

Completed acquisition by Coopervision Holdings Limited of Sauflon Pharmaceuticals Limited

ME/6482-14

Please note that [X] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. Coopervision (UK) Holdings Limited, is a wholly owned subsidiary of The Cooper Companies, Inc. (**Cooper**). Cooper's CooperVision division is a global manufacturer of contact lenses and supplies a wide range of contact lenses. It also supplies contact lens solution which is manufactured for it by another company.
2. Sauflon Pharmaceuticals Limited (**Sauflon**) is a global manufacturer of contact lenses and contact lens solutions. Sauflon has a particular strength in the United Kingdom (**UK**). It supplies a wide range of contact lenses and is a strong supplier of contact lens solutions.
3. Cooper acquired Sauflon for approximately \$1.2 billion on 6 August 2014 (the **Merger**).
4. The Parties overlap in the manufacture and distribution to retailers of soft contact lenses and contact lens solution.
5. Contact lenses can be segmented according to different types (ie spherical, toric and multi-focal), modalities (ie daily disposable (**DD**)), soft frequent replacement products – eg two weekly or monthly (**FRP**), soft traditional and rigid lenses) and materials (ie within each of DD and FRP, hydrogel and silicone-hydrogel).
6. The CMA assessed the Merger with separate product frames of reference for each type and modality of contact lens. Additionally, the CMA differentiated between branded and private label products, but took account of the constraints between private label products and branded products in its competitive assessment. The CMA did not segment each frame of reference by material.

7. In relation to the product frame of reference for contact lens solutions, the CMA considered that the appropriate frame of reference was the supply of multipurpose solution.
8. The CMA assessed the Merger, on a cautious basis, with the geographic frame of reference being the UK. However, the CMA took into account competitive constraints from suppliers outside of the UK, particularly for private label products, in the competitive assessment.
9. The Parties' operations overlap most significantly in relation to the following frames of reference:
 - (a) The supply of private label contact lenses for all types of DD and FRP contact lenses in the UK.
 - (b) The supply of DD multi-focals for branded and private label products in the UK.
10. In relation to the supply of private label contact lenses for all types of DD and FRP lenses, the CMA found that Alcon, a competitor of the Parties, is a leading supplier and that there are one or more other suppliers operating across private label segments in the UK (other than DD multi-focal, which is discussed further below). In addition, private label products are purchased by larger retailers, and there are some examples of these retailers purchasing from suppliers outside of the UK. The CMA found that the increments in the Parties' shares of supply are relatively small with their portfolios being complementary to a certain extent (particularly in terms of the materials used). Private label customers did not express any concerns about the Merger and some considered that the Merger would be pro-competitive. Based on the evidence available to it, 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 private label contact lenses in the UK.
11. In relation to the supply of DD multi-focals, the CMA considered that the Merger results in a reduction of suppliers from three to two with the Parties having a high share of supply, although there is a degree of differentiation between the Parties' products. Since Alcon is the only independent supplier that remains post-merger, the CMA considered that the Merger may, prima facie, give rise to the realistic prospect of an SLC in the supply of DD multi-focals for both branded and private label products. The CMA therefore considered entry and expansion into the DD multi-focal segment as a possible countervailing factor to mitigate or prevent any such SLC.
12. The CMA received evidence that Bausch & Lomb (**B&L**) has recently entered this segment by launching a DD multi-focal product, although its sales are not

yet reflected in the most recent industry publications setting out market shares. In addition, the CMA received evidence that Johnson & Johnson (**J&J**) will launch a product in [X] (although this will not be available as a private label product). J&J is an established competitor in other contact lens segments and the CMA considers [X] that entry by J&J will be timely, likely and sufficient. Overall, the CMA considers that entry and expansion into the DD multi-focal market is timely, likely and sufficient to mitigate or prevent the realistic prospect of an SLC in the frame of reference for DD multi-focals including branded and private label products.

13. In relation to multipurpose contact lens solutions, the CMA notes that the Merger results in a very small increment and does not consider that the Merger results in a realistic prospect of an SLC.

Decision

14. This merger will therefore **not be referred** under section 22(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

15. CooperVision (UK) Holdings Limited is a wholly owned subsidiary of Cooper. Cooper has two divisions, CooperVision and CooperSurgical, of which only the former is relevant to the Merger. CooperVision is a global manufacturer of contact lenses and supplies a wide range of lenses. It also supplies contact lens solution which is manufactured for it by another company. Cooper's turnover for the year ending 31 October 2013 was \$1.6 billion of which CooperVision contributed approximately \$1.3 billion.
16. Sauflon is a global manufacturer of contact lenses and contact lens solutions. Sauflon has a particular strength in the UK. It supplies a wide range of contact lenses and is a strong supplier of contact lens solutions. Sauflon's UK turnover for the year ended 31 October 2013 was £41.7 million.
17. Cooper and Sauflon are jointly referred to as the '**Parties**'.

Transaction

18. Cooper completed its acquisition of the entire issued share capital of Sauflon on 6 August 2014.

Jurisdiction

19. As a result of the Merger, the enterprises of Cooper and Sauflon have ceased to be distinct.
20. The Parties overlap in the supply of contact lenses and contact lens solutions. The Parties submit that they overlap in FRP contact lenses, with a combined share of supply of [20–30]% (increment [0–5]%), soft traditional contact lenses, with a combined share of [90–100]% (increment [0–5]%), and contact lens solutions, with a combined share of [40–50]% (increment [0–5]%). The CMA therefore considers that the share of supply test in section 23 of the Act is met in this case.
21. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
22. The CMA commenced its own investigation into this acquisition and received a satisfactory submission from the parties on 10 October 2014. The statutory 40 working day deadline under section 34ZA of the Act for the CMA to make a decision on reference is 5 December 2014.

Frame of reference

23. The CMA considers that market definition provides a framework for assessing the competitive effects of the Merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the Merger, as it is recognised that there can be constraints on merging parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.¹

Product frame of reference

24. The CMA's approach to market definition is to begin with the overlapping products of the Parties in the narrowest plausible candidate market and then to see if this can be widened on the basis of demand-side and supply-side substitution.²
25. The Parties overlap in the manufacture and distribution of soft contact lenses and contact lens solution to retailers.³

¹ [Merger Assessment Guidelines](#), paragraph 5.2.2.

² See [Merger Assessment Guidelines](#), at paragraph 5.2.3.

