be sufficient rivalry and choice for customers of electrical products in this area. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in Bodmin/St. Austell.

### **Exeter**

#### **Constraint between the Parties**

117. The merged parties will have four branches within a 10 mile catchment area. If the catchment area is widened based on the 80 per cent catchment area data, then an additional EEL store in Torquay is also included in the same area as the other four stores.
118. The OFT estimated shares of supply based on a conservative 10 mile radius. The OFT notes that the 80 per cent catchment area is significantly larger at 19 miles and 32 minute and therefore also estimated shares on that basis.

119. On the basis of the 10 mile radius and including only those competitors that the OFT initially considers as credible, the parties have a combined share of supply of [50-60] per cent (with an increment of [10-20] per cent). The OFT notes that the combined share of supply when including all independent wholesalers and Screwfix is [40-50] per cent, with an increment of [10-20] per cent.
120. When considering a catchment area of 80 per cent the area expands to include Tiverton, Honiton, Newton Abbot and Torquay. On this basis, the OFT estimated that the parties' share of supply is [40-50] per cent (with an increment of [5-15] per cent) when including only credible competitors, and [35-45] per cent (with an increment of [5-15] per cent) if all independent wholesalers and Screwfix are included.
121. The merger involves the combination of the three largest branches, two EEL branches with annual turnovers of £[X] and £[X], and WE with an annual turnover of £[X].
122. The OFT notes that all three EEL internal branch forecasts in Exeter list WE as one of their five closest competitors. Further, the customer survey evidence indicated that for WE customers, diversion to EEL is highest on both an unweighted and weighted basis. However, for EEL customers, diversion was not highest to WE on any basis.

### **Other credible competitors**

123. Rexel, CEF, and Devondale are also present with a number of branches in Exeter, Torquay and Newton Abbot. Their branches [X].
124. Notwithstanding this [X], the OFT considers that there is evidence that CEF, Rexel and Devondale are close competitors to the parties. Most third party respondents in this area considered that Devondale competed with the parties, and EEL's internal documents name Devondale as competitors in all three branch forecasts. The branch forecasts also named Rexel and CEF as competitors.
125. Further, the customer survey indicated that for EEL customers, there were considerably higher levels of diversion to Rexel, CEF and Devondale than to WE on both a weighted and unweighted basis. For WE customers, diversion to EEL was highest on both bases, but diversion was also significant to Rexel, CEF and Devondale. In Exeter, the customer survey yielded relatively good sample sizes with smaller confidence intervals, allowing more weight to be placed on it.

## **Other credible competitors**

126. In its submission, EEL argued that Screwfix/Electricfix and two independents, TLC and C&S, will also represent a competitive constraint on the parties. The parties submit that the merger will therefore result in a reduction in independent fascia from eight to seven in the 10 mile catchment area. TLC is located in Exeter itself, whereas C&S Electrical is located in Exmouth.
127. Based on the customer survey results and replies from third parties to its investigation, the OFT considers that TLC and C&S Electrical are unlikely to be sufficiently credible competitors post merger to constrain the parties. The vast majority of customers that the OFT spoke to considered that both of these companies would be unlikely to be competitive on price and might struggle to meet their needs in terms of stock range and availability. Some third parties, particularly those with spends over £100,000 per annum, did not think C&S would be able to compete consistently for larger orders due to having fewer delivery vehicles. EEL's customer survey shows that the diversion ratios to both wholesalers were low on both an unweighted and a revenue weighted basis.

## **Other evidence**

128. The OFT received three customer concerns in relation to Exeter, two of which noted that EEL will have a large share of supply post merger. These customers were not sure what the effect on prices or service would be. The majority (five) of customers who responded to the OFT's investigation were not concerned.

## **Conclusion**

129. The OFT considers that the merged parties are not particularly close competitors, and that Rexel, CEF and Devondale will continue to exert a strong competitive constraint on them. As such, there will be sufficient rivalry and choice for customers of electrical products in this area. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in Exeter.

