



The Rank Group Plc/Gala Coral Group

A report on the anticipated acquisition by The Rank Group Plc
of Gala Casinos Limited

19 February 2013

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The Competition Commission has excluded from this published version of the final report information which the Inquiry Group considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [X]. Some numbers have been replaced by a range. These are shown in square brackets.

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Glossary

Summary

1. On 20 August 2012, the Office of Fair Trading (OFT) referred to the Competition Commission (CC) for investigation and report the anticipated acquisition by The Rank Group Plc (Rank) of Gala Casinos Limited (Gala). The CC must publish its report under section 39 of the Enterprise Act 2002 (the Act) by 20 February 2013¹ on the questions:
 - (a) whether arrangements are in progress or contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
 - (b) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.
2. Rank and Gala both operate casinos in the UK.² In May 2012, Rank agreed to acquire 100 per cent of the shares in Gala and the proposed acquisition was approved by Rank's shareholders in July 2012. The proposed acquisition includes 23 bricks-and-mortar casinos³ in Great Britain and three cold licences.⁴ Gala's casinos in Gibraltar and Dundee, a cold licence in London (Westminster) and other activities operated by Gala Coral Group Limited (Gala Coral) (including its online casino business) were excluded from the transaction.
3. After the proposed merger was referred to the CC, the acquisition agreement ceased to be legally binding. However, Rank and Gala Coral have continued their discussions in relation to appropriate amendments to the acquisition terms in the light of the CC reference and have confirmed that a proposal for a transaction between the merger parties ('the parties') of the kind mentioned in the reference remains in contemplation between the parties.
4. We are satisfied that a relevant merger situation would be created by the acquisition by Rank of Gala and that we have jurisdiction to consider whether the creation of that situation has resulted or may be expected to result in an SLC within any market or markets in the UK for goods or services.
5. Casinos offer a range of services. These include table games, gaming machines, food and beverages (F&B) and live entertainment. Table games can either be games of chance, such as roulette or blackjack, (where there is a statistical probability that on average the casino will pay out less than the amount wagered—the difference being known as the 'house edge') or equal chance games such as poker, (where players play principally against each other and the casino generates income by charging entry fees, receiving a proportion of the amount staked or charging session charges). Gaming machines in casinos are allowed to have a higher payout than such machines in other venues but the number of gaming machines a casino can offer is limited by regulation. F&B is also available in casinos and is often offered to regular high stake gamblers free of charge. In addition, casinos (particularly more leisure-oriented ones) may offer live entertainment.

¹ The inquiry period was extended on 14 September by 17 days (see www.competition-commission.org.uk/assets/competitioncommission/docs/2012/rank-gala/notice_of_termination_of_extension.pdf).

² Rank is controlled by Guoco Group Ltd (Guoco) via a 74.28 per cent stake. Guoco directly operates one high-end casino and has five cold licences in the UK.

³ In the rest of the document, where we refer to 'casinos' we are referring to UK-based bricks-and-mortar casinos unless we specify otherwise—eg when we refer to online casinos.

⁴ A licence allows a casino to operate in a certain local authority area. Where a casino is closed, or a licence has been obtained but the casino not built, this may be retained by the operator for the payment of an annual fee and is termed a cold licence.

6. Rank and Gala both operate 'standard' casinos.⁵ There are 133 standard casinos in operation in the UK. The largest casino operator (by number of casinos) is Genting with 40 UK casinos, followed by Rank with 35 and Gala with 24. The other casino operators are significantly smaller with five other multi-casino operators and ten independents.
7. The casino industry is highly regulated. Up to 2007 all casinos and casino operators in the UK were licensed under the Gaming Act 1968 (the 1968 Act), which restricted the areas where new licences could be issued to 53 local authorities and required a casino operator to demonstrate unfulfilled demand in order to be awarded a licence for a new casino. In 2005 new legislation was introduced (the Gambling Act 2005 (the 2005 Act)) which restricted the issue of new casino licences to 16 local authority areas⁶ and allowed each of those 16 local authorities to issue one casino licence, eight of which were defined as small casino licences and eight as large casino licences.⁷ The Gambling Commission (GC) was set up under the 2005 Act to regulate commercial gambling. Its responsibilities include the issuing of operating and personal licences to casino operators and staff and enforcing compliance. Prior to June 2011 the GC set out in detail the rules of all approved casino games. Since June 2011 the GC has published instead a Core Rules document covering the standard rules for the five most popular games in British casinos (blackjack, roulette, three-card poker, punto banco and dice).
8. We assessed the relevant market definition for the inquiry. We first considered the product market and examined whether other gambling venues, online gambling and other leisure venues competed with standard casinos. We concluded that they did not constrain the competitive price and service level of standard casinos to such an extent that they should be included in the same market. We accordingly concluded that the supply of casino services, excluding high-end casinos, was an appropriate relevant product market within which to assess the competitive effects of the merger and provided an appropriate framework for the evaluation of all constraints on the merged firm's conduct, regardless of whether these constraints came from inside or outside the market.
9. We then considered the appropriate scope of the geographic market and concluded that evidence from the parties, the CC's customer survey and the CC's econometric analysis showed that casinos competed with each other locally. Casinos outside London typically attracted most of their customers from within a drive-time of 30 minutes. The geographic market for London casinos appeared to be more extensive, probably because customers of casinos in London were more likely to use public transport to visit a casino than customers of casinos outside London.
10. We assessed what would have happened in the absence of the merger (the counterfactual). We concluded that the counterfactual was the pre-merger situation in which Rank and Gala competed against each other. We consider the pre-merger situation to be that which prevailed prior to April 2011 (when serious discussions between Rank and Gala Coral commenced, resulting in a Sale and Purchase Agreement being signed in May 2012).

⁵ These differ from so-called 'high-end' casinos (that offer substantially higher levels of gambling; often have restrictive membership requirements; provide a range of additional free services; and attract high-spending, often international, clients).

⁶ Ten of these local authorities were already among the 53 areas designated under the 1968 Act.

⁷ Both casino types would be larger than existing casinos in the UK. See Appendix H for further detail on regulation and the definition of 'small' and 'large' casinos.

11. In our assessment of competitive effects we first examined how casinos competed on a local and national basis pre-merger. We then assessed the effect of the merger against the counterfactual.
12. We found that many aspects of the casino offer are set by local casino managers in response to local competitive conditions. Casinos compete locally by focusing mainly on their customer service and offering promotions and events.
13. We examined aspects of the casino offer that may be set nationally to assess their importance to pre-merger competition. We focused on national branding (including advertising) and loyalty schemes. We concluded that although branding, advertising and loyalty cards are administered centrally this is mainly for reasons of administrative efficiency and did not suggest that competition on these aspects was significant at the national level.
14. We then assessed the likely effect of the proposed merger. We sought to identify the local areas where the merger would cause a reduction in competition as a result of the reduction in casino operators in the area. We used filtering rules to determine these areas and identified 17 areas of potential concern. After a more detailed assessment of these 17 areas we found that in four areas the merger may be expected to result in an SLC due to a reduction in existing competition between casinos. We have identified SLCs on this basis in the following areas: Aberdeen; Stockton-on-Tees; Bristol; and Cardiff. In our provisional findings, we had provisionally also identified Liverpool/New Brighton as an area where the merger may be expected to result in an SLC. In light of further evidence received from the parties in response to our provisional findings, we have concluded that the merger may not be expected to give rise to an SLC in Liverpool/New Brighton.
15. We also assessed the impact of the merger on potential competition in any area where in the absence of the merger one of the parties would have been likely to have developed a casino to compete with the other party in the area. In this event there would be an increase in competition in a local area which would not occur in the event of the merger.
16. In particular, we considered whether there were areas in which Rank and Gala would have developed any of their cold licences in the absence of the merger and whether this would have led to substantially increased competition in any areas. We used filtering rules to identify three areas of potential concern. After a detailed assessment of these areas we found that the merger may be expected to result in an SLC in Edinburgh, where Gala operated a casino and where we considered it more likely than not that a cold licence would have been developed by Rank into a casino in the absence of the merger and would have substantially increased competition. We also considered whether competition for new licences to be awarded under the 2005 Act might be reduced as a result of the merger but we did not identify concerns over bidding for 2005 Act licences.
17. We assessed the impact of the merger on local coordination. Our review of internal documents (including local documents) did not reveal evidence suggesting pre-merger coordination at the local level. However, we considered whether the acquisition may create the conditions for coordination to arise in some overlap areas by reducing the number of local competitors. We concluded that while coordination may appear to be an attractive option for casino operators locally, there are likely to be difficulties in maintaining any such coordination given that the most important competitive variables are difficult to monitor. We therefore concluded that local coordination would be unlikely to be a concern post-merger.

18. We assessed the impact of the merger on foreclosure and concluded that it was unlikely that post-merger Rank would have the ability or incentive to obtain exclusivity or preferential treatment from electronic machine manufacturers in order to foreclose competitors (partially or fully).
19. We assessed other competitive constraints which might offset the effect of the merger and found that there are barriers to entry for casinos. We concluded that entry would not offset the effect of the merger in an area unless an operator already had a cold licence and was in the process of developing a casino in the area. We took into account known plans for development of cold licences by third parties in our competitive assessment of areas affected by the merger. We did not find any other competitive constraints that might offset the effects of the merger.
20. We considered whether action should be taken for the purpose of remedying, mitigating or preventing the SLC or any adverse effects which may be expected to result from such an SLC, having regard to the effect of any action on any relevant customer benefits (as defined in the Act) in relation to the merger.
21. In our Notice of Possible Remedies (the Remedies Notice) we consulted on three possible structural remedies that we said might be effective to address the SLCs provisionally identified:
 - (a) prohibition of Rank's acquisition of Gala in its entirety ('full prohibition');
 - (b) prohibition of the acquisition by Rank of the Gala casinos and cold licences in those local areas where the CC has provisionally identified an SLC ('partial prohibition'); or
 - (c) divestiture by Rank of the casinos and cold licences (either the Gala or Rank casinos) in those local areas where the CC has provisionally identified an SLC before being permitted to complete the acquisition of Gala ('upfront buyer remedy').
22. The parties said that the full prohibition would be effective but was not proportionate because the partial prohibition remedy would be equally effective. They argued that it was not necessary or appropriate to have an upfront buyer remedy because this would involve significant further delay to the transaction, whereas there was an alternative remedy—the partial prohibition—that would be no less effective and could be implemented more quickly. For Edinburgh, the parties suggested an alternative remedy, which was the divestment of the cold licence owned by Rank after Rank had been allowed to complete the acquisition of the Gala Edinburgh casino.
23. We considered the alternative remedy for Edinburgh carefully but concluded that there were substantial purchaser risks with allowing the divestiture of the Edinburgh cold licence. We found these risks could be effectively mitigated by requiring an upfront buyer for the Rank cold licence in Edinburgh. In the event that the Rank cold licence were not sold to a suitable purchaser, Rank would not be permitted to acquire the Gala casino in Edinburgh.
24. We considered the cost of remedies and proportionality. For the four casinos where we had found an SLC as a result of the reduction in casino operators in the area, we concluded that a full prohibition would be significantly more intrusive than a partial prohibition and that an upfront buyer remedy would be more intrusive than a partial prohibition. We therefore concluded that the least costly, least intrusive, effective remedy was partial prohibition. For Edinburgh we concluded that the least costly, least intrusive, effective remedy would be the divestiture of Rank's cold licence via an

upfront buyer process. We did not find any relevant customer benefits that would cause us to modify our remedies package.