³ The CMA notes that the supply of contact lenses and contact lens solutions is governed by law. In particular, contact lenses and contact lens solutions must comply with the Medical Devices Directive 93/42/EED and the Medical Devices Regulations 2002 (SI 2002 No 618). All medical devices such as contact lenses and contact

Contact lenses

26. The CMA assessed the following possible segmentations for the supply of contact lenses:
- (a) type of contact lenses depending on clinical needs, more specifically spheres, torics and multi-focals;
 - (b) modality of contact lenses, more specifically DDs, FRPs and traditional soft contact lenses;
 - (c) material of contact lens, more specifically between hydrogel and silicone-hydrogel; and
 - (d) by branded and private label products.

Type of contact lens

27. There are three types of contact lenses:
- (a) Spherical contact lenses: are the typical, rounded design of contact lenses, which can correct myopia (nearsightedness) or hyperopia (farsightedness). This is the most common type of contact lens.
 - (b) Toric contact lenses: correct for astigmatism,⁴ as well as for myopia and hyperopia.
 - (c) Multi-focal contact lenses are contact lenses with more than one power, including bifocal contacts. Bifocal contact lenses contain different zones for near and far vision to correct presbyopia.⁵
28. The Parties submit that clinical needs drive the selection of types of contact lenses and, at least, a proportion of toric and multi-focal users could substitute their lenses for a spherical product.
29. The responses of third parties to the market test largely confirmed the Parties' submission that clinical needs drive the selection of the type of contact lenses. On the basis of the evidence available, the CMA does not consider that many, and certainly not all, users of toric and multi-focal lenses would consider spherical lenses to be a substitute. The CMA therefore considers that there is

lens solutions, with certain exceptions such as custom-made devices, must carry the CE marking to denote compliance with the Directive.

⁴ Astigmatism is a common condition of the eye that causes blurred or distorted vision. It occurs when the cornea or lens is not a perfectly curved shape.

⁵ Presbyopia is a condition associated with aging in which the eye exhibits a progressively diminished ability to focus on near objects.

only limited demand-side substitutability with regard to the type of contact lens.

30. While the boundaries of the relevant product market are generally determined by reference to demand-side substitution alone, there are circumstances where the CMA may aggregate several narrow relevant markets into one broader one on the basis of considerations regarding the response of suppliers to changes in prices. It may do so when:
- (a) 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 (generally within a year) to shift capacity between these different products depending on demand for each; and
 - (b) the same firms compete to supply these different products and the conditions of competition between the firms are the same for each product; in this case aggregating the supply of these products and analysing them as one market does not affect the CMA's decision on the competitive effect of the merger.⁶
31. In this regard, the CMA notes, based on market information provided by the Parties, that not all manufacturers supply all types of contact lenses. For example, DD multi-focals are only supplied by the Parties and Alcon, whereas J&J does not manufacture such a product at the moment.
32. An internal document of the Parties relating to R&D strategy indicates that it takes several years for multi-focals to be developed. In terms of development steps, spheres are typically developed first, then two to three years later a toric product is released and eventually multi-focals are developed. Third party suppliers also stated that it requires significant investment in R&D to launch a new product.
33. On the basis of the evidence available to it, the CMA does not consider that contact lens manufacturers have the ability and incentive to introduce new types of contact lenses depending on the demand sufficiently quickly for the frame of reference to be widened from a supply-side perspective.⁷
34. Based on the evidence set out above, the CMA considers that the candidate frames of reference are not wider than each type of contact lens.

⁶ See [Merger Assessment Guidelines](#), paragraph 5.2.17.

⁷ See [Merger Assessment Guidelines](#) 5.2.17.

Modality of contact lens

35. As stated above there are four modalities of contact lenses:
- (a) DD contact lenses: are only used for one day and therefore do not need cleaning or disinfecting;
 - (b) FRPs contact lenses: are replaced on a weekly, bi-weekly or monthly basis; they require cleaning and disinfecting procedures with contact lens solution;
 - (c) Traditional soft contact lenses: can last up to a year and require cleaning and disinfecting procedures with contact lens solution; and
 - (d) Rigid contact lenses: are stiff lenses made of gas permeable material. The Parties do not overlap in this modality.
36. The Parties submit that the market for contact lenses comprises all modalities of contact lenses, ie rigid lenses, traditional soft lenses, FRPs, and DDs. They submit that this conclusion is consistent with prescribing and purchasing patterns, because optometrists and ophthalmologists (referred to together as '**opticians**') and (indirectly) customers consider the different modalities of lenses to be interchangeable. The Parties also submit that opticians prescribe different modalities of lenses and customers then switch between different modalities of lenses. Additionally, there are comparable price levels and distribution channels (mostly opticians).
37. The CMA notes that the market for soft traditional contact lenses is very small compared to DDs and FRPs and that the overlap of the Parties is only marginal in this segment. Therefore, the CMA's analysis focuses on the distinction between FRPs and DDs.

Cost differences for different modalities

38. The Parties submitted that the price ranges for DDs and FRPs overlap and submitted an overview of the annual prices to consumers from selected retailers.⁸ The Parties assumed that DDs are used 3.4 days out of 7 in a week.

⁸ The Parties considered prices from the following retailers: Specsavers, Optical Express and Vision Express. Calendar assumptions: 365 days in a year, 30 days in a month and 52/12 weeks in a month. Solutions are included free of charge (with FRP) for Vision Express and Optical Express direct debit customers. Specsavers charges three pounds per month (for FRP lenses) to include solutions for direct debit customers. This has been added to the annual price.

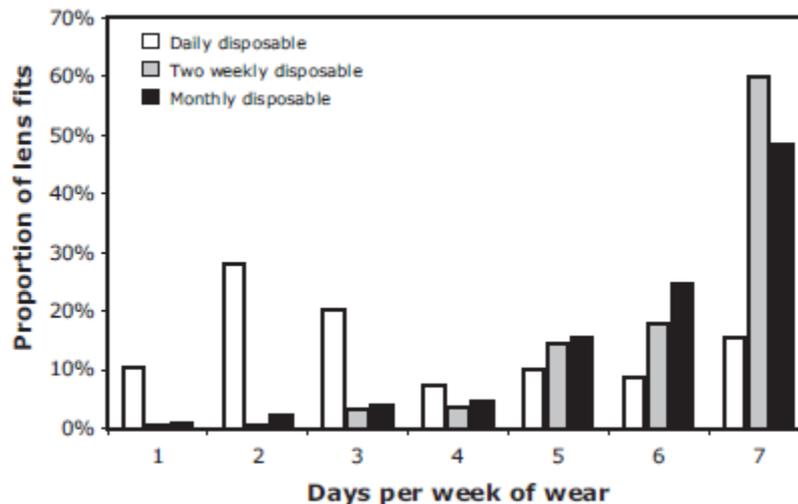
Table 1 – Overview of annual price to consumers (including solution for FRP) by modality and material

Modality	Material	Average (£)	Min (£)	Max (£)
DD	Hydrogel	[160–180]	[100–120]	[240–260]
DD	Silicone-hydrogel	[200–220]	[160–180]	[240–260]
FRP	Hydrogel	[120–140]	[60–80]	[260–280]
FRP	Silicone-hydrogel	[160–180]	[80–100]	[360–380]

Source: Parties.

