

ANTICIPATED ACQUISITION BY ONE51 PLASTICS HOLDINGS LIMITED OF STRAIGHT PLC

ME/6443/14

The CMA's decision on reference under section 33 (1) given on 28 July 2014. Full text of the decision published on 18 August 2014.

Please note that the square brackets indicate figures which have been deleted or replaced in ranges for reasons of commercial confidentiality.

Summary

1. The parties¹ notified the anticipated acquisition by One51 Plastics Holdings Limited of Straight Plc (the merger) to the Competition and Markets Authority (CMA) on 2 June 2014. Accordingly, the CMA undertook an investigation under the Enterprise Act 2002 (the Act) with a statutory deadline of 28 July 2014.
2. The CMA considers that the parties will cease to be distinct and that the share of supply test is met on the basis of the supply of caddies in the UK. A relevant merger situation has therefore been created under the Act. The CMA assessed the merger against the prevailing conditions of competition.
3. The parties overlap in the supply of 4-wheeled bins, 2-wheeled bins, caddies, and kerbside boxes (overlap products) to UK customers.
4. The CMA considers that the appropriate geographic scope is the UK.
5. The CMA does not consider that the merger will result in a realistic prospect of a substantial lessening of competition (SLC) in the supply of:
 - a) **4-wheeled bins**, as the parties are relatively small and there are a number of larger viable competitors.
 - b) **2-wheeled bins**, as the available evidence suggests that the parties do not compete closely and, therefore, the target does not impose a significant competitive constraint on the acquirer; there are a number of other major

¹ Defined in paragraph 12 as One51 (the acquirer) and Straight (the target).

competing suppliers and there is limited scope for quality and service degradation arising from the merger.

- c) **Caddies or kerbside boxes**, as the merger would only lead to a very small increment; the available evidence suggests that the parties are not each other's closest competitors and there are other viable competitors who will continue to constrain the parties.
6. The CMA received a broad range of views from suppliers and customers, with a minority of third parties expressing concerns around the possibility for the merger to give rise to quality and service reduction and an insufficient number of suppliers remaining in the market. However, most third parties were positive about the merger or did not express a view that the impact would be negative. Some third parties suggested that the impact would be minimal, and that purchasing frameworks had mechanisms to improve the competitive conditions if required.

Decision

7. This merger will therefore **not be referred** under section 33 (1) of the Act.

Parties

8. One51 Plc, a company incorporated in the Republic of Ireland, is the parent company of One51 Plastics Holdings Limited, the acquiring entity, and One51 ES Plastics (UK) Limited (MGB Plastics), the main trading company (collectively referred to as One51). One51 has interests in hazardous waste, metals and materials recycling and renewable energy. Its wholly owned subsidiary, MGB Plastics, manufactures and supplies waste and recycling containers.
9. Straight Plc (Straight), a company incorporated in England and Wales in 1994, is listed on the Alternative Investment Market, London Stock Exchange. Straight provides waste and recycling solutions, including the manufacturer and supply of waste and recycling containers. Straight also manufactures and/or supplies a wide range of other products, including plastic waste bags and water butts. Its UK turnover for the year ending 31 December 2013 was [✂].

Transaction

10. One51 has made an offer to purchase the entire issued share capital of Straight by a Scheme of Arrangement. The offer is therefore subject to the Takeover Code and is conditional on clearance by the CMA.
11. The merger was notified to the CMA on 2 June 2014. The statutory deadline is 28 July 2014.

Jurisdiction

12. As a result of the merger One51 and Straight (together, the parties) will cease to be distinct.
13. The CMA estimates that the parties have a combined share of supply of [70 to 80%] in the supply of caddies in the UK with an increment of [0 to 10%].² The share of supply test in section 23 of the Act is therefore met.
14. The CMA therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

Counterfactual

15. The application of the SLC test involves the comparison of prospects for competition with the merger against the competitive situation without the merger, the counterfactual.³ The CMA in this case adopts the prevailing conditions of competition as the appropriate counterfactual given the absence of any evidence for an alternative counterfactual.⁴

Frame of reference

16. The parties overlap in the supply of plastic waste and refuse containers of different sizes to local authorities and private waste companies, sold either

² The parties submitted estimates to the CMA for each of the overlap products. The parties estimated their combined market share for caddies at [%] (increment: [%]); kerbside boxes at [%] (increment: [%]); 2-wheeled bins at [%] (increment: [%]) and 4-wheeled bins at [%] (increment: [%]).