25. We have concluded that the remedies package will be:

- (a) the prohibition of the acquisition of the Gala casinos in Aberdeen; Bristol; Cardiff and Stockton upon Tees and a sunset clause⁸ of ten years to apply to the prohibition;
- (b) the divestiture of Rank's Edinburgh cold licence to a suitable purchaser approved by the CC. In the event that the Rank cold licence were not sold to a suitable purchaser, Rank would not be permitted to acquire the Gala casino in Edinburgh (a ten-year sunset clause would also apply in this event);
- (c) Rank or Gala will not be permitted to appeal against a planning application or other licensing requirements needed by a purchaser of the Edinburgh cold licence to develop a casino in Edinburgh and Rank will be required to take all steps required to maintain the licence before its sale to a suitable purchaser; and
- (d) Rank will be allowed until [X] to dispose of the Edinburgh cold licence to a suitable purchaser satisfactory to the CC using the criteria and process set out in Appendix J. We may consider a short extension to this process ([X]) if Rank is able to demonstrate it is making good progress in finding a suitable purchaser.

⁸ A sunset clause is a provision in Final Undertakings that specifies a long-stop date beyond which the measures contained in the Final Undertakings will cease to apply. The period used for the long-stop date will depend upon the circumstances of the case.

Findings

1. The reference

- 1.1 On 20 August 2012, the OFT referred the anticipated acquisition by Rank of Gala.
- 1.2 The CC must decide:⁹
 - (a) whether arrangements are in progress or contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
 - (b) if so, whether the creation of that situation may be expected to result in an SLC within any market or markets in the UK for goods or services.
- 1.3 Our terms of reference are in Appendix A. We are required¹⁰ to take our final decision by 20 February 2013.
- 1.4 This document, together with its appendices, constitutes our findings. Further information, including non-commercially-sensitive versions of the parties' submissions and summaries of evidence from third parties, can be accessed through our [web-site](#).¹¹

2. The companies

The Rank Group Plc

- 2.1 Rank is active in betting and gaming, primarily in Great Britain, Belgium and Spain. Its shares are listed on the London Stock Exchange and the company has a market capitalization of approximately £560 million. Rank's preliminary results for the 12 months to 30 June 2012 reported turnover of £600.5 million and operating profit before exceptional costs of £65.5 million.^{12,13} Rank is controlled by Guoco via a 74.28 per cent stake, with the balance held by institutional and public shareholders. Guoco is an investment holding and management company listed on the Hong Kong stock exchange and has a market capitalization of approximately US\$2.8 billion.¹⁴
- 2.2 Rank operates four divisions: Grosvenor Casinos (Grosvenor); Mecca Bingo; Rank Interactive¹⁵ and Top Rank Espana. Grosvenor is the largest and most profitable division of Rank. In the year ended 30 June 2012, Grosvenor generated 43 per cent of group turnover and 65 per cent of group operating profit.¹⁶
- 2.3 Grosvenor is the second largest operator of UK casinos. It operates 35 casinos across Great Britain. These operate under two brands—Grosvenor Casino and G Casino. Grosvenor Casino is a long-standing brand and is primarily aimed at the traditional casino visitor. The newer G Casino format offers a wider range of entertainment and leisure facilities and aims to attract a broader customer base interested in a combination of casino games and other entertainment. Over the last five years

⁹ Under [section 36](#) of the Act.

¹⁰ Under [section 39](#) of the Act.

¹¹ www.competition-commission.org.uk/our-work/rank-gala.

¹² www.rank.com/downloads/results/prelim_results_18m_to_30_june_2012.pdf.

¹³ On 31 January 2013, Rank reported turnover of £312 million and operating profit before exceptional costs of £33.4 million for the period July to December 2012.

¹⁴ Guoco increased its ownership of Rank from 41 per cent to a controlling 74.28 per cent in June 2011.

¹⁵ Rank Interactive provides shared services for Rank's remote gambling services—including casino games. These activities comprise: bingo, casino games, poker and sports betting via a number of specific brands and dedicated websites.

¹⁶ Grosvenor Casinos results include its casino in Belgium.

Rank has invested in upgrading and rebranding ten Grosvenor Casinos to change them to the G Casino format.¹⁷ Presently outside London there are 19 G Casinos, 11 traditional Grosvenor casinos and one E Casino.¹⁸ Within London Grosvenor has four casinos, of which one is a G Casino. Most facilities are open 24 hours a day, where possible under the licence conditions. Rank also has a further 14 unused ('cold') licences for casinos in a number of local authority areas.

Guoco Group Ltd

- 2.4 Guoco is an investment holding and management company listed on the Hong Kong stock exchange and has a market capitalization of approximately US\$2.8 billion.¹⁹ In the UK Guoco has additional interests in the UK casino sector, including one high-end casino (The Clermont—in Berkeley Square, Mayfair) and five cold licences. Guoco also owns the Guoman and Thistle hotel chains in the UK.

Gala Casinos Limited

- 2.5 Gala Coral is active in betting and gaming, primarily in the UK, Gibraltar and Italy. In the year ended 24 September 2011, Gala Coral²⁰ generated turnover of £1,117 million and earnings before interest, tax and depreciation and amortization (EBITDA) of £261 million.²¹
- 2.6 Gala Coral is a privately owned company which is ultimately owned by a number of investment funds. The ownership of Gala Coral has changed significantly over recent years. Up to 2010 it was owned by three private equity firms: Candover, Cinven and Permira. However, in 2010 mezzanine debt holders took ownership of the group from the existing shareholders and refinanced the business.²²
- 2.7 Gala is a subsidiary of Gala Coral and, operates 24 casinos based in Great Britain and an overseas casino in Gibraltar. Gala is the third largest casino operator in Great Britain (by number of casinos). Twenty of Gala's casinos are outside London and the remaining four are in London. Gala also owns four cold licences. The Gala casinos to be acquired (the 'Acquisition Package') generated revenue of £123.3 million and EBITDA of £15.4 million.

3. The merger and the relevant merger situation

Outline of merger situation

- 3.1 Rank has been interested in acquiring Gala for some years and over the period 2010 to 2012 it approached Gala Coral on a number of occasions to discuss buying Gala. More serious discussions took place from around April 2011 and culminated in a sale and purchase agreement (SPA) being signed in May 2012. In the SPA Rank agreed to acquire 100 per cent of the shares in Gala for a price of £205 million, for a debt-

¹⁷ This typically involves investment in the facilities of between [£] and [£] per venue. G Casino conversions have taken place in Birmingham, Bolton, Brighton, Cardiff, London Piccadilly, Luton, Newcastle, Plymouth, Sheffield and Walsall. In Leeds and Walsall, Rank operates an electronic casino alongside its casino.

¹⁸ This consists of electronic gaming machines only.

¹⁹ Guoco increased its ownership of Rank from 41 per cent to a controlling 74.28 per cent in June 2011.

²⁰ Source: Annual Report, Registered Number: 07254686.

²¹ Before exceptional items.

²² Gala Coral is now owned by a number of investment funds managed or advised by Apollo Global Management, LLC, Cerberus Capital Management, LP, York Capital Management Global Advisors, LLC, Park Square Capital, LLP, Goldman Sachs International Bank and Anchorage Capital Partners.

and cash-free company. The proposed acquisition was approved by Rank's shareholders in July 2012.

- 3.2 The proposed acquisition included 23 casinos in Great Britain and three cold licences. Gala's casinos in Gibraltar and Dundee, a cold licence in London (Westminster) and other activities operated by Gala Coral (including its online casino business) were excluded from the transaction.
- 3.3 The SPA was conditional on the transaction not being referred to the CC and the long-stop date for satisfaction of all the conditions precedent in the SPA was 19 September 2012. The parties have confirmed that the SPA ceased to be formally binding on 19 September 2012. However, Rank and Gala Coral have continued to discuss appropriate amendments to the acquisition terms in the light of the reference to the CC and a proposal for a transaction between the parties of the kind mentioned in the reference has remained in contemplation. As a result, we concluded that notwithstanding the lapse of the SPA, we were not required to cancel the reference pursuant to section 37(1) of the Act.

The rationale for the merger

- 3.4 Rank's strategy is to grow the market by attracting a new generation of customers to casinos through investment in bars, restaurants and live entertainment. It believes that the low penetration rates²³ and an increasing acceptance of gaming as a leisure activity mean that the casino industry has good long-term growth potential.
- 3.5 Rank saw the acquisition of Gala as an opportunity to deploy its management across an enlarged estate. It also considered that there was a good geographic fit between the Gala casinos and its own.²⁴ Rank believed that customers would benefit from the proposed transaction and noted that it had publicly committed to capital expenditure (capex) of £25–£30 million following the acquisition, including converting nine Gala casinos to G-format casinos. Rank believed that although synergies were small from the acquisition (around £1 million) the investment would deliver higher growth for Rank.