39. The CMA received evidence that suggested that DD lenses are more cost-effective for part-time wear and FRP are more cost-effective for full-time wear. The cross-over point at which DDs start to become more expensive than FRPs is between three and five days of lens wear per week, depending upon the type of contact lens. While this evidence suggests that DDs are more costly when worn on a full-time basis, the empirical data shows that some lens wearers still prefer this option despite the greater cost (see Figure 1).⁹

Figure 1 - Proportion of patients fitted with daily, two weekly and monthly replacement lenses stratified for number of days of wear per week



Source: Efron, E., Efron, N., Morgan, P., Morgan, S. (2012), p. 32

40. The CMA considers that the price overview submitted by the Parties is not particularly informative as it compares prices only based on the assumption that DDs are used 3.4 times per week. However, the data in Figure 1 shows that relatively few users actually wear their lenses three to four times a week. The majority of customers use DDs either more often or less often, which

⁹ Efron, E., Efron, N., Morgan, P., Morgan, S. (2012), A theoretical model for comparing UK costs of contact lens replacement modalities, Contact Lens & Anterior Eye 35, pp.28-34.

increases or decreases the cost for DDs substantially. As such, the Parties' analysis cannot be taken to represent the choice facing the largest number of users in the market. The CMA notes that the empirical data set out in Figure 1 suggests that the usage pattern (number of days of wear) and the implied cost differences significantly influence the choice of modality. The data in Figure 1, therefore, suggests that different modalities are not substitutable from a demand-side perspective (contrary to the conclusion that the Parties draw from the price data in Table 1).

41. The CMA notes that responses from retailers indicate that the decision as to which modality to use is driven by the opticians and by the customer's lifestyle and wearing habits. The CMA also notes that a majority of customers choose the most cost-effective solution, ie FRPs if they are full-time wearers and DDs if they are part-time wearers. Switching levels between different modalities are low and third party responses indicate that customers are unlikely to switch to a different modality when faced with 5% price increase. Additionally, supply-side substitutability is low.
42. From a supply-side perspective, the CMA observes that all major suppliers offer DDs and FRPs, however not necessarily across all types or materials. As stated above, several major suppliers do not supply DD multi-focals although they do supply FRP multi-focals. Third party responses suggested that there were significant differences in the manufacturing process between DDs and FRPs, because DDs need to be manufactured in much greater volume. Therefore, the CMA considers that there is limited supply-side substitutability.
43. Based on the evidence above, the CMA considers that the candidate frames of reference are not wider than each modality.

Material of contact lens

44. The Parties submit that silicone-hydrogel lenses are typically more expensive than hydrogel lenses, however, the difference between a particular hydrogel and a silicone-hydrogel lens may be quite small for a user and the price ranges of silicone-hydrogel and hydrogel lenses overlap both for DD and FRP modalities.¹⁰ The Parties also submit that the price gap between silicone-hydrogel lenses and hydrogel lenses has narrowed over time and increased competition has meant that the cross-over between the two lens types is increasing.

¹⁰ See Table 1 above.

45. Market research reports submitted by the Parties indicate that the share of silicone-hydrogel contact lenses is much higher for FRPs (84%) than for DDs (23%).¹¹ The share of silicone-hydrogel lenses is growing in both modalities but the net switching rate towards silicone-hydrogel is higher within FRPs (5.6%) than within DDs (1.8%).¹²
46. Third parties consistently stated in response to the CMA's market test that silicone-hydrogel is the more innovative material with higher oxygen permeability. Some retailers indicated that silicone-hydrogel was the healthier option and they would always recommend silicone-hydrogel as the best option (in DD and FRP). On the other hand, the CMA also received third party comments suggesting that some consumers could find silicone-hydrogel less comfortable than hydrogel lenses. One third party submitted that fittings in FRPs are nowadays almost exclusively in silicone-hydrogel, but that silicone-hydrogel was less relevant in DDs.
47. Based on the evidence above, the CMA considers that, on the demand-side, the competitive constraints between hydrogel and silicone-hydrogel lenses might be asymmetric for FRPs. Silicone-hydrogel lenses are able to constrain hydrogel lenses since almost all new fittings are in silicone-hydrogel and there is net switching from existing customers from hydrogel to silicone-hydrogel. On the other hand, it is less clear to what extent hydrogel lenses are able to constrain silicone-hydrogel lenses.
48. The trend towards silicone-hydrogel is less pronounced in the DD segment, since the majority of sales are still hydrogel lenses. Hydrogel lenses still appear to be an alternative option in the DD segment due to its lower cost and comfortable fit. Therefore, the CMA considers that the competitive constraints are more symmetrical for the two materials in DDs.
49. From a supply-side perspective, the CMA notes that all major suppliers offer hydrogel and silicone-hydrogel contact lenses, but not necessarily across all types or modalities. Developing a specific contact lens in a new material requires substantial R&D investment and there is evidence that [redacted].¹³ Therefore, the CMA considers that there is limited supply-side substitutability.

Conclusion on material

50. Overall, the CMA considers that there is competitive interaction between hydrogel and silicone-hydrogel materials although there are some differences.

¹¹ Annex 7d, p.10.

¹² Annex 7d, p.12; switching rate is calculated as number of net switching to silicone-hydrogel within the same modality relative to overall number of hydrogel users within this modality.

¹³ [redacted].

The CMA does not consider it necessary to determine conclusively whether silicone-hydrogel and hydrogel FRPs form part of the same frame of reference for the purposes of assessing the Merger as it does not raise concerns under any plausible segmentation. The CMA has assessed this merger, on a cautious basis, based on a frame of reference covering both hydrogel and silicone-hydrogel contact lenses as this frame of reference gives rise to a greater degree of overlap than a narrower segmentation.¹⁴ The CMA has, however, taken into account the differences between materials in its competitive assessment.

Segmentation by branded and private label products

51. The Parties submit that [REDACTED]. The Parties also submit that the only difference between branded and private label relates to the packaging. According to the Parties, customers have only a weak perception of brands given that the purchasing decision of contact lens wearers is largely driven by the optician. The Parties also submit that private label products represent a significant competitive constraint to branded contact lenses across all product segments and vice versa.
52. The CMA considered whether a hypothetical monopolist of private label contact lenses would be prevented from increasing prices due to demand-side substitution to branded contact lenses.¹⁵ The CMA considered the following key aspects in its assessment:
 - (a) the prevalence of private label products and retailers' incentives to use them; and
 - (b) the extent to which demand-side substitution between private label and branded products occurs at the retail and customer level.