³ The CMA's approach to the counterfactual is outlined in the [Merger Assessment Guidelines](#), at paragraph 4.3.5.

⁴ The parties submitted that the competitive situation for caddies and kerbside boxes has recently changed because in November 2013 and February 2014 the number of qualified suppliers for these products increased on two purchasing frameworks (Scotland Excel and ESPO). The CMA takes account of any recent changes in the marketplace in considering the weight that can be placed on historical data as part of the competitive assessment.

directly or via tender processes. Specifically, the parties overlap in the supply of:

- **4-wheeled bins:** ranging in different sizes from 660 to 1100 litres, they are generally used for the collection of domestic household waste where waste collection facilities are shared under communal living arrangements (eg flats) or for collection of commercial waste. They can be made from plastic or steel;⁵
- **2-wheeled bins:** ranging in different sizes from 120 to 360 litres, they are generally used for the collection of domestic waste from individual households.⁶ These are not made of alternative materials (eg steel). In the waste collection process 2-wheeled bins are manoeuvred by machines, such as lifting systems on refuse collection vehicles, making interoperability important and for this reason 2-wheeled bins are subject to EU minimum standards and specifications;⁷
- **Caddies:** ranging in different sizes from 5 to 23 litres, they are containers – indoor and outdoor - generally used for the collection of wet waste (eg food waste). Caddies are not standardised – ranging in size, shape and features – and are sometimes supplied in a set with an indoor – kitchen caddy – and a larger outdoor caddy. There are also inner bin caddies – ranging in size from 40 to 55 litres⁸ - purchased by customers to sit into the open top of a 2-wheeled bins to provide a separate compartment for storage of certain waste;
- **Kerbside boxes:** are used for the collection and separation of particular types of dry waste - usually plastic, paper, aluminium and glass – and are available in different sizes ranging from 40 to 55 litres. The parties overlap in the supply of 55 litre kerbside boxes only.

Product scope

The different categories of the overlap products

17. The parties submitted that the narrowest candidate product market to be separate markets for the different categories of the overlap products.

⁵ The parties have submitted that they only overlap in the supply of plastic 4-wheeled bins.

⁶ Other receptacles with two wheels are not included in this category (eg 2-wheeled caddies).

⁷ For example, EN840 European Standard.

⁸ Straight also supply inner bin caddies ranging in size from 12 to 19 litres.

18. Customers informed the CMA that the size and type of overlap product required is largely determined by the type and weight of material it collects, the volume of waste expected to be accrued, and the size, type and composition of the domestic properties in the local authority area (eg house, flats). These factors generally dictate which overlap product the customer will procure, whether directly or by tender, before it considers price, quality and service and other offerings of the different suppliers.
19. Customers did not indicate a willingness to switch to another type of product (eg from 4-wheeled bin to 2-wheeled bin or vice versa) following an increase in the price of any of the overlap products by 5%.⁹ The CMA therefore considers that, in the absence of demand-side substitution, it is not appropriate to widen the product market to include any of the different categories of the overlap products.
20. Further, the CMA does not consider that there is sufficient evidence to conclude that, on the basis of the existence of supply-side substitution, the product market is wide enough to include, for example, different categories of the overlap products as there is not a sufficient degree of supply-side substitution in the manufacture of the different categories of the overlap products. For example, a different sized machine is generally required to manufacture a 2-wheeled and 4-wheeled bin or a 2-wheeled bin and a caddy or kerbside box.

The different sizes of the overlap products

21. The parties submitted to the CMA that they do not consider the different sizes within each of the overlap products above to constitute narrower candidate markets. In particular, the parties submitted that the different sizes of the overlap products were:
 - a) substitutable on the demand-side as customers can and will use different sizes - as they serve the same purpose and can sometimes be ordered as a set of sizes - of the overlap product;
 - b) substitutable on the supply-side as - apart from the tooling (which can be changed easily and quickly) - the same equipment used to manufacture one size can generally be used to manufacture a different size of the overlap product.

⁹ For example, where the customer currently sourced a 2-wheeled bin, switching to a 4-wheeled bin would not be practicable as the alternative was not fit for purpose and did not meet the customer's individual needs for practical reasons (eg limited space).