Jurisdiction

Enterprises ceasing to be distinct

- 3.6 The Act defines an 'enterprise' as 'the activities or part of the activities of a business'. 'Business' is defined as 'including a professional practice and includes any other undertaking which is carried on for gain or reward or which is an undertaking in the course of which goods or services are supplied otherwise than free of charge'.²⁵
- 3.7 Rank and Gala both carry out the operation of casinos for reward. Therefore we are satisfied that Rank and Gala are 'enterprises' for the purposes of the Act. We are also satisfied that, since the proposed acquisition by Rank of Gala provides for the acquisition of 100 per cent of the shares in Gala, both enterprises would be brought

²³ Rank noted that only 4 per cent of the UK's adult population played casino games in bricks-and-mortar venues in 2010.

²⁴ Rank noted that 13 of the Gala casinos were in 11 towns where Grosvenor did not currently operate.

²⁵ Section 129(1) and (3) of the Act.

under the control of Rank and accordingly cease to be distinct from one another, for the purposes of section 26 of the Act.²⁶

Turnover or share of supply tests

- 3.8 In considering whether a relevant merger situation has been created, the Act requires the CC to establish that the transaction has a sufficient nexus with the UK. This will be the case if either the 'turnover test'²⁷ or the 'share of supply test'²⁸ is satisfied. The turnover test is met where the value of the turnover in the UK of the 'enterprise being taken over' exceeds £70 million. In the 52 weeks ended 24 September 2011, the Gala casinos to be acquired (the 'Acquisition Package') generated revenue of £123.3 million.²⁹ Therefore the turnover test is satisfied and there is no need also to consider the share of supply test.
- 3.9 For the reasons given above we are satisfied that a relevant merger situation would be created by the acquisition by Rank of Gala and we have jurisdiction to consider whether the creation of that situation may be expected to result in an SLC within any market or markets in the UK for goods or services.

4. Industry background

- 4.1 Gambling involves staking something of value on the outcome of a game or event. The UK gambling industry market size was measured by the GC to be £5.8 billion in 2011/12, measured by Gross Gambling Yield (GGY).³⁰ The non-remote betting sector (ie off-course betting at licensed betting offices (LBOs) and on-course betting (on racing tracks),³¹ represents the largest market within the industry with a 52 per cent share, followed by the casino sector (15 per cent) and the British regulated remote sector (12 per cent).³² Gambling in UK casinos generated a GGY of £868 million, a 9 per cent increase over the previous 12-month period.³³ Mintel estimated UK consumer expenditure on gambling (including on websites based overseas) to be approximately £8.4 billion in 2010, making it the UK's fourth largest leisure activity.³⁴
- 4.2 Casinos offer a range of services. These include table games, gaming machines, F&B and live entertainment. There are two broad categories of table game. The first type is games of chance³⁵ where there is a statistical probability that on average the casino will pay out less than the amount wagered.³⁶ These games include roulette, blackjack, three-card poker and punto banco. The second type is equal chance games such as poker where players play principally against each other. Games of

²⁶ We note that this would also have been the case had the acquisition been structured as an asset acquisition rather than a share purchase.

²⁷ Under section 23(1)(b) of the Act.

²⁸ Under section 23(2)(b) and 23(3) and/or (4) of the Act.

²⁹ Rank shareholder circular July 2012: www.rank.com/articles/99/Class%201%20Circular.PDF.

³⁰ The term GGY is defined as the amount retained by operators after the payment of winnings but before the deduction of the costs of the operation.

³¹ Non-remote betting is contrasted with remote betting, which includes betting online, through the television, mobile phone and other remote means.

³² However, most British consumer remote gambling activity is on overseas websites. The GC cites estimates that put the overseas-based remote market for UK consumers at £2 billion for 2010, approximately three times the size of the British regulated remote market.

³³ Casinos also measure the 'drop'. This describes the total amount of cash that a casino visitor exchanges for 'chips'. Most casino games, other than gaming machines, are played with chips or tokens, as opposed to cash. When a player enters the casino cash is exchanged for chips. Slot machines and other electronic gaming machines are played with cash. The drop does not reflect the amount won or lost, because a customer may recycle winnings during a single visit and at the end of the visit the customer could exchange unspent chips for cash, which could be more or less than the original drop.

³⁴ Source: Mintel, *Gambling Habits*, December 2010, p22.

³⁵ Based on the HMRC definitions applied to Gaming Duty.

³⁶ The level of average payout compared with the amount wagered is defined as the payout ratio.

equal chance do not have a house edge. However, the casino generates an income by either charging entry fees (used in tournament games), or receiving a proportion of the amount staked (the 'rake') or charging 'session charges' for time spent at the table.

- 4.3 The number of gaming machines a casino can offer is limited by regulation.³⁷ The types of machines allowed in casinos have a higher maximum payout than machines in other venues.³⁸
- 4.4 F&B is also offered and, (in more leisure-oriented casinos such as G Casinos as opposed to more traditional transaction-oriented casinos), live entertainment. F&B is often offered to more significant gamblers as a complimentary service (ie free of charge).³⁹

Market structure

- 4.5 Rank and Gala both operate standard casinos.⁴⁰ The market shares of operators of standard casinos are shown in Table 1. The largest casino operator (by number of casinos) is Genting closely followed by Rank with Gala third. The other casino operators are significantly smaller with five other operators that have more than one casino and ten others with one casino each.

TABLE 1 Market shares of standard casino operators

<i>Company</i>	<i>Standard casinos</i>	<i>% share</i>
Genting	40	30
Rank	35	26
Gala	24	18
LCI	10	8
A&S	6	5
Aspers	3	3
Casino 36	3	2
Clockfair	2	2
Other	10	7
Total standard casinos	133	

Source: CC analysis of figures from the GC (position at September 2012).

Note: The number of licences is higher than the number of casinos. Some casinos operate more than one licence.

³⁷ There are various categories of gaming machine (B1, B2, B3, B4, C, D). The maximum stake and prize reduces from category A to category D machines. Category A machines have an unlimited stake and prizes and are not permitted in the UK. The machines located in casinos are almost exclusively of type B1 which can have the highest payout of up to £4,000. The number of gaming machines permitted per casino is limited by statute—1968 Act casinos (see paragraph 4.6) are permitted a maximum of 20 category B–D machines per licence and the 2005 Act permits up to 80 category B–D gaming machines in a small casino, (subject to a machine to table ratio of 2:1), and up to 150 category B–D gaming machines in a large casino (subject to a machine to table ratio of 5:1) (see:

www.gamblingcommission.gov.uk/gambling_sectors/casinos/operating_licence_holders_-_wh/key_information_for_the_casino/gaming_machines_casino_premise.aspx).

See Appendix H for greater detail on casino regulation.

³⁸ For example, adult gaming centres (AGCs) or LBOs.

³⁹ A&S noted [§<].

⁴⁰ There are a small number of high-end casinos. High-end casinos are different from standard casinos since they offer gambling at substantially higher levels; often have restrictive membership requirements and provide a range of additional free services (for example, they may pay for customers' flight and hotel costs). High-end casinos attract high-spending, often international, clients. The GC (see paragraph 4.9) categorizes the following six London-based casinos as high-end casinos: Aspinalls, The Clermont (owned by Guoco), Les Ambassadeurs, The Ritz Club, Crockfords and Maxims (the last two are owned by Genting). Gala and Rank agree with this categorization. However, Genting considered that its Colony Casino and the Playboy Club should also be included as high-end casinos.

Regulation⁴¹

- 4.6 Up to 2007 all casinos and casino operators in the UK were licensed under the 1968 Act, which was introduced to regulate the proliferation of casinos within the UK. The 1968 Act restricted the number of areas where new licences could be issued to 53 local authorities. Licences could only be issued if it could be demonstrated that there was an unfulfilled demand for a casino.
- 4.7 New legislation (the 2005 Act) received Royal Assent in 2005 and came into force on 1 September 2007. The 2005 Act repealed the 1968 Act and restricted the issue of new casino licences to 16 local authority areas,⁴² each of which is permitted to issue one casino licence. Eight of the 16 local authorities were permitted to issue a 'small' casino licence and eight a 'large' casino licence.⁴³ The framework for the bidding process for a 2005 Act licence was set out in the 2005 Act. The CC understands that the process has been similar in all 16 2005 Act local authorities which have so far carried out a competition for a 2005 Act licence. The 2005 Act additionally converted existing 1968 Act licences to 2005 Act licences. These are now known as 'converted casino premises licences' under the 2005 Act; however, the same restrictions as applied to the licences when they were issued continue to apply.⁴⁴
- 4.8 As noted above, the 2005 Act did not come into force until 1 September 2007. Between the date at which the 2005 Act received Royal Assent (7 April 2005) and the cut-off date for applications under the 1968 Act (April 2007), a large number of 1968 Act casino licence applications were received and granted, many of which were speculative in response to the limitations on the issue of new casino licences which would be brought in by the 2005 Act (to 16 local authority areas). This has resulted in a significant number of cold 1968 Act licences being present in the market. Since the cut-off of April 2007, no further licences have been issued under the 1968 Act so the only new licences will be the 16 2005 Act licences. In total, 186 licences were issued under the 1968 Act. Of those licences 146 are currently operational⁴⁵ and 40 are cold licences.

The Gambling Commission

- 4.9 The GC was set up under the 2005 Act to regulate commercial gambling. It is an independent non-departmental public body sponsored by the Department for Culture, Media and Sport (DCMS). Its responsibilities include issuing operating and personal licences to casino operators and staff; monitoring compliance and taking enforcement action for non-compliance with licence conditions; regulating casino games and payout ratios; publishing licence codes of practice and collating industry statistics.
- 4.10 Prior to June 2011, the GC set out in detail the rules for offering casino games, including the physical layout of the game, odds, minimum payouts and side wagers, for all approved casino games. The rules were applicable to all casino operators. In June 2011 the GC changed its rules so that if a game is not prohibited by the GC and otherwise conforms to criteria laid down under the 2005 Act, it is automatically per-

⁴¹ See Appendix H for a more detailed explanation of the regulatory background to the casino industry.