¹⁴ While this is not the narrowest plausible frame of reference, the CMA notes that the Parties overlap to a much lesser extent when the market is segmented by material: Sauflon is strong in silicone-hydrogel, whereas Cooper has a weak position in this material. Similarly, Cooper is stronger in hydrogel, whereas Sauflon has a weak position in this material. Therefore, given the limited overlaps between the Parties based on such a narrower segmentation, the CMA considers that a more cautious approach in this case consists of adopting a wider frame of reference covering both materials.

¹⁵ The CMA, OFT and CC considered in various cases the constraint exercised on private label goods by branded goods or vice versa. In [Barr/Britvic](#) the OFT considered that the constraint depends on the extent to which private label products can be substituted by the customer for branded label products, including the bargaining power of retailers and their ability to divert sales from branded to private label products. OFT, [Anticipated acquisition by A.G. Barr plc of Britvic plc](#), 13 February 2013, ME/5801/12.

Prevalence of private label products and retailers' incentives to use them

53. The CMA notes that [redacted] retailers¹⁶ are supplied by the Parties with private label products. This includes large and medium-sized retailers. Around one third of soft contact lens sales in the UK are private label products. The CMA notes that there are no private label products for soft traditional contact lenses.
54. Third party retailers stated that there were two main incentives for supplying private label. First, retailers tend to earn a higher margin on these products. Second, retailers want to promote their own brand and protect their sales at least to some extent against internet sales as private label products are generally not available over the internet.¹⁷
55. As mentioned above, third parties stated that the purchasing decision is largely driven by the optician. Additionally, third parties confirmed the Parties' submission that brand awareness of end customers was low, with J&J's Acuvue being the only brand with some brand recognition.
56. The CMA notes that only a small number of larger retailers supply private label. The CMA considers that the large shares of private label sales of some retailers (eg Specsavers [redacted]) indicates that retailers have the ability to divert sales to a large extent to private label.

Demand-side substitution

57. Responses from third party retailers indicated that retailers tend to multi-source their purchases of private label products. Some retailers agree on contracts with contract terms ranging from one to three years. Other retailers just purchase from an agreed price list.
58. Based on wholesale prices submitted by the Parties, the CMA reviewed prices for a small number of different products. The CMA notes that in some instances unit prices for branded and private label products are similar or identical, whereas for others private label wholesale prices appeared to be lower even when possible differences in volume were taken into account.
59. One third party stated that a retailer may get a better price for private label products because it commits to purchase a specific volume.

¹⁶ The Parties stated that Cooper supplies private label products to [redacted]. Sauflon supplies private label products to [redacted].

¹⁷ Although private label products are generally not available through internet sellers, well-informed customers may still purchase the identical branded product over the internet.

60. A number of retailers indicated that they would not switch away from private label to branded products in response to a price rise of 5% for private label products, because of the value to its brand and, in some cases, protection from internet sales.
61. Based on the evidence available, the CMA considers that private label products provide retailers with additional benefits (albeit the benefits to end consumers are unclear). Branded products might therefore not be able to constrain sufficiently private label products in the case of a price increase at the wholesale level.¹⁸

Supply-side substitution

62. The CMA notes that private label and branded contact lenses are largely identical (apart from the packaging) and, therefore, all suppliers have the ability to supply private label contact lenses. This is illustrated by the fact that all relevant suppliers of contact lenses do supply both branded products and private label products with the exception of J&J.¹⁹
63. However, the CMA considers that the fact that a key supplier of contact lenses does not supply private label products indicates that even though suppliers have the ability to supply private label lenses quickly, not all of them have the incentive to do so and competitive conditions may not be sufficiently similar.

Conclusion on segmentation by branded and private label products

64. The CMA does not consider it necessary to determine conclusively whether private label and branded products should be aggregated to form part of the same frame of reference or whether they should be examined on the basis of distinct frames of reference. No competition concerns arise under any plausible frame of reference. However, the CMA has assessed the Merger, on a cautious basis, using separate frames of reference for branded and private label contact lenses (for DDs and FRPs). Given the evidence it has received on competitive constraints exerted by DDs on FRPs and vice versa it has taken account of the competitive interaction between private label and branded products in its competitive assessment.

¹⁸ Given that the CMA does not consider that private label and branded contact lenses are substitutable from a demand-side perspective at the level of retailers, the CMA has not needed to conclude on demand-side substitution at the consumer level.

¹⁹ [REDACTED].

Conclusion on product frame of reference contact lenses

65. The CMA therefore assessed the Merger with regard to the following product frames of reference, being the supply to retailers of:
- (a) DD spheres;
 - (b) DD torics;
 - (c) DD multi-focals
 - (d) FRP spheres;
 - (e) FRP torics;
 - (f) FRP multi-focals;
 - (g) Soft traditional spheres;
 - (h) Soft traditional torics; and
 - (i) Soft traditional multi-focals.
66. Each of the DDs and FRPs frames of reference have, on a cautious basis, been further sub-segmented into separate frames of reference for each of:
- (a) branded products; and
 - (b) private label products.

Contact lens solutions

67. The Parties overlap in the supply of contact lens solutions in the UK.
68. The Parties refer to the European Commission's (EC) definition of this market in its Novartis/Alcon decision, which found that multipurpose solutions constitute a separate relevant product market which is distinct from peroxide systems and other lens care products.^{20,21}

²⁰ EC, Novartis/Alcon, COMP/M.5778, 9.8.2010, para. 239-240.

²¹ In particular, with multipurpose solutions, no other lens care products are required, as they clean, disinfect, remove proteins and other deposits and debris, rinse and store contact lenses. Multipurpose solutions are easy to use, but contain chemicals and preservatives that may cause irritation to sensitive eyes. Peroxide systems also clean, disinfect and remove protein from contact lenses, but cannot be used for rinsing. Peroxide systems are also more expensive and less convenient to use than multipurpose solutions. According to the EC's market investigation eye care practitioners generally recommend peroxide systems only to customers with sensitive eyes, who cannot tolerate ingredients contained in multipurpose solutions. From a supply side perspective, production of peroxide systems and multipurpose solutions requires different production technology.

69. The CMA has not received any evidence to suggest that the CMA should deviate from the European Commission's market definition in that case. Therefore, the CMA has assessed the Merger with the relevant frame of reference being the supply of multipurpose solution in the UK but does not consider it necessary to conclude on the exact delineation as the transaction does not raise any competition concerns on any plausible basis.