22. Customers, both local authorities and private waste companies, informed the CMA that they usually purchased the overlap products in a particular size for a specific purpose. In particular, customers stated that there was limited or no willingness to switch to bigger or smaller sized versions across the overlap products above following a 5% increase in the price of any product size,¹⁰ for example, as any cost saving would often not be significant enough to offset other additional costs (eg transport costs associated with increased handling of the overlap product because of increased size or volume).
23. The CMA considers that there is minimal evidence from customers to suggest that demand-side substitution is sufficient to warrant widening the product market to include different sizes of any of the overlap products. The CMA has therefore considered the scope for a widening of the product frame of reference as a result of supply-side substitution.¹¹
24. In this case, the CMA considers that the evidence available points to a significant degree of supply-side substitution between different sizes of each of the overlap products.¹² Competing suppliers have stated that they can generally use the same machine to produce a range of different sizes of each of the overlap products, and the ability to switch the tooling required quickly means that they have the ability to shift capacity between these different sizes depending on demand for each.
25. Further, the CMA understands from information submitted by third parties that other suppliers, where they supply an overlap product, generally offer similar ranges of sizes; the same firms compete to supply these different sizes to local authorities and private waste companies and the conditions of competition between the firms are broadly the same for each size.
26. The CMA considers that manufacturers can use their production assets to supply a range of different sized overlap products - that may not be demand-side substitutes - and the parties and their competitors will continue to have the ability and incentive quickly to shift capacity between these different sizes depending on demand for each.

¹⁰ The CMA's approach to applying the hypothetical monopolist test through use of a small but significant not-transitory increase in price (SSNIP) is outlined in its [Merger Assessment Guidelines](#), at paragraph 5.2.10 *et seq.*

¹¹ The CMA may aggregate several narrow markets into one broader one on the basis of supply-side substitution when production assets can be used by firms to supply a range of different products that are not demand-side substitutes, and the firms have the ability and incentive quickly to shift supply between these different products; and the same firms compete to supply these different products. For an outline of the CMA's approach to supply-side substitution see [Merger Assessment Guidelines](#), at paragraph 5.2.17.

¹² The CMA notes that the parties and other suppliers already generally supply a range of sizes for the overlap products and the requirements for the machines is generally the same for all competitors.

27. Therefore, for the purpose of this analysis, the CMA does not consider it necessary to discuss segmenting by size any further.

Other related products

28. Some customers may use reusable or disposable recycling bags (recycling bags) instead of certain overlap products. These recycling bags are not generally manufactured in the UK and are instead imported from countries such as India and China and distributed by re-sellers in the UK.
29. Local authorities will decide whether to use recycling bags subject to their individual waste collection needs, budgets and other factors. Third parties submitted that recycling bags were cheaper, lighter and less space intensive than kerbside boxes.
30. The CMA understands that recycling bags do not always compete directly with the overlap products on the purchasing frameworks as they are sometimes listed on different lots with a different list of approved suppliers or are not provided for at all. One purchasing framework explained that the lot for kerbside boxes also contains recycling bags, however they were 'non-core products' in the lot.
31. The CMA considers that, on a cautious basis, recycling bags should not form a part of the product frame in this case and rather the CMA has assessed the merger on the narrowest plausible basis.

Conclusion

32. The CMA has not found it necessary to conclude on the product markets in this case since no competition concerns arise (see below) on any plausible definition. It has assessed the merger on the basis of the following relevant frames of reference (separately): 4-wheeled bins; 2-wheeled bins; caddies; and kerbside boxes.

Geographic scope

33. The parties submitted that an EU-wide market is the appropriate geographic scope for the CMA to consider. In particular, the parties submitted:

- a) EU suppliers import a large volume of each of the overlap products into the UK;¹³
 - b) EU suppliers are approved on the purchasing frameworks for the overlap products in the UK;
 - c) Local authorities may tender for each of the overlap products (outside the purchasing frameworks) EU-wide via OJEU notices where the tender meets a certain value threshold;
 - d) Private waste company tenders can be open to competition from EU-wide suppliers;
 - e) 4-wheeled and 2-wheeled bins are standardised to EU-wide specifications to ensure interoperability with lifting equipment on waste collection facilities.
34. The CMA has confirmed from its market testing that there are EU based manufacturers who import the overlap products to the UK, which are sold via the different purchasing frameworks and other sales channels.¹⁴
35. However, the CMA's market testing also highlighted that suppliers of each of the overlap products that have sales in the UK do so either as a (i) UK-based manufacturer; (ii) through a UK-based distributor arm for overlap products manufactured in Europe; or (iii) are UK-based re-sellers of overlap products that are manufactured in Europe. These suppliers are generally listed on one or more of the purchasing frameworks which account for the vast majority of sales to local authorities and are the same suppliers that can be used by private waste companies to procure the overlap products.
36. Customers' buyer behaviour suggests as long as a supplier has a presence – in the manner described above – in the UK they are considered feasible suppliers. Indeed the parties themselves act only as resellers for some of the overlap products (as discussed below).
37. The CMA therefore considers the relevant geographic market to be suppliers with a UK presence (through any of the means outlined above) to enable them to compete.¹⁵ In any event, all of the main suppliers – whether the underlying

¹³ The parties estimate that in the UK [redacted] of 4-wheeled containers (see endnote 1), [redacted] of 2-wheeled bins, [redacted] of caddies, and [redacted] of kerbside boxes are imported. There are also exports from the UK (between [redacted] and [redacted] of 2-wheeled bins, caddies, and kerbside boxes).