⁴² Ten of these local authorities were already among the 53 local areas designated under the 1968 Act. Please see Appendix H for details of the 16 designated local authority areas and the bidding process for award of these licences.

⁴³ Both casino types would be larger than existing casinos in the UK. In particular small casinos were allowed to contain up to 80 gambling machines (with two machines for every casino table). Large casinos were allowed to contain up to 150 gambling machines (with five machines for every casino table).

⁴⁴ Converted licences cannot take advantage of the higher number of gaming machines permitted in 2005 Act casinos.

⁴⁵ A number of the operational casinos shown in Table 1 have more than one licence allocated to the premises to allow for a higher number of machines to be located there. There are also some 'electric-only' casinos, which only contain gambling machines.

mitted. There are currently no casino games prohibited by the GC. The GC continues to publish a Core Rules document covering the standard game rules for the five most popular games in British casinos only (blackjack, roulette, three-card poker, punto banco and dice).

*Licensing*⁴⁶

- 4.11 In order to operate a casino in the UK an operator requires two licences: an operating licence and a premises licence. Operating licences are issued by the GC. Premises licences issued under the 1968 Act were issued by magistrates' courts.⁴⁷ Premises licences issued under the 2005 Act are issued by the licensing departments of the 16 local authorities designated under the 2005 Act. An operating licence carries with it certain reporting requirements to the GC. In addition, certain casino employees may be required to hold personal licences⁴⁸ issued by the GC.
- 4.12 Premises licence holders are not required to report regularly to the local authority which issued the licence but are required to inform the local authority of certain exceptional events, such as poker tournaments.

5. Market definition

- 5.1 In this section we assess the relevant market definition for the merger. Our Merger Assessment Guidelines (the Guidelines)⁴⁹ state that the purpose of market definition in a merger inquiry is to provide a framework for the analysis of the competitive effects of the merger. The Guidelines go on to state that the CC will identify the market within which the merger may give rise to an SLC and that this will include the most relevant constraints on the behaviour of the merger firms.
- 5.2 The Guidelines also note that in practice, the analysis leading to the identification of the market or markets and assessment of competitive effects will overlap, with many of the factors affecting market definition being relevant to the assessment of competitive effects and vice versa.⁵⁰ The relevant market contains the most significant competitive alternatives available to the customers of the merger firms. It includes the most relevant constraints on the behaviour of the merger firms.⁵¹
- 5.3 Using the approach set out in the Guidelines, we first assess the product market, examining whether other gambling venues, online gambling, or other leisure venues are significant competitive alternatives for customers and should be included in the relevant market.⁵² Then we discuss the appropriate scope of the geographic market.

Product market

- 5.4 The parties overlap in the supply of casino services (see paragraph 4.2) including the provision of table games, gaming machines and poker (card) rooms (core ser-

⁴⁶ See Appendix H for greater detail on the licensing regime applicable to casinos.

⁴⁷ As no 1968 Act licences have been issued since April 2007 the only way to obtain one is through acquisition from an existing holder.

⁴⁸ Certain casino employees require a personal management licence (PML) and/or a personal functional licence (PFL), which are issued by the GC. Employees in senior management positions require a PML. Employees involved in gaming or handling cash in relation to gambling (eg croupiers, cashiers, security staff) are required to hold a PFL.

⁴⁹ CC and OFT, *Merger Assessment Guidelines, CC2 (Revised)*, September 2012, paragraph 5.2.1.

⁵⁰ The Guidelines, paragraph 5.1.1.

⁵¹ The Guidelines, paragraph 5.2.1.

⁵² We discuss whether high-end casinos constrain the standard casino in the competitive assessment of the merger in London.

vices).⁵³ Casinos also offer their customers non-core services such as F&B. This is often used to attract customers so that they try out gambling or ensure customers remain longer in the casino. Other non-core services may include live entertainment or events, which some casinos also use to attract new customers. Some customers may not gamble but consume F&B or watch the entertainment provided.

- 5.5 The relative revenue derived by the parties from each source of revenue is shown in Figure 1 below. The gambling revenue (from table gaming, machines and poker) amounts to a high proportion of income (over [redacted] per cent of income for Rank and [redacted] per cent for Gala).⁵⁴ We also noted that casinos set the price of their core and non-core services separately, though the price of F&B may be set with a view to the effect on demand for the core gambling offer.

FIGURE 1

Revenue split for the parties' casino businesses

[redacted]

Source: 2012 Grosvenor management accounts and 2012 Gala Casino divisional management accounts.

Note: Table revenue is defined as table gaming win (effectively the GGY). Electronic games and slots revenues is after customer wins. Other revenues are gross revenues.

- 5.6 We gathered a range of evidence to assess the strength of the constraint imposed on casinos from: other gambling venues; online gambling; and other leisure venues. We gathered information from the following sources:
- (a) *Internal documents.* The parties provided us with a number of internal documents, prepared both at the group level and by each casino. We considered that this provided useful information on what they considered to be the most important competitive constraints. We have therefore put significant weight on these.
 - (b) *Event analysis.* We considered a number of events that could shed some light on whether particular services could constrain casinos. The use we could make of such events depended on the type of information and its reliability.
 - (c) *Parties' views.* This included views from both the parties to the merger and third parties.
- 5.7 Both the CC and the parties have undertaken consumer surveys. However, as explained in Appendix C, we have been able to make only limited use of the survey for product market definition purposes.
- 5.8 Given that all casinos offer a similar range of services we concluded that it was appropriate to consider the services offered by casinos under the term 'casino services'.

⁵³ In the case of electric casinos only gaming machines are available.

⁵⁴ Rank and Gala told us that there was variation across casinos around these average proportions as some casinos did not have a restaurant. As an example, Rank told us that the casino it opened in May 2012 in New Brighton had about [redacted] of its income from F&B.

Other gambling venues

- 5.9 The term ‘gambling venues’ encompasses a number of small bricks-and-mortar gambling services outlets. The GC classifies these services as including arcades, LBOs, bingo halls and lotteries.
- 5.10 Rank said that its casinos were constrained by LBOs and other gambling venues and Gala considered that it was constrained by LBOs, adult gaming centres, family entertainment centres and bingo clubs.^{55,56,57} Rank said that there was therefore overlap in the customer base of casinos and LBOs. In particular, Rank told us that it competed with LBOs for a share of casino gaming expenditure, since most LBO revenue was derived from B2 gaming machines which were similar to casino gaming machines. It said that there were more gaming machines in LBOs (by number and revenue) than in casinos.^{58,59} Rank considered that other gambling venues were a competitive constraint in each of its local markets. Rank said that it had introduced fixed-odds betting terminals into three of its casinos (Walsall, Leeds and Scarborough) specifically to capture revenue that it believed customers were spending in LBOs. Gala said that casinos were beginning to offer exactly the same B2 machines that were normally found in LBOs (with exactly the same stakes and prizes) specifically to counter the competitive threat from LBOs.⁶⁰ It noted that it had undertaken ad hoc campaigns in [redacted] to target customers that play in LBOs and that Gala [redacted] had designed bespoke marketing campaigns to target [redacted] electronic roulette players currently playing in LBOs. However, Genting said that its customers would not switch to other gambling venues if it lowered the quality of its offer by 10 per cent.
- 5.11 We noted that other non-casino gambling venues do not provide the same gambling experience as casinos offer, in particular the social element of playing table games in a live environment.⁶¹ To some extent, playing gambling machines also had a social aspect.⁶² Rank argued that the social element of the gambling experience may be comparable in many other non-casino venues. Gala said, as an example, that a customer playing slot machines in an LBO could do so alone or with friends and indeed might be more easily able to play with friends given the lack of entry controls in LBOs. However, we considered that based on the evidence we have seen and consistent with the focus on customer service by casinos, the social aspects of the casino are important to many customers. We also noted that most of the machines in casinos are B1 gaming machines, which can have a payout of up to £4,000. This compares with a maximum payout of £500 for the B2 machines allowed in LBOs.⁶³

⁵⁵ Rank said that, based on British Gambling Prevalence Survey (BGPS) information, casino visitors participated in an average of 6.8 different types of gambling per year.

⁵⁶ Including poker and slot machines played in public houses and slot machines in clubs, bingo halls and arcades.

⁵⁷ We note that Gala is the third largest UK operator of LBOs and Gala and Rank are the largest and second largest UK bingo operators.

⁵⁸ Rank provided figures suggesting that in 2011, LBOs had 66.1 per cent of the machine revenue, while casinos earned 6.2 per cent. Gala estimated that LBOs had a total of 34,316 machines, while casinos had just 2,729.

⁵⁹ Rank said that it had engaged with the Government to harmonize regulations and taxation for casino gaming in casinos and in LBOs to create a level playing field as it considered that LBOs enjoyed a competitive advantage in relation to the machines that they could have.

⁶⁰ For example, Gala said that the Gala Casino Merchant City in Glasgow and the Genting Palm Beach in London offered the ‘Storm’ B2 machines also found in William Hill and Betfred and that Aspers in Stratford offered Global Draw terminals identical to those found in Ladbrokes, Coral and Betfred (Aspers also offers category C machines that are normally found in bingo halls and AGCs). Gala also noted that Napoleons had FOBT-style terminals.

⁶¹ The customer survey showed that the great majority visited a casino with someone else (see [survey report](#), Figure 7). However, we note that Gala said that some casino players valued a greater degree of privacy and discretion (in particular those playing electronic roulette).

⁶² The parties told us that the social aspect applies to gambling machine players as well as table game players.

⁶³ There are a maximum of four B2 machines allowed in LBOs and further restrictions on other gambling premises (see www.gamblingcommission.gov.uk/gambling_sectors/gaming_machines/about_gaming_machines/gaming_machines_sited_premises.aspx). We also note that high-end casinos do not have even B1 slot machines because the betting limits are too low for their customers.