## **Bridgwater/ Taunton**

### **Constraint between the parties**

130. Post merger, the parties will control three stores within a 10 mile radius of Bridgwater: an EEL and WE in Bridgwater, and an Electric Centre in Taunton. Taunton is situated just under ten miles from Bridgwater.
131. The OFT estimated shares of supply based on a conservative 10 mile radius. The 80 per cent catchment area is significantly larger at 19 miles and 32 minutes. Therefore, the OFT also calculated share of supply estimates on that basis. If the geographic area is widened to include the 80 per cent area, then another EEL store in Weston-super-mare is also caught within the same area, as well as a number of competitors' stores in Glastonbury.
132. On the 10 mile radius, the parties have a combined share of supply of [30-40] per cent (with an increment of [10-20] per cent) based on the competitors that the OFT initially considered as credible. If all independent wholesalers and Screwfix are included, this decreases to a combined share of [25-35] per cent with an increment of [10-20] per cent.
133. On the 80 per cent catchment area basis, the OFT estimates that the combined market share for the parties based on competitors it initially considered as credible is [40-50] per cent, with an increment of [10-20] per cent. If all independent wholesalers and Screwfix are included, the parties' have an estimated combined share of supply of [35-45] per cent with an increment of [5-15] per cent.
134. The merger will involve the two largest branches in Bridgwater, EEL Bridgwater and WE Bridgwater, both with annual turnovers of approximately £[ ] per year.
135. The OFT notes that both the EC Taunton and EEL Bridgwater branches list WE as competitors. The customer survey evidence indicated that, on a revenue weighted basis, diversion was highest from WE to EEL. However, on an unweighted basis, diversion from WE to EEL was not highest, and was comparable to diversion to other competitors. Further, the customer survey indicated that diversion from EEL to WE was not highest on any basis. The customer survey was relatively robust in this area, although the parties argued that the WE revenue weighted diversion ratios were substantially affected by the response of one large customer. The OFT has looked at the figures in the round rather than placing weight on any single figure.

### **Other credible competitors**

136. In Bridgwater, there are branches of CEF and Rexel, whilst Devondale has branches in Taunton and Glastonbury (around 12 miles from Bridgwater). Competitors' branches in the area are [REDACTED].
137. Notwithstanding this [REDACTED], the OFT considers that there is evidence that CEF, Rexel and Devondale are close competitors to the parties. Most third party respondents in this area considered that Devondale competed with the parties. The EEL and EC branches also name Devondale, Rexel and CEF (in two branch forecasts) as competitors.
138. This was supported by the customer survey evidence, which generally suggested Rexel and CEF are strong constraints on the merged entity with constraint also coming from Devondale. For WE customers, diversion was comparable for all of WE, Rexel and CEF on an unweighted basis, and slightly lower to Devondale. For EEL customers, the customer survey indicated high levels of diversion to Rexel in particular on both a weighted and unweighted basis.

### **Other competitors**

139. EEL submitted that there are six credible competitors in the Bridgwater and Taunton area: Rexel, CEF, Screwfix/Electricfix, Devondale and C&S Electrical. The OFT initially considered Rexel, CEF and Devondale as credible competitors.
140. Based on the customer survey and third party evidence in this case, the OFT considers that C&S Electrical is unlikely to be a sufficiently credible competitor post merger to provide a competitive constraint to the parties. A significant number of customers who replied to the OFT's market investigation had never heard of C&S and other third parties told the OFT that C&S only competed with EEL and WE on the fringes. Some third parties who replied to the OFT's market investigation, particularly those with spends over £100,000 per annum, did not think C&S would be able to compete consistently for larger orders due to having fewer delivery vehicles. These comments are supported by the customer survey, with only 3 out of 17 respondents in the area with spends over £100,000 per year indicating that they would even consider switching any spend to C&S. The customer survey indicated very low diversion from WE on both an unweighted and weighted basis, and low diversion from EEL on both bases. However, the OFT notes that C&S was named as a competitor for the EEL Exeter branch.

## **Other evidence**

141. The majority of customers in the area who responded to the OFT's market investigation were not concerned. These customers were of varying size. Two customers who responded were concerned about the loss of a competitor, and one of these was not convinced that Devondale would be competitively priced. However, previous cases have found that Devondale presents a strong constraint<sup>25</sup> and this was also supported by replies from third parties to the OFT's market investigation in this case.
142. The parties submitted that Electricbase will shortly be entering the Bridgwater area and that it is currently recruiting for staff. The parties submitted branch forecasts from other areas where they face Electricbase as a competitor and submitted that these demonstrated that Electricbase will also be a credible competitor when the branch opens. The OFT was unable to verify this entry with Electricbase, but has not needed to conclude on the timeliness, likelihood or sufficiency of entry in this area as it considers no competition concerns arise in Bridgwater/Taunton.