¹⁴ Parties estimates of shares of imports: [redacted] of 2-wheeled bins, [redacted] of caddies, and [redacted] of kerbside boxes.

¹⁵ Specifically, a hypothetical monopolist of UK manufacturing, for example, is sufficiently constrained by European-based manufacturers (as long as they have a UK distributor or reseller) to include the latter in the relevant market.

product is manufactured in the UK or European-based – are readily identifiable in this case and so such an assessment (on the competitive strength of each in the UK) is undertaken where relevant as part of the competitive assessment.¹⁶ The CMA has not found it necessary to conclude on the geographic market in this case since no competition concerns arise (see below) on any plausible definition. It has assessed the merger in relation to the supply of:

- 4-wheeled bins to UK customers
- 2-wheeled bins to UK customers
- Caddies to UK customers
- Kerbside boxes to UK customers.

Competitive assessment

Unilateral effects

38. Horizontal unilateral effects can arise where a firm merges with a competitor that previously provided a competitive constraint, and are more likely where the merger firms' products compete closely.¹⁷ Horizontal effects are analysed for each of the overlap products in this section.

4-wheeled bins

39. The parties do not manufacture 4-wheeled bins,¹⁸ acting merely as re-sellers,¹⁹ (see endnote 2) and their combined market share is less than [10%] with an increment, attributable to One51 of less than [1%]. A number of large manufacturers and other resellers remain as competitors post-merger, including ESE World (with an estimated market share of between [20%] and [40%]), Contenur (between [15%] and [35%]) and Plastic Omnium (between [0%] and [25%]).²⁰ Each of these suppliers will remain at least four times larger, based on sales, than the parties post-merger. Further, another supplier, Craemer UK, with sales greater than that of the parties' combined sales will also remain.

¹⁶ In light of this, no assessment has been required over the ease with which any European-based manufacturer could obtain a distributor or reseller in the UK, such that all European manufacturers may be included in the relevant geographic market.

¹⁷ [Merger Assessment Guidelines](#), at paragraphs 5.4.2 and 5.4.6.

¹⁸ 4-wheeled bins can be manufactured from plastic or steel. Straight re-sells both, however MGB Plastic only re-sells plastic 4-wheeled bins (see endnote 2). The CMA is of the view that considering both steel and plastic or plastic alone makes no difference to its competitive assessment.

¹⁹ The manufacturers of these containers are Contenur and IcoPlastics.

²⁰ Market share estimates are based on actual sales volumes for 2013 provided by the parties and a number of competing suppliers. There is a wide discrepancy for [X] and [X] between the suppliers' actual sales and the merging parties' estimates thereof.

40. Further, although not determinative, since based merely on the set of suppliers commonly invited to tender, on each of the purchasing frameworks discussed below, the reduction in the number of approved suppliers for 4-wheeled bins is no worse than six to five following the merger. Third parties did not raise any specific concerns regarding the effects of the merger on the supply of 4-wheeled bins with many noting there would be no impact.
41. In light of the parties' relatively small market share and minimal increment, the existence of numerous larger viable competitors, and the absence of any customer concerns, the CMA does not consider that the merger raises a realistic prospect of a SLC in the supply of 4-wheeled bins.

2-wheeled bins

Market shares

42. Based on the available information,²¹ submitted by the parties and their competitors, the CMA estimates that the UK market size for 2-wheeled bins was approximately 3.5 to 4 million units in 2013. The CMA estimates market share as follows:

Table 1: CMA market share estimates for 2-wheeled bins (by volume in 2013)

	Share (%)
MGB Plastics	[25 to 35%]
Straight	[0 to 10%]
Combined	[30 to 40%]
SSI Schäfer	[25 to 35%]
Craemer	[20 to 30%]
A & C Weber	[0 to 10%]
ESE World	[0 to 10%]
Plastic Omnium	[0 to 10%]
Contenur	[0 to 10%]
Alpha Waste Solutions	[0 to 10%]

NB: The figures in this table may not add to 100 due to rounding.