- 5.12 We examined the main parties' internal documents. We found that other gambling venues are not mentioned under the heading 'competitors' in any of the Rank documents that related to casino development or refurbishment proposals. These documents only referred to nearby casinos as competitive threats and indicated that Rank considered that casinos and bingo venues did not constrain each other.^{64,65} For Gala we examined 14 local casino business plans which had been supplied to us. All focused on the threat from local casinos. Only two, [redacted]⁶⁶ and [redacted],⁶⁷ mentioned other gambling venues as key threats. Gala submitted examples of competitor monitoring reports from its casinos. It told us that, in one case ([redacted]), Gala recorded visits to monitor competitor activity at local LBOs ([redacted]) in order to look for Gala casino customers using those LBO slot machines.⁶⁸
- 5.13 We noted there was some evidence of both Gala and Rank acting in response to the threat from LBOs but based on the evidence in paragraph 5.12 this was only in a very limited number of areas. We concluded that other gambling venues should not be included in the relevant product market. However, in our competitive assessment of overlap areas we took account of any reliable evidence that suggested that other gambling venues in the area were acting as a competitive constraint on the local casino. In practice we only saw limited evidence and only in three out of the 17 overlap areas that we identified as raising potential competitive concerns ([redacted] and [redacted]—see paragraphs 7.57 to 7.61).

Online gambling

- 5.14 We considered the extent to which online gambling exerts a competitive constraint on casinos. There are currently a large number of online gambling services that consumers can access through fixed or mobile Internet services.
- 5.15 The parties said that online gambling, mobile gambling websites, apps and television gambling will continue to compete for customers' discretionary spending and exert a competitive constraint on casinos to a certain extent. Rank said that the range of games online is much wider than that of casinos as such games are not restricted by regulation (especially for the majority of operators, which are based overseas). It also told us that online competitors were also increasingly offering some form of 'live gaming' as part of their online experience—for example, cards being dealt by a real dealer, roulette being linked to a real roulette wheel based in a casino.⁶⁹ Rank said

⁶⁴ For example, a Rank internal document illustrates how Rank developed a bingo club licence and relocated its existing Ramsgate casino to the same location with the 'bingo and casino being located next to each other'. Other documents suggest that there was no concern that casino would constrain bingo clubs. A Rank internal document about the development of a casino in Oldbury indicates that it would have an impact on other Grosvenor casinos (one in Walsall 9 miles away and one in Birmingham 6 miles away) but 'it is not anticipated that the casino will have any impact on the Mecca bingo club in Oldbury'. A Rank internal document discusses how Grosvenor's new G Casino in Stockton will not impact on its Mecca bingo: 'the site will neighbour a Mecca bingo, which is the most successful club within the Mecca portfolio. However, based on experience from Thanet, Stoke and Bolton (where Grosvenor casinos also neighbour Mecca bingo clubs), it is not considered that the casino will have any adverse impact on the neighbouring bingo business.'

⁶⁵ We also note a recent Rank brochure describes Rank as 'Rank is a leading European gaming business. We operate bingo clubs and casinos in the UK with complementary on-line gaming and bookmaking services' (see www.rank.com/flash/rank.swf).

⁶⁶ Gala's [redacted] business plan mentioned the 'growing threat from [local bookmakers] LBOs and their free bet offers', betting shops and amusement arcades as key threats.

⁶⁷ Gala's [redacted] business plan included LBOs and a Mecca bingo hall alongside a casino in its external market matrix and referred to AGCs, LBOs and bingo product offers on e-gaming as a threat.

⁶⁸ We note that in the case of Sunderland the Gala casino is 26 minutes away from the nearest neighbouring casino (see paragraph 7.113). Given this the casino manager may consider LBOs represent a more significant local alternative than would be the case in other local areas.

⁶⁹ Rank told us that some online and mobile competitors also provided a multi-channel offer including gaming in casinos, for example PokerStars.co.uk operates several 'live' poker tours. Great Yarmouth's Palace Casino is developing video streaming technology allowing online players to participate in games taking place live on the casino floor. In 2010, 888 launched a 3D instant casino, which offers instant 3D avatars to interact with other gamers.

that online gambling currently had no UK tax obligation.⁷⁰ Genting said that it had a small online gambling business and did not consider that there was a risk to its casinos of revenue cannibalization. It said that if it reduced the quality of its casinos by 10 per cent most customers would switch to other casinos and not gamble online.

- 5.16 We examined the main parties' internal documents and found that online gambling providers were not mentioned as competitors in any of the casino development documents provided by Rank. These only assessed the competitive threat from nearby casinos.⁷¹ The parties said that the lack of reference to online gambling in these reports reflected the fact that the casino manager at the local level could not do much to react to competition from online gambling. However, we consider that there are ways in which a local casino could react to an increasing threat from online games—for example, increasing promotions, organizing tournaments or modifying its odds to attract people into the casino. Rank included online competition as a threat in its 2011 Strategic Plan but the plan also indicated that it considered that online gambling was an opportunity to expand the reach of its casino business. Gala's business plans did not mention online competitors as a competitive threat and Gala said that having an online service would [REDACTED].
- 5.17 Rank submitted an analysis of casino customers that had signed up to its online service, Grosvenorcasinos.com and noted that for the 12 months after customers signed up to its online offer compared with 12 months before there was [REDACTED] in the average number of visits and level of bets at the casino. However, we did not place much weight on this evidence. Rank's online business is small in relation to its casino business.⁷² Therefore, even if the impact for those of Rank's customers that joined Grosvenorcasinos.com had been significant, on average, the impact on Rank's casino business was very small overall. Rank said that the key point was that even though the number of customers was small there was still an appreciable effect on their gambling behaviour at Rank's casinos. It considered that the effect of larger online gambling websites than Rank's could be expected to be greater and noted that the parties' survey and the CC survey revealed that a sizeable proportion gambled online. We agreed that a significant proportion of casino visitors also gamble online. Evidence from the CC's survey suggested that 29 per cent of the respondents for the non-London casino sample placed a bet online and 21 per cent stated they played another online gambling game in the last six months. However, this does not mean that the two services are necessarily close substitutes. Although we placed limited weight on the responses to the diversion question (see Appendix C), we noted that very few respondents to the CC survey stated that they would divert to online gambling if the casino that they last visited was permanently closed.⁷³

⁷⁰ However, Rank noted that a consumption tax on remote gambling was announced in the 2012 Budget (see: www.hm-treasury.gov.uk/consult_tax_remote_gambling_consumption_basis.htm).

⁷¹ These include, for example, internal documents related to the following Rank casinos: Ramsgate, Stockport, New Brighton, Leeds Merion Way and Moortown, Cardiff, Newcastle, Stockton-on-Tees, Manchester, Oldbury, Reading, Walsall, Southend, Brighton/Hove, Birmingham, Bolton, Sheffield and Luton.

⁷² The proportion of Rank revenues from its online business (Grosvenoronline.com) relative to total online and casino revenues, though growing, is very small. It was [REDACTED] per cent in August 2010 and [REDACTED] per cent in August 2012.

⁷³ Less than 1 per cent (5 respondents out of 1,191) for the non-London sample stated they would have gambled online or by telephone if they had known that the casino they last visited was permanently closed. In Appendix C we expressed reservations about the results from the diversion question because these were not weighted by frequency of visit and spend. However, given the extremely low number of respondents that chose the gambled online or on the telephone option, even assuming that these five respondents were frequent visitors and exchanged significant amounts of money for each visit, their proportion would remain low. Furthermore, for the whole sample (including London casino) there is no evidence that this result changed when we considered only higher spenders—ie respondents that stated that they exchanged more than £200 money for gambling chips in their last visit. As we discuss in Appendix C, this was not the case for the option 'gone to another casino' which was chosen by significantly more respondents who stated they exchanged more than £200 of money for gambling chips.

- 5.18 We concluded that online gambling is not a significant competitive alternative for customers and should not be included in the relevant market. We noted that online services may serve to expand the reach of the parties' casino businesses.

Other leisure venues

- 5.19 We assessed whether other leisure venues, including a wide variety of local leisure venues such as pubs, bars, restaurants, nightclubs and others, exerted a sufficiently strong constraint on casinos to be included in the same market. In particular, we considered the extent to which the presence of 'leisure' customers, who focus less on gambling than 'transactional' customers, would constrain the offer at casinos.⁷⁴
- 5.20 Rank said that its recently introduced G Casino format, with more emphasis on bars and restaurants, was intended to attract leisure customers and that was what distinguished them from its more traditional Grosvenor-branded casinos. Genting said that it had a similar distinction between its Genting Casinos and Genting Clubs. Rank said that those who paid for F&B were typically less experienced casino players who would otherwise consider other options as alternatives to a casino visit ([redacted] per cent of all Rank's F&B was offered for free). Rank said that it benchmarked its central F&B national price bands against other high street leisure venues and not against casino F&B prices. It said that leisure customers were more likely to consider a casino as one of a number of options to visit during a night out. Gala argued that this was particularly the case for customers of Rank's new G Casino format.⁷⁵ However, Genting said that it set its F&B prices at a level to attract visitors into its casinos so that they could try out the other casino services. Genting said that the large majority of its visitors did gamble. Rank said that about [redacted] per cent of its theoretical win⁷⁶ was from non-leisure (ie transactional) customers.
- 5.21 As noted above (paragraph 5.4), compared with gambling, F&B is on average a small proportion of overall revenue in both parties' casinos.⁷⁷ Rank told us that the proportion of F&B revenue might be higher in some casinos and gave the example of its New Brighton casino (see paragraph 5.5). We note this casino is new and is unlikely to be fully established so we attached limited weight to this evidence.^{78,79}
- 5.22 Other leisure venues do not offer significant amounts of gambling.⁸⁰ The CC's survey⁸¹ found that 83 per cent of respondents gambled when they last visited a

⁷⁴ Gala said that we should also examine separately consumers' decision not to visit a casino but instead to stay at home. We do not consider that 'staying at home' is a potential substitute for market definition purposes. However, this is a relevant consideration for the competitive assessment.