Geographic scope

70. The Parties submit that they supply contact lenses and contact lens solution products throughout the UK. Similarly, their competitors have full national sales representative coverage of the UK.
71. The Parties further submit that large retailers source contact lenses not only from UK producers but also at least across the EU if not globally. Asian manufacturers of contact lenses (such as Visco Vision) sell their products in the EU and in the UK.
72. The CMA notes that Cooper has a separate business strategy for the UK and Ireland. An internal document from Sauflon suggests that Sauflon has separate national sales teams. This was broadly supported by responses to the market test.
73. The CMA asked third party retailers whether they purchase contact lenses from suppliers based outside of the UK. Half of the retailers responding to the market test indicated that they only purchase contact lenses in the UK, whereas the other half also purchase some contact lenses from manufacturers based outside of the UK. In addition, some third parties suggested that entry into the UK market may be costly and involve regulatory requirements.
74. Based on the evidence above, the CMA has assessed this merger, on a cautious basis, with the geographic frame of reference being the UK. However, the CMA takes into account competitive constraints from suppliers outside of the UK, particularly for private label products, in the competitive assessment.

Counterfactual

75. The CMA assesses the Merger's impact relative to the situation that would prevail absent the Merger (that is, the counterfactual). In practice, for completed transactions, the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of a merger. However, the CMA will assess the merger against an alternative

counterfactual where, based on the evidence available to it, there is a realistic prospect of a different counterfactual.²² In this case, there is no evidence supporting a different counterfactual, and the Parties have not put forward arguments in this respect. Therefore, the CMA considers the pre-merger conditions of competition to be the relevant counterfactual.

Competitive assessment

Horizontal unilateral effects

76. Unilateral horizontal effects can arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm to profitably raise prices (or degrade service) on its own and without needing to coordinate with rivals.²³
77. As a starting point, we have considered the shares of supply in all markets to screen whether the concentration level and the increment raise prima facie concerns of a realistic prospect of an SLC and require further investigation.

Shares of supply

78. The Parties submitted share of supply estimates. The CMA assessed the reliability of the Parties' estimates, based on submissions by competitors.²⁴ Overall, the Parties' estimates are fairly accurate (with an error range of 10% or less) with the exception of [X] sales revenues. [X].

²² See [Merger Assessment Guidelines](#), paragraph 4.3.5 *et seq.*

²³ See [Merger Assessment Guidelines](#), section 5.4.

²⁴ The Parties stated that the total demand for contact lenses and contact lens solution products has been estimated from the Euromcontact data. Euromcontact provides wholesale data for some but not all manufacturers. To arrive at the final estimate of demand, the Parties added Sauflon's actual sales to the Euromcontact data because Sauflon does not report to Euromcontact. The Parties further submitted that they have not been able to provide reliable estimates for all players which do not report to Euromcontact and that this means that the overall market size is understated and as a result of that the combined share for the Parties is overstated. The share estimates for Cooper and Sauflon are based on their actual revenues. The share revenues for competitors are based on Cooper's best estimates. The CMA notes there are several smaller suppliers of contact lenses which are not included in the Parties' share of supply estimates. However, a third party submitted that the Euromcontact data plus Sauflon's sales reflects approximately 95 to 98% of the UK market as there is no other major player at the moment. Therefore, the CMA considers that the market demand estimate is fairly accurate. The CMA assessed the reliability of the Parties' estimates of the competitors' share of supply based on sales data submitted by third party suppliers. The CMA received total sales figures for branded and private label contact lenses and contact lens solution products, though not for each segment separately.

79. The following tables depict the estimated shares of supply in the UK for 2013 for a combined market as well as for branded and private label products separately. We assess the shares of supply in turn below.

Combined (branded and private label contact lenses)

Table 2 – Shares of supply for contact lenses (branded and private label) in the UK for 2013

	Estimated total demand	Cooper	Sauflon	Combined	Alcon	J&J	B&L	Menicon
DD spheres	[∞]	[5–10]%	[10–20]%	[20–30]%	[30–40]%	[30–40]%	[0–5]%	[0–5]%
DD torics	[∞]	[5–10]%	[5–10]%	[10–20]%	[50–60]%	[30–40]%	[0–5]%	[0–5]%
DD multifocals	[∞]	[10–20]%	[40–50]%	[60–70]%	[30–40]%	[0–5]%	[0–5]%	[0–5]%
FRP spheres	[∞]	[10–20]%	[5–10]%	[20–30]%	[40–50]%	[20–30]%	[0–5]%	[0–5]%
FRP torics	[∞]	[30–40]%	[0–5]%	[30–40]%	[20–30]%	[20–30]%	[5–10]%	[0–5]%
FRP multifocals	[∞]	[20–30]%	[0–5]%	[30–40]%	[40–50]%	[0–5]%	[0–5]%	[0–5]%
Soft traditional spheres	[∞]	[90–100]%	[0–5]%	[90–100]%	[0–5]%	[0–5]%	[0–5]%	[0–5]%
Soft traditional torics	[∞]	[90–100]%	[0–5]%	[90–100]%	[0–5]%	[0–5]%	[0–5]%	[0–5]%
Soft traditional multifocals	[∞]	[70–80]%	[0–5]%	[70–80]%	[0–5]%	[0–5]%	[0–5]%	[20–30]%

Source: Parties. Sum of shares of supply may not add up to 100.0% due to rounding differences.

80. The CMA notes that there is a combined share of supply above 25% in six segments, however in five of them the increment is non-existent or low ([0–5]% or less). In DD multi-focals, however, the combined share of supply is [60–70]% with an increment of [10–20]%. The CMA notes that currently only Alcon and the Parties operate in this market segment such that the Merger results in a fascia reduction from three to two.

Branded contact lenses

Table 3 – Shares of supply branded contact lenses in the UK for 2013

	Estimated total demand	Cooper	Sauflon	Combined	Alcon	J&J	B&L	Menicon
DD spheres	[3x]	[0–5]%	[5–10]%	[10–20]%	[20–30]%	[50–60]%	[0–5]%	[0–5]%
DD torics	[3x]	[0–5]%	[5–10]%	[5–10]%	[40–50]%	[50–60]%	[0–5]%	[0–5]%
DD multifocals	[3x]	[10–20]%	[40–50]%	[60–70]%	[30–40]%	[0–5]%	[0–5]%	[0–5]%
FRP spheres	[3x]	[10–20]%	[0–5]%	[10–20]%	[40–50]%	[30–40]%	[0–5]%	[0–5]%
FRP torics	[3x]	[20–30]%	[0–5]%	[20–30]%	[20–30]%	[30–40]%	[5–10]%	[0–5]%
FRP multifocals	[3x]	[20–30]%	[0–5]%	[20–30]%	[40–50]%	[5–10]%	[5–10]%	[5–10]%
Soft traditional spheres	[3x]	[90–100]%	[0–5]%	[90–100]%	[0–5]%	[0–5]%	[0–5]%	[0–5]%
Soft traditional torics	[3x]	[90–100]%	[0–5]%	[90–100]%	[0–5]%	[0–5]%	[0–5]%	[0–5]%
Soft traditional multifocals	[3x]	[70–80]%	[0–5]%	[70–80]%	[0–5]%	[0–5]%	[0–5]%	[20–30]%

Source: Parties. Sum of shares of supply may not add up to 100.0% due to rounding differences.