43. The CMA also considered information submitted in relation to shares of sales on the different purchasing frameworks,²² the results of which may vary

²¹ Actual sales, estimates of market size and competitors estimates of their own shares.

²² Purchasing frameworks on which the parties are approved suppliers of the overlap products are ESPO, Scotland Excel, Warrington, and YPO. These purchasing frameworks are public sector buying organisations -

depending on the period analysed and the size of contracts tendered during that period. The results of the CMA's analysis tended to confirm MGB Plastic as one of the major suppliers of 2-wheeled bins in the UK, alongside [REDACTED] and [REDACTED]. However, Straight's proportion of sales was often significantly lower than its market share estimated above, with anywhere from one to three competitors with more share of sales on the purchasing framework. The CMA considers that the market shares point to MGB Plastics as one of three leading suppliers but, alongside the increment, the presence of other large and smaller suppliers, do not on their own give rise to *prima facie* competition concerns. Nevertheless, the CMA also recognises that market shares in this case may not fully reflect the competition that is taking place in the supply of 2-wheeled bins and so goes on to consider additional evidence.

Evidence from tenders

44. The CMA received bidding and tender data relating to business awarded through the YPO framework.²³ No comparable data was available from other purchasing frameworks.
45. The analysis of the bidding and tender data from YPO indicated that MGB Plastics is competing more closely with other suppliers [REDACTED] than Straight, indicating that Straight was providing no more of a competitive constraint than its market share suggests. Further, the data indicated that Straight did not bid for two particularly high volume tenders and that MGB Plastics and [REDACTED] are more frequently first and second supplier than are MGB Plastics and Straight which were ranked as first and second suppliers in only 3 tenders where one of the parties was successful.
46. While there were no other sources of aggregated data from the other purchasing frameworks, the CMA notes that the number and identity of suppliers is very similar to the YPO framework. However, while Schäfer, a significant competitor in terms of market share, is an approved supplier on the other key purchasing frameworks,²⁴ it is not approved on the YPO framework.

operating on a not-for-profit basis – that provide framework buying contracts for local authorities to achieve more efficient buying processes and better buying terms for particular goods and services, including the overlap products. These purchasing frameworks are intended to generate combined buying power for local authorities, with the third party managing the framework, screening potential suppliers and agreeing spot prices prior to their being listed in the framework catalogues.

²³ The CMA notes that the sales through the YPO framework may account [REDACTED] of total sales of 2-wheeled bins in the UK.

²⁴ ESPO, Scotland Excel and Warrington Borough Council.

Views of third parties

47. A majority of customers did not express concerns about the merger in relation to the supply of 2-wheeled bins. One competitor [X] noted that merger efficiencies could lead to lower prices for 2-wheeled bins that could make investments by other manufacturers in the UK unprofitable.
48. Approximately half of the customers contacted by the CMA indicated that the parties compete for the supply of 2-wheeled bins,²⁵ however very few expressed an opinion that they compete closely. However, these third parties did not raise specific concerns related to the supply of 2-wheeled bins.
49. CMA was informed by two other suppliers, [X], that they have spare capacity of around [X] each.
50. Some competitors suggested that quality or service may be reduced following the merger. The CMA understands, however, that there is limited scope for quality or service degradation as a result of the merger. Firstly, as concerns pertaining quality, there is a minimum standard that applies to 2-wheeled bins, which as purchasing frameworks informed the CMA, is one of the requirements to become an approved supplier.²⁶ Further, there are other strict and regular quality certifications already available which could be taken into account in the relevant scores on the purchasing frameworks.²⁷ Secondly, as concerns pertaining service, feedback from the purchasing frameworks suggests that they are able to define the approval and tender process in a way that assures a consistent level of service (and quality) throughout the framework agreement period. That is, purchasing frameworks could require stricter or more regular quality and service checks and update the relevant scores based on customer feedback, should they deem necessary.

Conclusion

51. Based on the available information, the CMA considers that the parties do not significantly constrain each other, for example in bidding for tenders, before the merger and therefore the merger will not lead to significant changes in the outcome of future tenders.
52. In light of the limited competitive constraint between the parties, the number of other strong suppliers that will remain post-merger, and the limited scope for

²⁵ Customers generally noted that the parties both supplied 2-wheeled bins and were approved suppliers on the purchasing frameworks.

²⁶ EN840 European Standard.