⁷⁵ Rank provided two examples out of the weekly monitoring reports we asked it to provide (we asked for a sample of 17 weekly reports in the course of a year for each of its casinos). In Didsbury, for example, the casino manager also liaised with the cinema, which is part of the same entertainment complex as the G Casino, to offer a promotion on dinner and cinema entrance (Didsbury Weekly Reports for Week 6 (2013) and Week 27). In New Brighton, the G Casino offers live entertainment on Fridays and Saturdays, with particular focus on maximizing F&B sales on those nights. One of the reports (New Brighton Weekly Reports for Week 20 and Week 3 (2013)) noted that '[redacted] on the Thursday was a great success with 80 ladies booking for the package'.

⁷⁶ Theoretical win is the amount of money that a casino expects a customer to generate, including the customer's spend on food and drink and in the card room and the casino's expected win against the customer on table games and machines.

⁷⁷ [redacted] and [redacted] per cent respectively for FY 2012. Gala also told us that about [redacted] per cent of Gala's total gross profit was from catering.

⁷⁸ We note, for example, that in the first eight months of operation the attendance levels for the New Brighton G Casino were [redacted] the investment proposal planned levels by [redacted] per cent. Rank considered that by the end of its first full year of operation the casino will have achieved [redacted].

⁷⁹ We noted the proportion of F&B across Rank's G Casinos in the Grosvenor 2012 management accounts, at around [redacted] per cent of total revenue, is [redacted] than the average for all Rank casinos of [redacted] per cent, but did not consider this difference sufficient to affect our assessment.

⁸⁰ The exceptions are some slot machines in some pubs. We understand that these machines are of a different type than those in casinos.

⁸¹ [Survey conducted by GfK](#) covering the following casinos: Gala (Aberdeen, Bradford, Northampton, Teesside, Leicester, London Barracuda, London Golden Horseshoe, London Russell Square and London Tottenham Court Road) and Rank

casino⁸² but for about two-thirds this was not the main purpose of the visit.⁸³ Overall this suggests that although a large proportion of respondents visited a casino for a 'night out' most still gambled.

- 5.23 The CC's survey showed that about half of respondents went straight to the casino while the remainder had a drink, a meal or did something else before going to the casino.⁸⁴ This is consistent with, for a substantial proportion of casino visitors, a visit to the casino being part of a 'night out' rather than an alternative to it.⁸⁵
- 5.24 We examined other Rank and Gala internal documents and found that (with a few exceptions that we took into account in our local competitive assessment) other leisure venues were not cited as competitive constraints.^{86,87} To the extent that they were cited it was in specific connection with F&B offers and not gambling. No cinema, theatre or restaurant openings were cited as competitive threats.
- 5.25 [REDACTED], an independent casino in Aberdeen that also owns restaurants and bars in the same areas, said that often and especially at weekends its casino clients went to a restaurant first, then to a bar and at a later stage went to a casino. Parties have given us evidence of joint cinema and casino packages which suggests that the two are used together to attract customers.^{88,89} Gala said it believed that activities which were complements to visiting a casino might still constrain casino operators and that a casino's offering must be sufficiently attractive to persuade customers to move on to the casino. It said that a customer paying a particular price for a drink would judge the value they got in the casino by direct comparison. However, that is consistent with the view that a casino needs to set its F&B prices (and the type of entertainment it offers) at a level that is viewed as attractive by customers compared with other leisure destinations.
- 5.26 While the revenue from F&B is a relatively small proportion of the overall casino revenue (and given that F&B may have a low contribution to margin since a proportion is complimentary) it is likely to be important to set the F&B pricing at such a level that customers are attracted to the casino and remain longer in the casino.⁹⁰ There-

(Aberdeen, Coventry, Stockton-on-Tees, London Gloucester, London Victoria, London Park Tower and Piccadilly London). See Appendix C.

⁸² It excludes 'don't know' answers.

⁸³ Excluding 'don't know' answers, around 35 per cent of respondents in the CC's survey stated that the main purpose of their visit was to gamble compared with 42 per cent whose main purpose was to 'have a night out with friends'.

⁸⁴ 42 per cent of those who went before 11pm had a drink/meal or did something else beforehand compared with 72 per cent of those who went post-11pm.

⁸⁵ A March 2010 Rank internal document on G Casinos supported the premise that casinos are complements to other leisure destinations. It describes a 'typical customer journey' for 'social' customers as follows: '(a) start at the bar, drinking and socializing in their group; (b) go onto another favourite venue, perhaps for dinner (favourite cuisine); (c) return for late drinking at G; (d) Being 'in the mood' to gamble; (e) Return to the bar and drinking; (f) Only the most confident go back for another flutter and maybe a final fling before leaving.' It also describes the casino in Dundee as 'the only late night drinking and eating venue'. In particular, it describes it as having 'now established itself as a late night drinking venue, a great place to drink early evening ... the numbers swell as local pubs and bars close'. It also describes the restaurant as 'very busy after the bar closes and the only place to eat late in town'.

⁸⁶ Gala sent us business plans for 14 casinos. We found that other leisure venues were listed for Gala's Liverpool casino (which mentioned the location of the casino close to [REDACTED]). However, the Liverpool casino mentioned this as under key opportunities and mentions 'opportunities to work with [REDACTED] 'movers and shakers'' and opportunities to [REDACTED]. The plan also mentioned as a main strength the location near the [REDACTED]. The [REDACTED] casino mentioned 'bar prices vs other venues' as a threat. Gala subsequently provided us with a document of its [REDACTED] casino that showed a benchmarking exercise for food and drinks that included restaurants, bars and hotels alongside other casinos.

⁸⁷ A Gala internal document assessed the competitive impact of the Hippodrome casino opening in London and among its foreseen impact on [REDACTED] casino it mentioned 'steal restaurant business of most casinos'. The comment does not refer to other restaurants, but specifically to restaurants at other casinos.

⁸⁸ See paragraph 5.20 regarding a joint casino/cinema package at Didsbury.

⁸⁹ Clockfair told us that its Broadway casino was in a complex where there was also a cinema. When a Bond movie came out it hired one of the screens for everybody to dress up and have cocktails and champagne for the private screening and then go back to the casino.

⁹⁰ The parties told us that they set their central F&B menu prices with reference to those of non-casino venues—ie bars, restaurants and hotels.

fore casinos may be constrained by other leisure venues in setting their F&B prices but not in their gambling offer.⁹¹

- 5.27 We concluded that other leisure venues are not significant competitive alternatives for customers and should not be included in the relevant product market. We recognize that some aspects of the casino offer, in particular entertainment and F&B, are set in order to attract visitors to the casino, but overall the presence of local leisure venues does not constrain the casino core gambling services to such an extent that they should be included in the same market. We found internal document evidence mentioning leisure venues in relation to only 2 out of 17 overlap areas identified by our filtering rules (in [redacted] and [redacted]—see paragraphs 7.58 to 7.61 and 7.90 to 7.100). In our competitive assessment of overlap areas, we examined whether this evidence was reliable and took account of it when it suggested that local leisure venues in the area were acting as a competitive constraint on a local casino.

Conclusion on the product market

- 5.28 We concluded that neither other gambling venues, online gambling nor other leisure venues were significant competitive alternatives for customers and that they do not constrain the competitive price and service level of standard casinos to such an extent that they should be included in the same market. We further concluded that other casinos are the most significant competitive alternatives available for customers of the merger parties and that, consistent with our guidelines,⁹² we are satisfied that the market for casinos satisfies the hypothetical monopolist test.

Geographic market

- 5.29 We have assessed the scope of the geographic market for casinos. In Section 7 we assess whether key aspects of competition are national or local in character and conclude that the market for casinos is local. We assess the extent of the local geographic market below.
- 5.30 We considered customers' travel patterns and the extent of casinos' catchment areas. The parties provided evidence that showed that [redacted] per cent of Rank's and [redacted] per cent of Gala's customer visits were from customers located within a 30-minute drive-time. The CC's survey showed that 82 per cent of respondents travelled 30 minutes or less to get to the parties' casino they last visited.
- 5.31 The geographic scope of the market appears to be wider in London. The CC's survey shows that 75 per cent of respondents who had visited casinos outside London came from within a 30-minute drive-time compared with 47 per cent for London casinos. Genting said that it considered the area within the M25 as the appropriate catchment area for standard casinos in London. The CC's survey indicated that customers of London casinos said they travelled from further afield than those of casino customers outside London. 69 per cent of customers said that they travelled up to 30 minutes compared with 90 per cent for customers outside London and the average journey time for London casino customers was 26 minutes, compared with 18 minutes for customers outside London. We consider that customers in London were more likely to use public transport to visit casinos than customers outside London. This is likely to make drive-time isochrones less relevant when considering catchment areas in London. Rank told us that the catchment area capturing 80 per

⁹¹ This is similar to grocery retailing where large grocery retailers often site petrol stations at supermarkets; however, this does not mean that grocery stores and petrol retailers compete for the weekly grocery shop.

⁹² The Guidelines, paragraph 5.2.1.

cent of customer visits at Rank's London casinos was larger than [REDACTED] minutes on average.

- 5.32 We also considered the parties' internal documents. These contained many examples of casino development proposals.^{93,94,95} These suggested that the parties generally considered competition to be from competitor casinos that are located nearby, often only few miles away.⁹⁶ Genting said that it used a drive-time of 15 and 30 minutes to identify its primary and secondary competitors. It also said that poker tournaments attracted customers from a wider catchment area of 90 or more minutes away but it considered that the financial importance of poker tournaments was not very significant.
- 5.33 This evidence was consistent with the results of our econometric analysis, which showed some evidence that the number of casino competitors within 30 minutes had a statistically significant effect on the parties' casinos margins and promotions (as a proportion of turnover), but the number of casino competitors beyond 30 minutes did not, which suggested that competitive constraints decline with increasing distance.

Conclusion on the geographic market

- 5.34 The evidence indicates that casinos outside London typically attract most of their customers from within a drive-time of 30 minutes and that casinos compete with one another in local areas. In our competitive assessment for casinos outside London we used a filtering rule that focused the analysis on the basis of the 30-minute drive-time, although allowing for some flexibility (see paragraph 7.41). We assessed the effect of the merger in London as a whole rather than with reference to specific iso-chrones (see paragraph 7.137).