81. The CMA notes that the combined share of supply is below 15% in branded DD spheres, DD torics and FRP spheres. In branded FRP torics, there is no overlap. In branded FRP multi-focals, there is a combined share of supply of [20–30]% with an increment of [0–5]%. Four other suppliers remain in the segment with Alcon being the strongest with a share of supply of [40–50]%. Therefore, these segments are not considered further given the absence of any competition concerns raised by third parties in these segments.²⁵
82. The segments for soft traditional contact lenses are small and declining. There is no overlap in soft traditional torics and multi-focals. In soft traditional spheres there is a marginal increment from [90–100] to [90–100]%. Given the marginal increment, the CMA does not consider soft traditional contact lenses further.
83. The CMA notes that in the segment for branded DD multi-focals the Merger results in a combined share of supply of [60–70]% with an increment of [10–20]% and only two remaining independent suppliers.

²⁵ However, a very small number of third party responses did raise general concerns regarding speciality lenses (ie torics and multi-focals) but the CMA does not consider that these concerns are credible in the context of these products given, in particular, the constraint exercised by the other two larger suppliers.

Private label contact lenses

Table 4 – Shares of supply for private label contact lenses in the UK for 2013

	Estimated total demand	Cooper	Sauflon	Combined	Alcon	J&J	B&L	Menicon
DD spheres	[∞]	[10–20]%	[30–40]%	[40–50]%	[50–60]%	[0–5]%	[0–5]%	[0–5]%
DD torics	[∞]	[5–10]%	[10–20]%	[20–30]%	[70–80]%	[0–5]%	[0–5]%	[0–5]%
DD multifocals	[∞]	[10–20]%	[40–50]%	[50–60]%	[40–50]%	[0–5]%	[0–5]%	[0–5]%
FRP spheres	[∞]	[30–40]%	[50–60]%	[50–60]%	[40–50]%	[0–5]%	[0–5]%	[0–5]%
FRP torics	[∞]	[50–60]%	[50–60]%	[60–70]%	[20–30]%	[0–5]%	[5–10]%	[0–5]%
FRP multifocals	[∞]	[40–50]%	[0–5]%	[40–50]%	[50–60]%	[0–5]%	[0–5]%	[0–5]%

Source: Parties. Sum of shares of supply may not add up to 100.0% due to rounding differences.

84. Table 4 shows that the Merger results in shares of supply above 40% in all but one segment. In four out of six segments the increment is above 10%.
85. The CMA notes that the combined share of supply for private label is higher in all segments than for branded products with the exception of DD multi-focals. However, the CMA observes that these shares are considerably lower where the frame of reference is segmented by material, illustrating a degree of differentiation between the Parties' products. In addition, the shares suggest a certain degree of complementarity between the Parties' portfolios (ie Sauflon is stronger in DD and Cooper is stronger in FRP).
86. The CMA considers that, based on the above shares of supply, the Parties appear to have a strong position in the supply of private label contact lenses. In DD multi-focals, the share of supply is similar for branded and private label products.
87. While the CMA recognises that high shares are not necessarily indicative of market power, the CMA considered the following segments in more detail:
- (a) the supply of private label contact lenses for all types of DDs and FRPs; and
 - (b) the supply of DD multi-focals in each of the branded and private label segments.

Unilateral effects in the supply of private label products for all types of FRPs and DDs

88. The CMA assesses the potential risk of unilateral effects through the loss of existing competition. Unilateral effects may arise because a price increase becomes less costly when the products of the two firms are brought under common ownership or control.²⁶
89. Where there are indications that the product or the associated level of service is not perfectly homogenous unilateral effects are more likely where the Parties' products compete closely.²⁷
90. While this theory of harm relates to various different frames of reference, for ease of presentation the discussion is combined in one section given that the same issues arise in each segment other than DD multi-focal which is considered separately below.

Closeness of competition

91. The Parties submit that although Cooper and Sauflon both supply contact lenses, their product portfolios in the UK are largely complementary. Cooper has focused on soft FRPs while Sauflon has focused on DDs where Cooper is a small player.
92. A Cooper internal document contains a UK market overview and competitive profiles.²⁸ Sauflon is listed as the first competitor in this overview suggesting that Cooper considers Sauflon to be its key competitor. On the other hand, the CMA notes that Sauflon's internal documents do not suggest that Cooper is considered a particularly close competitor to Sauflon.
93. The CMA notes that Cooper's internal documents highlight Sauflon's strength in silicone-hydrogel DDs which comprise the fastest growing segments and are therefore particularly attractive. Cooper, however, is rather weak in the supply of silicone-hydrogel DDs. Therefore, the CMA considers that Cooper's internal documents do not indicate that Sauflon and Cooper are particularly close competitors.
94. The CMA asked customers and competitors of the Parties whether they consider the ranges of products of contact lenses offered by the Parties to be close substitutes.

²⁶ See [Merger Assessment Guidelines](#), paragraph 5.4.7.

²⁷ See [Merger Assessment Guidelines](#), paragraph 5.4.6.

²⁸ [REDACTED].

95. Several third parties pointed out in their responses that the Merger is largely complementary with Cooper being a strong supplier in FRPs and Sauflon being particularly strong with its DD silicone-hydrogels across all types. However, most respondents also stated that there was some overlap between the Parties, particularly in FRPs and speciality segments (such as multi-focal and torics), and some respondents considered the Parties' product ranges to be close substitutes. Several third party respondents commented on the Parties' strength in private label products.
96. The CMA considers that the closeness of competition between the Parties in terms of the range of products varies across different product segments and appears to be closer in FRPs than in DDs. In particular:
- (a) DD segment: the CMA considers that Sauflon has a particular strength in silicone-hydrogel DDs across all types, whereas Cooper introduced its DD silicone-hydrogel contact lens (only available as sphere) in 2014. Therefore, the Parties compete against each other. However, taking into account the differentiated nature of the Parties' respective offerings, they are not close competitors in DDs.²⁹
- (b) FRP segment: the CMA notes that Cooper has a strong position in the supply of FRPs, in relation to which the Parties appear to compete closely.