²⁷ For instance, [X] 2-wheeled bins supplied in the UK already have these certification.

quality and service degradation during the framework period, the CMA considers that there is no realistic prospect that the merger will result in an SLC in the supply of 2-wheeled bins.

Caddies

Market shares

53. Based on the available information,²⁸ submitted by the parties and their competitors, the CMA estimates that the UK market size for caddies was approximately 5 to 5.5 million units in 2013. The CMA estimates market shares as follows:

Table 2: CMA market share estimates for caddies (by volume in 2013)

	Share (%)
MGB Plastics	[0 to 10%]
Straight	[70 to 80%]
Combined	[70 to 80%]
Coral Products	[0 to 10%]
My WasteCo	[0 to 10%]
Mattiussi	[0 to 10%]
Plastic Omnium	[0 to 10%]
Peter Ridley Waste	[0 to 10%]
Alpha Waste Solutions	[0 to 10%]

NB: The figures in this table may not add to 100 due to rounding.

54. The CMA's analysis confirms that Straight has a significant market share, but the merger results in a small increment to the parties.
55. The CMA also considered information submitted in relation to shares of sales on the different purchasing frameworks, the results of which may vary depending on the period analysed and the size of contracts tendered. The results of the CMA's analysis tended to confirm that Straight has a high market share, whilst MGB Plastic had a very small market share, and that other suppliers account for more sales than MGB Plastic on those particular purchasing frameworks.²⁹

²⁸ Actual sales, estimates of market size and competitors estimates of their own shares.

²⁹ With the exception of transactions through the Scotland Excel framework, however Straight's sales under this purchasing framework amount only to around [X].

56. Overall, the different market share estimates indicated that Straight is the major supplier of caddies, however there are other competitors with considerably larger market share [redacted] or with a similar size [redacted] to MGB Plastics. Notwithstanding the small increment, given the high market share of Straight and therefore the parties' combined share post-merger, the CMA has considered further the evidence on the extent of competition between the parties.

Views of the parties

57. The parties stated that Straight was the first to develop, pioneer and promote caddies in the UK and, therefore, its design was generally accepted as the industry standard in the UK. This allowed Straight a considerable first mover advantage in relation to these products. [redacted]
58. The CMA understands from the parties' submissions that caddies are at an early stage of the product lifecycle because many local authorities have not yet started to collect food waste. Therefore, there is only a modest number of large tenders (which fall more often within the OJEU threshold) each year so that a relatively small number of won contracts suffices to hold a significant market share. In addition, the parties submitted that competition has increased since the approval³⁰ of additional suppliers on the purchasing frameworks and that prices for caddies have declined in recent years despite higher raw material costs. The CMA notes that the effects of additional suppliers on the market are not yet observable.

Views of third parties

59. A majority of customers did not express concerns about the merger in relation to the supply of caddies. Those concerns expressed related to a reduction in the number of suppliers,³¹ and where the CMA did receive specific concerns about caddies, these generally related to poorer service.³²
60. Several competitors³³ expressed concerns that Straight's prices are very low and that quality has decreased accordingly, which [redacted]. However, the CMA does not consider these views as related to the merger and considers, based on customer feedback it received, that they are aware of quality differences and the weighting they attach to price and quality when awarding contracts. In

³⁰ That is, suppliers have to meet minimum quality and service specifications, be financially viable and file documents and certifications for the products in the lot they want to bid for, then these will be marked against a set of criteria before suppliers can be approved to the purchasing framework and therefore bid for tenders.

³¹ For example, [redacted].

³² For example, [redacted].

³³ For example, [redacted].

addition, third parties did not point to MGB Plastics providing a stronger constraint than its market share suggests.

61. The CMA was informed by three competitors³⁴ that they have spare capacities to supply caddies to [REDACTED]. None of these competitors noted any regional or geographic restrictions to supplying caddies in the UK. One supplier noted that they deliver across the UK and the use of third-party haulage contractors appears to be common.
62. Approximately a third of the customers contacted by the CMA indicated that the parties compete for the supply of caddies, generally on the basis that they are both approved suppliers on a number of purchasing frameworks.