Conclusion on market definition

- 5.35 Our conclusion is that the supply of casinos at the local level is an appropriate relevant market within which to assess the impact of the merger. We found that because, based on the information we have so far, (a) the parties overlap in this market, (b) the most direct competition faced by one casino comes from other casinos and (c) this definition will provide an appropriate framework for evaluation of all constraints on the merged firm's conduct in relation to the overlap products, regardless of whether these constraints come from inside or outside the market. However, in our competitive assessment we take into account the strength of any local constraint from local non-casino gambling and non-gambling venues.

6. Counterfactual

- 6.1 Consideration of whether the merger may give rise to an SLC involves a comparison of the prospects of competition with the merger against the competitive situation with-

⁹³ Rank's competitor assessment when it decided to open a casino in [REDACTED] listed [REDACTED] casinos between 3 and 7.3 miles away. However, it considered that its main competitors, [REDACTED], were 3 miles away from [REDACTED] and there was likely to be limited crossover between [REDACTED], due to the [REDACTED] distance between the two locations and as evidenced by the limited business currently attracted to existing Grosvenor casinos from this catchment area.

⁹⁴ Rank's internal documents on the local assessment for developing a new casino in New Brighton and for Cardiff includes drive-time maps for [REDACTED] minutes.

⁹⁵ The internal document prepared for Rank's planned development of a cold licence in Stockton-on-Tees uses a [REDACTED]-minute drive-time catchment area which included a Gala casino and one potential new large casino to be opened in Middlesbrough.

⁹⁶ However, in some cases the analysis included customers from further away—for example, Rank refurbished its Leeds Merrion Way casino and considered a catchment area of [REDACTED] minutes.

out it. The latter is called the 'counterfactual'.⁹⁷ The Guidelines explain⁹⁸ that we may examine several possible counterfactual scenarios based on evidence obtained during the course of our inquiry. The CC must select the most likely scenario absent the merger (which may or may not be the continuation of the pre-merger situation). The Guidelines note that 'the CC will typically incorporate into the counterfactual only those aspects of scenarios that appear likely on the basis of the facts available to it and the extent of its ability to foresee future developments'.⁹⁹

- 6.2 We first examined the financial position of Gala to examine whether it was a failing or exiting firm. Gala has historically been profitable and cash generative with operating cash flow of the Acquisition Package in excess of the annual capex. Gala has continued to optimize its financial performance by monitoring the performance of individual casinos and taking action to deal with poor performance. Therefore we consider that the financial performance of Gala was strong.
- 6.3 Next we examined the debt position of Gala Coral since this may have affected the prospects of Gala. Gala Coral completed a financial restructuring in May 2011 to extend the maturity of the group's borrowing to five to seven years from the date of the reference. The refinancing removed the most significant potential uncertainty that might have previously surrounded the future prospects of Gala Coral or its ability to operate Gala as a whole. We note that brief discussions between Rank and Gala Coral in [REDACTED] suggested that Gala Coral was examining a wide range of strategic options [REDACTED]. However, [REDACTED]. Therefore we do not consider that Gala Coral was a failing or exiting firm.
- 6.4 We concluded that the appropriate scenario against which to examine the competitive effects of the merger was the pre-merger situation in which Grosvenor (ie Rank) and Gala competed against each other. We consider the pre-merger situation to be that which prevailed prior to April 2011 (when serious discussions between Rank and Gala Coral commenced, which resulted in the SPA being signed in May 2012).¹⁰⁰ In response to our provisional findings Rank said that it was the subject of a mandatory offer in May 2011 by Guoco which did not close until July 2011. Rank said that [REDACTED] but that substantive negotiations between the parties did not commence until [REDACTED]. Gala said that substantial discussions between the parties did not begin until Rank [REDACTED]. However, while the takeover bid from Guoco may have taken up some management time, [REDACTED] in April 2011 and we therefore continued to consider the pre-merger situation to be that that which prevailed prior to April 2011.

7. Assessment of the competitive effects of the merger

- 7.1 In this section, we assess the competitive effects of the acquisition and consider whether the merger may be expected to result in an SLC within any market or markets in the UK for goods or services.¹⁰¹
- 7.2 We first consider the way that casinos compete presently (ie pre-merger), including assessing the extent to which competition occurs on a local and national basis pre-merger.
- 7.3 We then assess the effects of the merger against the competitive position in the absence of the merger, where we expect the Rank and Gala casinos to continue to

⁹⁷ The Guidelines, paragraph 4.3.1.

⁹⁸ The Guidelines, paragraphs 4.3.1 & 4.3.7.

⁹⁹ The Guidelines, paragraph 4.3.6.

¹⁰⁰ In April 2011 the Rank board discussed a recommendation to acquire Gala Casinos.

¹⁰¹ Section 36 of the Act.

compete with each other. This assessment is forward-looking, to account for the effect of the merger on competition. It considers the extent of competition under the counterfactual scenario, then assesses how the merger will affect it.

Pre-merger competition

How casinos compete

- 7.4 We assessed the extent to which casinos compete on a number of dimensions, including locally and nationally, short and long term and on price and non-price factors. In the short term, competition may take place with respect to those elements of the service offer that can be adjusted relatively quickly and easily, including, for example, price and aspects of service quality and customer experience. Competition may also exist with respect to elements that take longer to adjust, including, for example, branding, loyalty cards, format, location of new sites and capex to improve facilities and ambience. These short- and longer-term dimensions may take place in local areas or more broadly across the country.
- 7.5 We noted in paragraphs 5.30 to 5.34 that customers do not travel far to visit a casino, so they choose between casinos that are located nearby. The econometric analysis (see Appendix G) provided some evidence that on average the presence of an additional competitor within a 30-minute drive-time is associated with lower casino margins, admissions and turnover and is associated with a higher ratio of promotions to turnover.¹⁰² The evidence from the survey and internal documents (see paragraphs 5.30 to 5.34) suggests that casinos that are geographically close to one another are closer competitors than those located further away.
- 7.6 Although casinos offer broadly similar gambling services,¹⁰³ they differ from each other in a number of ways including their branding and format. For example, some are aimed at more transactional customers—ie customers who focus heavily on gambling—and others more at attracting leisure customers—ie customers who come to a casino to enjoy the overall offer of the casino and may or may not gamble. Casinos offer a similar range of games, so we can analyse competition between casinos, rather than at the level of individual games. However, operators may on occasion focus on individual games that they offer. For example, promotional poker tours are popular.

What matters to customers?

- 7.7 The parties' and the CC's surveys show that (after convenience) customers choose a casino largely based on the casino environment and the experience and friendliness of staff.¹⁰⁴ The parties' own internal documents confirm this.¹⁰⁵

¹⁰² We note that although the ratio increases this could be because turnover reduce while promotions remain at the same level (see Appendix G for more details).

¹⁰³ These consist of table games (card games such as poker, blackjack and punto banco, roulette (including electronic roulette) and other games such as dice) and slot machines. An exception are 'electric casinos.' These only have gambling machines, sometimes with a very limited table offer (for example, Scarborough has a poker table). We understand that electric casinos are often located in an adjacent facility to a staffed casino.

¹⁰⁴ The parties' survey (covering Gala and Rank casinos in Bristol, Cardiff, Leeds and Liverpool/New Brighton found that respondents chose the casino they last visited for the following main reasons: 34 per cent because of the 'nicest environment', 28 per cent 'closest to home', 23 per cent 'friendlier staff', 6 per cent 'I am a regular customer' and less than 5 per cent a number of other answers including: 'better odds/prizes' (2 per cent), 'convenient opening hours' (1 per cent) etc.

¹⁰⁵ For example, a focus group of transactional customers at Gala [§] identified the following elements as making a 'great casino', in order of importance: (a) delivery of the gaming product; experience of staff, functionality and maintenance of machines, pace of the game; (b) staff service; attentiveness, friendliness, welcome; (c) atmosphere and ambience; the decor,

What elements of their offer do casinos focus on?

- 7.8 Rank said that the [X] (more than [X] per cent) of revenue in 2011 was generated by its gross gaming win on table games, [X] per cent from slot machines, [X] per cent from card room games (ie poker) and [X] per cent from F&B and other income. Gala's revenue breakdown in 2011 was very similar (see also Figure 1).
- 7.9 Non-price features seem more important overall than price.¹⁰⁶ Rank said that it targeted improvements in: service standards; quality of premises; product (gaming and non-gaming) range and quality; quality and motivation of managers and front-line teams. It did this through recruitment, on-board training and development; online (including mobile) distribution; pricing; promotions and complimentaries. Gala said that non-price elements were important elements that drove the profitability of its casino business because the price (ie the odds) of the most common table games and electronic roulette was intrinsic to the nature of those games.¹⁰⁷ Gala said that in its view, the quality and nature of the premises (including its location and ambience) and the quality of customer service were all important factors that helped to attract customers to its casinos (admissions) and increase the amount of money that they gambled (cash drop). Other parties have also emphasized the importance of the quality of the gaming environment.¹⁰⁸
- 7.10 Internal documents from the parties suggest that casinos focus on attracting as many customers with as much frequency as possible (ie maximizing admissions), on maximizing the amount of time and money that they spend while in the casino and on minimizing their variable costs, particularly staff, utilities and promotional costs.
- 7.11 We noted that Rank casino managers' weekly performance reports typically included comments on the staff team; customers (including details of higher-value VIP customers and profitable admissions); F&B sales; new customers (including efforts taken to convert new customers into regulars such as offering tuition packages, tours of the club, free play demonstrations and low stakes gaming); lapsed customers, including calls and mail shots; customer communication, (including birthday calls and use of Facebook and Twitter); product performance, (including revenue breakdown by game); and information on the local market.¹⁰⁹

Response to local competition

- 7.12 Our review of the parties' internal documents provided insight into the main elements of competitors' offer that they monitor. The documents show that casino managers, particularly managers of Rank casinos, typically undertook significant monitoring of local competitor casinos. They regularly visited nearby casinos and noted the number of visitors, queuing times, the promotions being run, forthcoming events and whether any of their higher-value customers were spotted at a competitor casino.
- 7.13 We set out some examples from the parties' internal documents below, which show how casino managers vary different aspects of their casino offer, often in response to

music, 'feel'; (d) food provision; (e) recognition, being known, loyalty points and promotions; (f) location: parking availability; (g) security; and (h) cleanliness.