Competitive constraints from remaining suppliers

97. The CMA then considered whether the Parties would be constrained by the remaining competitors post-merger.
98. As a preliminary observation, the CMA notes that the response of retailers that offered private label products tended to suggest that these retailers multi-source, which suggests that they could shift their demand in response to an increase in prices or reduction of quality (although this may require a re-fit of existing customers).

Alcon

99. The data in Table 34 shows that Alcon is the first or second player with a share of supply between [20–30]% and [70–80]% for private label products across all DD and FRP segments.

²⁹ Further details on closeness of competition in DD multi-focals is provided in paragraphs 91 to 96.

100. Third parties consistently considered that Alcon offered a wide range of products, has high credibility and a strong position in the supply of all private label products. The CMA considers that Alcon is a leading supplier of private label products in the UK across all segments and will continue to exert a strong competitive constraint on the Parties post-merger.

B&L

101. [REDACTED].
102. Third party responses to the market test suggested that B&L was previously a strong supplier, but is lagging behind in terms of product development and offers the weakest product range of the five established suppliers in the UK. On the other hand, one third party suggested that it had a strong range of products and another that it expected its offering to improve further as a result of recent product releases.
103. The CMA considers that B&L has a weaker competitive offering than the Parties in terms of its product range and currently only has a [REDACTED] presence in the supply of private label. The CMA considers that B&L is an alternative supplier for retailers ([REDACTED]) but currently only exerts a small degree of competitive pressure in all private label product markets.³⁰

Other suppliers

104. The Parties submitted that they compete with Menicon and a number of smaller but emerging competitors including Visco Vision, Pegavision, St. Shine Optical, and mark'envoy. The Parties submit that Visco Vision supplies Specsavers and Safilens an Italian supplier imports and re-sells St Shine Optical's lenses.
105. The data in Table 4 shows that Menicon is not active in all segments and its share of supply is less than [0–5]% in those in which it is present. This is supported by third party responses to the market test. Several third parties did not comment on Menicon. Those that did considered Menicon as a niche player with a limited product range and low market penetration.
106. The CMA considers that Menicon has a weaker competitive offering than the Parties in terms of its product range and generally a low market penetration. However, the CMA does consider that Menicon is an alternative supplier of

³⁰ Please see the next section for details regarding B&L's activities in DD multifocal.

private label products for retailers (for DDs and FRPs spheres and torics) but exerts only limited competitive pressure.

107. Third parties also provided evidence supporting the view that suppliers based outside the UK are credible options.
108. The responses of private label retailers of all sizes to the CMA's market test confirmed that suppliers based in Asia (principally Taiwan) offer products across all types, modalities and materials. The CMA understands, however, that these products may be less specialised (and that these suppliers do not tend to innovate to the same degree as major suppliers).
109. In addition, [redacted] indicated that it has recently introduced private label products manufactured by [redacted] contact lens manufacturer.
110. The CMA notes that there are several suppliers based outside of the UK that already supply private label products to large retailers in the UK, in particular Visco Vision, Menicon and Safilens (St Shine). Given that primarily larger retailers are purchasers of private label contact lenses that are able to facilitate the importation of contact lenses, the CMA considers that these foreign suppliers will exert a significant constraint on the Parties post-merger.

Third party responses regarding the Merger

111. No retailers supplying private label products raised any concerns with regard to the supply of private label contact lenses. Indeed, one third party submitted that it expects prices for private label products to decrease rather than increase because of price-competitive offers from foreign suppliers. More generally, a number of suppliers considered that the Merger overall would be pro-competitive and may lead to an increase in product quality.

Conclusion on unilateral effects in the supply of private label products for all types of FRPs and DDs

112. Based on the evidence above, the CMA considers that:
 - (a) Alcon is a leading supplier of private label products;
 - (b) there are several other alternative (and also potential suppliers) operating in this segment;
 - (c) private label products are purchased by larger retailers that can and do purchase from suppliers outside of the UK; and

(d) private label customers have not expressed any concerns regarding the Merger.

113. The CMA therefore considers that the Merger does not result in a realistic prospect of an SLC in the supply of private label contact lenses in the UK in any segment identified in paragraphs 65 to 66 above.

Unilateral effects in DD multi-focals (branded and private label products)

114. As set out above, the Merger results in a reduction of established independent suppliers from three to two and leads to a combined share of supply of [60–70]% with an increment of [10–20]%.

Closeness of competition

115. The Parties submitted that their products are differentiated because they are made of different materials, ie Sauflon’s product is a silicone-hydrogel lens whereas Cooper’s contact lens is made of hydrogel. Table 5 depicts the share of supply by material.

Table 5 – Shares of supply for DD multi-focals (branded and private label) split by material for the UK in 2013

DD Multifocal	Market demand	Sauflon	Alcon	Cooper
Hydrogel	[redacted]	[0–5]%	[70–80]%	[20–30]%
Silicone-hydrogel	[redacted]	[90–100]%	[0–5]%	[0–5]%
Total	[redacted]	[40–50]%	[30–40]%	[10–20]%

Source: Parties. Sum of shares of supply may not add up to 100.0% due to rounding differences.

116. Third parties stated consistently that Sauflon’s and Cooper’s products are differentiated, in particular because Sauflon’s contact lens is made of silicone-hydrogel whereas Cooper’s contact lens is based on hydrogel.

117. The CMA considers that the Parties are not closest competitors in this market since their products are made of different materials but as stated at paragraph 50 hydrogel lenses do appear to exert a competitive constraint on silicone-hydrogel in the DD segments.

Competitive constraints from remaining suppliers

118. Alcon remains the only currently established supplier apart from the Parties. Table 5 indicates that Alcon held a share of supply of [30–40]% in the combined DD multi-focals market in 2013. However, market research

documents supplied by the Parties show that Alcon's share of total customer fittings³¹ has [REDACTED].³² [REDACTED].³³

119. An internal document of the Parties considers the DD multi-focal product as [REDACTED].³⁴
120. A small number of third parties raised concerns about the Merger, particularly in relation to DD multi-focal, with one third party stating that the Parties 'dominated' this segment.
121. Based on the evidence above, the CMA considers that, while Alcon still constrains the Parties significantly, it has become less competitive. Since Alcon is the only major independent supplier that remains post-merger, the CMA considers that the Merger may give rise to the realistic prospect of an SLC in the supply of DD multi-focals as branded and private label products. The CMA has therefore considered entry and expansion into the DD multi-focal segment and buyer power as possible countervailing factors.

Barriers to entry and expansion

122. Entry, or expansion of existing firms, can mitigate the initial effect of the Merger on competition, and in some cases may mean that there is no SLC. In assessing whether entry or expansion might mitigate or prevent an SLC, the CMA considers whether such entry or expansion would be timely, likely and sufficient. In terms of timeliness, the CMA's guidelines indicate that the CMA will look for entry to occur within two years.³⁵
123. The Parties submit that they understand that J&J has recently entered the US market already with its 'Moist' product (or is in the process of doing so) and that B&L has also done so with its 'Biotrue' product.