Evidence from tenders

63. The CMA received bidding and tender data from the parties in relation to the YPO purchasing framework. No further transaction data was available from the purchasing frameworks.
64. This data indicated that MGB Plastics did not compete strongly with Straight. For example, the only tender for caddies during the period for which YPO could provide data was won by Straight with a slightly higher score than [REDACTED].³⁵ On the YPO purchasing framework, all competitors [REDACTED]. The score for service and delivery pointed to two other suppliers – [REDACTED] – being closer to Straight than MGB Plastic and may therefore be more likely to win contracts than MGB Plastic (all other things being equal). The ranking is as follows (in descending order): Straight, [REDACTED] MGB Plastic, [REDACTED].³⁶

Conclusion

65. The CMA considers that there is no realistic prospect that the merger will result in an SLC in the supply of caddies as (i) the merger would lead to a very small increment in market share; (ii) the available evidence does not suggest that MGB Plastic represents a closer competitor to Straight than its market share indicates, pointing to limited competition between the parties and (iii) there are other strong competitors, which have significant spare capacity, are larger than MGB Plastics and will continue to constrain the parties once the merger is complete.

³⁴ For example, [REDACTED].

³⁵ MGB Plastics did not bid for the tender.

³⁶ Straight and [REDACTED] are scored with a difference of around [REDACTED]. The difference between Straight's score and that of MGB Plastic is [REDACTED].

Kerbside boxes

Market shares

66. Based on the available information,³⁷ submitted by the parties and their competitors, the CMA estimates that the UK market size for kerbside boxes was approximately 1.5 to 2 million units in 2013. The CMA estimates market share as follows:

Table 3: CMA market share estimates for kerbside boxes (by volume in 2013)

	Share (%)
MGB Plastics	[0 to 10%]
Straight	[70 to 80%]
Combined	[70 to 80%]
Coral Products	[20 to 30%]
Weir & Carmichael	[0 to 10%]
Alpha Waste Solutions	[0 to 10%]

NB: The figures in this table may not add to 100 due to rounding.

67. The CMA's analysis confirms that Straight has a significant market share, but the merger results in a small increment to the parties.
68. The CMA also considered information submitted in relation to shares of sales on the different purchasing frameworks, the results of which may vary depending on the period analysed and the size of contracts tendered. The results of the CMA analysis indicated that Straight is the major supplier of kerbside boxes, with MGB Plastic's presence in the market quite small, and that there is at least one other large supplier active in the market and a number of other approved suppliers on the various purchasing frameworks. The parties submitted bidding and tender information for Straight which suggests that another competitor [X] was competing much more strongly with Straight than MGB Plastic.

Views of the parties

69. Similar to caddies, the parties submitted that Straight was the first to develop, pioneer and promote kerbside boxes in the UK. This has led to Straight's design of kerbside boxes being generally accepted as the industry standard and therefore allowing Straight a considerable first mover advantage in relation to these products.

³⁷ Actual sales, estimates of market size and competitors estimates of their own shares.

70. The parties submitted that MGB Plastic has [REDACTED] and that therefore MGB Plastics is a weak competitor as evidenced by its low market shares in comparison to Straight.

Views of third parties

71. A majority of customers did not express concerns about the merger in relation to the supply of kerbside boxes. The CMA received two concerns specific to the supply of kerbside boxes: in particular observing that the market was already narrow with a limited number of suppliers on a national basis.
72. The CMA was informed that customers have access to at least three other viable suppliers of kerbside boxes in the UK – one manufacturer³⁸ and two resellers³⁹ - none of which indicated any regional or geographical restrictions to supplying kerbside boxes in the UK. Further, [REDACTED]^{40 41}. The CMA understands that customers have access to these suppliers via the various different purchasing frameworks or directly by way of spot purchasing and other tenders.
73. Several competitors expressed concerns that Straight's prices are very low and that quality has decreased accordingly, which [REDACTED].
74. Approximately a third of the customers contacted by the CMA indicated that the parties compete for the supply of kerbside boxes, generally on the basis that they are both approved suppliers on a number of purchasing frameworks.
75. The CMA also received tender scores from the YPO and Scotland Excel purchasing frameworks, which indicated that MGB Plastics is not the closest competitor with Straight in terms of quality and service on the YPO framework, and [REDACTED].

Conclusion

76. The CMA considers that there is no realistic prospect that the merger will result in an SLC in the supply of kerbside boxes as (i) the merger would lead to a very small increment in market share; (ii) the available evidence does not suggest that MGB Plastic exerted a competitive constraint greater than its minimal market share suggests; and (iii) there are at least three other viable

³⁸ Coral.

³⁹ Alpha Waste Solutions and Weir and Carmichael.

⁴⁰ [REDACTED]

⁴¹ [REDACTED]

competitors,⁴² which [✂], with at least one being larger than MGB Plastics (and at least another who has the potential to be larger), that will continue to constrain the parties once the merger is complete.