## **Conclusion**

143. The OFT considers that Rexel, CEF and Devondale will continue to exert a strong competitive constraint on the merged entity. As such, there will be sufficient rivalry and choice for customers of electrical products in this area. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in Bridgwater/Taunton.

## **COUNTERVAILING FACTORS**

### **Barriers to entry and expansion**

144. The OFT has considered whether its concerns in certain local areas could be addressed by the prospect of supply-side responses in the form of entry and/or expansion. When assessing possible supply-side responses, including entry, expansion and repositioning, the OFT will consider whether the response would be (i) timely, (ii) likely, and (iii) sufficient.<sup>26</sup>
145. EEL submitted that it is relatively easy for an electrical wholesaler to establish itself at a new location, or expand online. It pointed to the entry of YESSS into the electrical wholesaling market as evidence of actual recent entry and of the low barriers to entry in this market. EEL also alerted the OFT to the entry from

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<sup>25</sup> Rexel/Wilts, paragraph 44, EEL/EC, paragraph 106

<sup>26</sup> *Merger Assessment Guidelines*, paragraph 5.8.3.

the new electrical wholesaler Electricbase into the Plymouth and Bridgwater areas.<sup>27</sup> In addition, EEL provided a short case study detailing the setting up of an independent electrical wholesaler in Coventry.

146. The parties submitted that Electricbase will shortly be entering the Bridgwater and Plymouth areas and that it is currently recruiting for staff. The parties submitted branch forecasts from other areas where they face Electricbase as a competitor and submitted that these demonstrated that Electricbase will also be a credible competitor when the branches opens. As noted above, the OFT was unable to verify the entry. However, given no competition concerns arise it is not necessary to conclude on this.

147. The OFT has considered the presence of YESSS in those areas where it poses an existing or growing competitive constraint.

148. It has not been necessary for the OFT to conclude on barriers to entry and expansion in this case given that it has not found any competition concerns.

### **THIRD PARTY COMMENTS**

149. Third party comments have been reflected where relevant throughout the decision. Overall, a majority of third parties were not concerned, although the OFT did receive some customer complaints in relation to four of the five areas. In particular, customers were concerned that WE's excellent service levels would be lost as a result of the merger.

### **ASSESSMENT**

150. The merger qualifies for review because the share of supply test in section section 23(3) of the Act is met.

151. The parties overlap in the wholesale supply of electrical products. The OFT assessed the merger for the supply of electrical products by electrical wholesalers, using the 10 mile radius to identify affected local markets. This approach identified 5 local areas where the parties overlap: Plymouth, Redruth/Truro, Bodmin/St. Austell, Exeter and Bridgwater/Taunton.

152. The OFT used a variety of evidence to assess the effect of the merger. In particular, the OFT considered the credibility of the competitors which will remain post merger and the extent of the constraint they will exert on the merged entity. To assess this, the OFT considered local shares of supply,

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<sup>27</sup> The OFT understands that Electricbase is an electrical wholesaler that is part of the Grafton Group and operates inside their Buildbase stores. It currently has 12 stores in the UK.

customer survey evidence, internal documents, third party comments and any evidence of imminent entry in the local area.

153. In relation to Plymouth, Redruth/Truro, Bodmin/StAustell, Exeter and Bridgwater/Taunton, the OFT, based on the evidence available, considers that the parties will face a range of credible competitors which will constrain the merged parties post-merger. These include several national or regional competitors such as Rexel and CEF. The presence of these and other strong local competitors will provide sufficient rivalry and competition in the supply of electrical products to customers in these areas. Accordingly, the OFT does not consider that there is a realistic prospect of a substantial lessening of competition in the supply of electrical products by electrical wholesalers in any local area in the UK.

## **DECISION**

154. This merger will therefore **not be referred** to the Competition Commission under section 33(1) of the Act.

**Sheldon Mills**  
**Senior Director**  
**10 March 2014**