Timeliness and likelihood of entry

124. The CMA has considered whether J&J and B&L are likely to enter the DD multi-focal segment.

³¹ As noted before, contact lenses need to be fitted by an optician before a customer can get a prescription for that lens. Customer fittings occur when customers start wearing contact lenses for the first time or when a new lens is fitted. The CMA considers that customer fittings are a better metric of the actual competitive constraint exerted by a supplier than the share of supply because companies primarily compete for fittings of new customers.

³² [REDACTED].

³³ Cooper and Sauflon entered the DD MF segment in 2012.

³⁴ [REDACTED].

³⁵ [Merger Assessment Guidelines](#), paragraph 5.8.1 ff.

125. J&J stated that it plans to enter the DD multi-focal segment in [REDACTED]. [REDACTED]
126. As regards B&L, the CMA understands that it launched a DD multi-focal product in the UK in June 2014. The product is a hydrogel lens and [REDACTED]
127. In addition, the CMA understands that DD multi-focals are available from [REDACTED] that currently supplies [REDACTED]. Additionally, [REDACTED] has started purchasing contact lenses from [REDACTED] recently. [REDACTED]
128. Based on the evidence above, the CMA considers that entry by B&L has occurred and that entry is likely and timely for J&J, because it is expected to occur within [REDACTED],³⁶ and [REDACTED], because [REDACTED]. As such, it has also considered whether any such entry would be sufficient such as to mitigate or prevent the realistic prospect of an SLC in the supply of DD multi-focals.

Sufficiency of market entry

129. The CMA received the following evidence relating to the sufficiency of entry.
130. [REDACTED].³⁷
131. The B&L product's sales since the launch in June 2014 until beginning of November 2014 amounted to [REDACTED]. While third party responses suggest that B&L is a much weaker supplier than the Parties, Alcon and J&J, it still provides customers and opticians with an additional [REDACTED] option.
132. B&L supplies, [REDACTED], a hydrogel lens. Since the Parties' products in this segment are in different materials and Cooper supplies a hydrogel lens in this segment, the CMA considers that the entrants will be closer competitors to Cooper than to Sauflon. The CMA considers that the entrants together will exert post-merger a similar competitive constraint on Sauflon as Cooper did pre-merger.
133. The CMA notes that the J&J products will not be available as a private label product. However, as noted above, purchasers of private label products are generally larger retailers and several of them already procure from suppliers outside of the UK some of which also supply or are about to launch DD multi-focals. In particular [REDACTED] has entered the UK market and is able to supply a DD multi-focal contact lens. This provides retailers with additional procurement alternatives and negotiating power. The CMA also notes that none of the

³⁶ [REDACTED]

³⁷ [REDACTED]

private label customers has raised concerns with regards to the supply of DD multi-focals.

134. Moreover, the CMA notes that Cooper's share of supply was only [10–20]% of the overall DD multi-focal market. Therefore, the scale of entry arising from B&L, J&J and smaller suppliers will be sufficient such as to mitigate the loss of competition from Cooper.

Based on the evidence above, the CMA considers that entry by J&J and B&L, in particular, but also the ability of other smaller suppliers to enter (such as [X] and [X]) will be sufficient to mitigate the realistic prospect of an SLC in the DD multi-focal segment.

Conclusion on timeliness, likelihood and sufficiency of entry and expansion

135. Overall, the CMA considers that entry and expansion into the DD multi-focal segment is timely, likely and sufficient to prevent a realistic prospect of an SLC in the market for DD multi-focals including branded and private label products.

Buyer power

136. The Parties submitted that major customers in the UK have substantial buyer power.
137. Several retailers' responses to the CMA's market test stated that retailers purchase a wide range of contact lenses including in segments where there is a wider choice of suppliers. One third party submitted that it had negotiating power stemming from the other segments where there was a wider choice. However, retailers also noted that switching or delisting products is generally difficult because customers need to be fitted with new products.
138. The CMA notes that purchases are optician-led and that high shares of private label indicate that retailers can steer demand to some extent. However, the CMA has not received sufficient evidence to conclude that retailers would actually move customers away from a specific product or supplier since this might come at a cost due to lower margins or time required to fit customers with new products. In any event, as entry and expansion is sufficient to prevent any realistic prospect of an SLC in the supply of DD multi-focals, there is no need for the CMA to reach a firm conclusion on buyer power.

Conclusion on DD multi-focal

139. Accordingly, the CMA found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of DD multi-focals in each of the private label and branded segments.

Horizontal unilateral effects – multi-purpose solution

Table 6 - Share of Supply contact lens solutions in the UK for 2013

	Estimated total demand	Sauflon	Cooper	Combined	Alcon	B&L	Abbott	Avizor
Multi-purpose	[5]	[50–60]%	[0–5]%	[50–60]%	[20–30]%	[10–20]%	[5–10]%	[5–10]%
Peroxide	[5]	[50–60]%	[0–5]%	[50–60]%	[20–30]%	[10–20]%	[5–10]%	[5–10]%
Other	[5]	[10–20]%	[0–5]%	[10–20]%	[0–5]%	[30–40]%	[40–50]%	[10–20]%

Source: Parties. Sum of shares of supply may not add up to 100.0% due to rounding differences.

140. The CMA notes that the Merger results in a combined share of supply of [50–60]%, with an increment of [0–5]%.
 141. The CMA notes that Cooper is only a distributor of multipurpose solutions in the UK and has only a low share of supply. Therefore, the CMA considers that Sauflon has not been constrained significantly by Cooper pre-merger.
 142. The CMA further notes that Cooper’s supplier of multipurpose solutions informed the CMA that it also supplies directly to the UK on its own.
 143. Based on the evidence set out above, the CMA does not consider that the Merger results in the realistic prospect of an SLC in the supply of multipurpose solutions in the UK.

Third party views

144. The CMA has received responses from 11 customers, seven competitors, two suppliers and two trade associations. One customer raised slight general concerns. One competitor raised concerns with regards to high concentration in the area of silicone-hydrogel contact lenses. Another competitor was concerned about high concentration in the area of specialty contact lenses, particularly DD multi-focal.
 145. Additionally, the CMA has received one unsolicited complaint from a customer that raised concerns regarding possible price increases and a reduction in product choice.

146. Third party comments have been taken into account where appropriate in the competitive assessment above.

Decision

147. Consequently, 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 an SLC within a market or markets in the United Kingdom.

148. This merger will therefore **not be referred** under section 22(1) of the Act.

Nelson Jung

Director of Mergers

Competition and Markets Authority

5 December 2014