Conglomerate effects

77. Conglomerate effects may arise where the merger creates or strengthens the ability of the merged firm to use its market power in at least one of the markets, thus reducing rivalry through making sales of one product contingent on the sale of another product when there is a significant degree of commonality of buyers served.⁴³
78. The CMA notes that the merger will result in the parties having a complementary range of plastic waste and recycling products – ie the overlap products and other products – and diversify its range of product offering. Specifically, MGB Plastic – a large supplier of 2-wheeled bins – will be acquiring Straight, which has a significant market presence in the supply of caddies and kerbside boxes. Accordingly, the CMA has considered the possibility of conglomerate effects arising from the merger.
79. However, third parties did not raise concerns relating to conglomerate effects, and the CMA notes information received from the purchasing frameworks that if customers require products listed under different lots, these are commonly kept open to allow all approved suppliers to bid separately for each product. Further, customers informed the CMA that they generally purchased the different categories of overlap products separately; and there appeared to be limited scope for the parties to insist on bundling products.
80. For the reasons outlined above, the CMA does not consider that conglomerate effects are likely to arise from the merger.

Barriers to entry and expansion

81. The CMA does not consider it necessary to conclude on entry and expansion as it does not believe there is a realistic prospect that the merger will result in an SLC in the supply of any of the overlap products.

⁴² Coral, Alpha Waste Solution and Weir and Carmichael.

⁴³ [Merger Assessment Guidelines](#), at paragraph 5.6.12.

Buyer power

82. In some circumstances, an individual customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices. The CMA refers to this as countervailing buyer power.⁴⁴
83. Customers and competitors noted that the purchasing frameworks were successful in enabling local authorities to procure the overlap products at lower prices than they otherwise would be able to.
84. The CMA considers that these purchasing frameworks may play an important role in allowing local authorities to derive benefits from economies of scale, maintaining levels of quality and service, and preventing adverse effects from bundling products. However it is not necessary to conclude on the extent of their buyer power (along with other factors) as the CMA does not believe there is a realistic prospect that the merger will result in an SLC in the supply of the overlap products.

Third party views

85. The CMA received a broad range of views from third parties on the merger.
86. A small minority expressed concerns about the merger, in particular in relation to caddies and kerbside boxes. The concerns expressed centred on the small number of suppliers and the potential for competition to be limited further, which may lead to, for example, increased prices, reduced choice, poorer quality products and service.
87. However, some respondents were positive by citing possible efficiencies arising from the merger and several customers observed that the number of suppliers remaining was adequate. Further, a significant majority of third parties, including customers, did not express concerns or were of the view that the impact of the merger would be minimal generally.
88. The key purchasing frameworks - which play an important role in the market by setting up buying contracts for local authorities to achieve more efficient buying processes and better buying terms – did not express any concerns in relation to the merger and its impact on competition. Their views varied from being positive (ie good state of competition previously with possible improvement to competitive conditions with the recent addition of new suppliers to the

⁴⁴ [Merger Assessment Guidelines](#), at paragraph 5.9.1.

purchasing framework), to agnostic (there will be minimal impact on the market arising from the merger) to expressing no views at all.

89. Importantly, some of the key purchasing frameworks stated that they have mechanisms in place, to improve competition conditions, in order to address any concerns that may arise in the future, for example by opening up the purchasing frameworks to additional suppliers if necessary; potentially removing approved suppliers who do not participate; and/or actively engaging with approved suppliers to ensure they participate in tenders on the purchasing framework. The CMA observes that it may be open to the purchasing frameworks to adjust or increase benchmarks, potentially on an ad hoc basis, for quality, service and other factors when approving suppliers in the future and in order to address the concerns expressed by local authorities.
90. The CMA considers the views of the purchasing frameworks as important as a significant proportion of sales of the overlap products are made via these sales channels; the purchasing frameworks have considerable market and product knowledge and recent developments have meant that additional approved suppliers have been added to some of the key purchasing frameworks.

Decision

91. For the reasons set out above, the CMA does not believe that it is or may be the case that the merger has resulted or may be expected to result in a SLC within a market or markets in the United Kingdom. This merger will therefore **not** be referred under section 33 (1) of the Act.

Nelson Jung
Director of Mergers
Competition and Markets Authority
28 July 2014

Endnotes

1. The parties have clarified that this figure relates to plastic 4-wheeled bins only.
2. Straight has clarified that it manufactures steel 4-wheeled bins, however it does not re-sell them. Straight does not manufacture plastic 4-wheeled bins, but acts as a re-seller. MGB Plastic re-sells plastic 4-wheeled bins only.