¹⁰⁶ 6 per cent of customers surveyed by the CC identified 'games' as the reason for their choice of casino. ('Games' included 'good odds', 'good payout ratios', 'good poker rakes', 'high betting limits' and 'low minimum bets' as factors.)

¹⁰⁷ The odds of the five most common table casino games are also regulated by the GC.

¹⁰⁸ A&S, Broadway and Soul casino.

¹⁰⁹ Rank said that these measures were used by Rank not only to attract customers that might otherwise visit another casino but also to increase the number of times that customers visited a Rank casino and the time that they spent there. It also said that it recognized that customers might be trading off visiting Grosvenor casinos against other leisure activities. It gave the example of its Birmingham casino's conversion to a G Casino, where Rank expected to be able to 'encourage existing customers to spend more time in the venue (increase dwell time)'.

a competitive threat identified from another casino. We noted that the internal documents suggest that different casino managers vary different aspects of their offer:

- (a) *Gaming*: Casinos adjust their gaming offer (ie the range of games (to some extent) and machines offered and the number of tables offered for each game) so as to attract customers.^{110,111} Varying the gaming range is likely to affect both admissions and revenue as well as direct costs of sales through, for example, changes to staffing levels.
- (b) *Promotions*: Casino managers regularly compete for customers and respond to competitor initiatives through the use of promotions. There are many examples of managers using promotions to attract customers.^{112,113} Our econometric analysis suggested that on average a casino's ratio of promotions to turnover increases with the number of local competitors (see paragraph 7.5), although the parties argued that casinos' promotional responses to entry were short-term in nature.
- (c) *Poker tournaments*: Casinos use poker tournaments to create atmosphere in their casinos and to attract customers, particularly in response to the entry of a new casino in the local area.¹¹⁴ Poker tournaments appear to attract customers from a wider area than the usual catchment area of a casino, with professionals being drawn from a wider area to play high-value tournaments. However, their longer-term impact is likely to be to retain more local customers.
- (d) *Events*: Internal documents indicate that casino managers regularly hold events in order to attract customers.^{115,116,117} Rank noted that the number and types of events depended on the focus of the casino, with leisure-oriented casinos tending to offer more events. It said that the purpose of events was to attract new customers as well as increase admissions from existing customers and to increase customer 'dwell time' (ie the time customers spend in the casino).
- (e) *Staff*: Rank casino performance reports show that casino managers pay close attention to staff and staff costs. Managers regularly report the actions they are taking to monitor costs and adjust staff costs.^{118,119} The parties' internal documents also provide some insight into how defensive actions in response to new entry affect staff costs as a proportion of revenue.^{120,121} Changes to the food and drink offer in a casino may directly affect staff costs (more staff may be required

¹¹⁰ For example, the Rank casino manager in Aberdeen reported that a new poker schedule had 'seen [redacted]'.
¹¹¹ In another example, the casino manager at Rank Blackpool reported that new procedures had been introduced to ensure the right mix of games was offered at the right time, with staff rotas amended to suit.

¹¹² For example, Rank Bristol responded to an offer from Genting [redacted].

¹¹³ The casino manager of Rank Blackpool noted that a local competitor (Paris) had a card room launch night with £1,000 prize as well as no rake in April for a fee of £10. The Rank casino responded by issuing a free rake voucher per competition entry on selected days in April.

¹¹⁴ For example, Rank internal documents note that the Gala casino in Stockton-on-Tees 'responded aggressively to the G Casino with poker tournaments'.

¹¹⁵ For example, Rank Blackpool held a psychic night and a £500 free-roll poker.

¹¹⁶ The Rank casino in Didsbury held eight events in July 2012 (various tribute acts and other events).

¹¹⁷ Independent casinos also spoke of hosting events to attract customers. Broadway casino had held a James Bond night.

¹¹⁸ For example, the manager of Rank [redacted] noted that 'Poker employment costs are being monitored as we are now house dealing 3 competitions a week, which is not in the target' and that 'Audit of employment costs continues with [redacted]. Staff meal allowance is allocated to Salaries and Wages. Reduced food and beverage staffing costs'.

¹¹⁹ For example, the manager of the Rank [redacted] casino noted that: 'It is still evident that we need more staff on Saturdays—we will recruit some zero hour staff to cover the shortfall.' The casino manager of Rank [redacted] noted in April 2012 'staff training in other departments to cover the breaks etc, this to prevent overstaffing at off peak times'.

¹²⁰ For example, in response to new entry in Stockport, Gala reviewed [redacted]. Gala noted that this may not necessarily all have been put in place in reaction to the opening of the Didsbury casino.

¹²¹ However, we note that our econometric analysis was unable to find a relationship between casino salary costs relative to their turnover, though we did find a relationship between casino variable margin and the number of casino competitors within a 30-minute drive-time (see Appendix G).

to respond to a new competitor initiative), promotion costs (through complimentaries) and other direct costs of sales.^{122, 123}

- (f) *Valuable (high-spending) customers*: Our review of internal documents suggests that casino managers pay particular attention to a small number of valuable customers. The regular reports often feature a breakdown of the wins and losses of these customers and include comments when they are spotted at competitor casinos.
- (g) *F&B*: Our review suggested that F&B is another important element of the customer offer and that casino managers can use this to attract customers.¹²⁴ Rank agreed that F&B was a further lever to attract customers and said that it typically sought to include high-quality restaurants in its G Casinos.
- (h) *Refurbishments*: Refurbishments appear to be centrally approved but a key driver seems to be to respond to local competitor initiatives. There are a number of examples in the internal documents that show refurbishment as a defensive strategy to respond to new entry in the local area.¹²⁵ Rank noted that there were many examples of refurbishments that had been undertaken that were not in response to competitor initiatives and this was the case for most G Casino conversions.

Evidence on local price variations

7.14 As described above (paragraphs 7.10 to 7.13) many non-price elements of casino services are set by each local casino. We examined the evidence on the extent to which the prices set by the parties vary locally. We examined gambling price, betting limits and F&B prices.

- *Gambling prices*

7.15 For some table games such as poker there is an entry fee (poker tournaments) or a rake (cash games). However, for other gambling games—most table games, electronic and slot machine games—the price is determined by the payout ratio.¹²⁶ With table games the odds (which define the house edge) are set by the rules of the game. In the case of the five core casino games (poker, blackjack, punto banco, American roulette and dice) the core rules are set by the GC (see paragraphs 4.9 and 4.10) and the house edge has tended not to vary over time.¹²⁷ Similarly, there has been very little or no variation in the payout ratios for slot machines. It appears that to keep gamblers playing it is necessary to provide relatively frequent rewards in the form of payouts and/or evidence of payouts to others. We note that it is possible that the payout ratio or house edge may already be set by the manufacturers at the level where the return to the casino is maximized. If this were the case and if con-

¹²² For example, the same defence plan for Gala Casino Stockport notes that [REDACTED].

¹²³ In response to the opening of Rank's G Casino in New Brighton Gala took a number of steps, [REDACTED].

¹²⁴ For example, the Gala Stockport defence plan in 2011 aimed to 'provide a suitable, edible offer that will appeal to our target market in order to drive visits and dwell time'.

¹²⁵ For example, Rank refurbished its [REDACTED] in response to [REDACTED] and Gala refurbished its casino in Stockton in response to the entry of a new Rank G Casino.

¹²⁶ Payout ratios can potentially be modified for each slot machine and could therefore vary locally. Genting referred to finding the 'sweetspot' for the payout ratio for machines where Genting would make the most money because customers would gamble the most while considering the machine payout was reasonable.

¹²⁷ Although the rules of the core casino games also allow casino operators to vary at their discretion game rules not specifically covered and, in the case of roulette, to add an extra zero to the wheel which would increase the house edge. We would expect this to be driven by local demand if it happened. For example, we would expect a decision on whether to introduce a double zero in roulette would be casino-specific, driven by local competition considerations and consumer behaviour.

sumers' preferences are the same across the UK and have not changed significantly over time, there would be little scope for changing payouts to customers.

7.16 The parties said that manufacturers of slot machines offered a number of payout ratio options for their machines and recommended which payout ratio to use (with each manufacturer recommending a slightly different payout ratio for its machines). They said that since the mix of machines from different manufacturers varied between casinos the average payout ratio varied. Casino operators were able to vary the recommended ratio, but the parties said that they had chosen to follow the manufacturers' recommendations on payout ratio whenever possible, that they did not advertise payout ratios (though these were displayed on the machines for regulatory reasons) and that they did not monitor competitor payout ratios.

7.17 We note that price is not particularly important in determining consumers' choice of casino. The CC's survey found that no respondents cited 'slot machine payout ratios' or 'good odds/prizes' as a reason for casino choice and only 1 per cent mentioned 'good poker rakes'.¹²⁸ Prices, therefore, seems unlikely to be an important element of competition at a national or local level.

7.18 One exception relates to poker entry and rake fees. The parties said that these were determined locally by each casino manager and as a result varied from casino to casino.

- *Betting limits*

7.19 Maximum betting limits vary substantially across Rank's casinos and over time.¹²⁹ This indicates that these are varied to cater for local demand and to control risk in relation to the turnover of the casino.

- *F&B prices*

7.20 The parties said that Gala set central price bands for F&B prices and Rank did so for drinks, but that local casinos chose the most appropriate price band for their particular customer set. The parties said that they benchmarked central menu prices against high-street restaurants and other leisure outlets. However, they also said that a substantial proportion of their F&B was used to attract customers into casinos and was offered without charge. The parties' survey showed that F&B was not a particularly important factor in casino choice.¹³⁰ Given the discretion that local casino managers have in setting F&B prices and promotions, this aspect of the casino offer appeared to be set in response to competition from local casinos and other local leisure venues.

Conclusion on how casinos compete locally

7.21 The evidence we have reviewed suggests that many aspects of the casino offer are set by local casino managers in response to local competitive conditions. Casinos compete locally by focusing mainly on their customer service, offering promotions and events. Casino managers seek to control their costs closely.

¹²⁸ A reason for this may be that prices do not vary between casinos and therefore are not relevant to consumers.

¹²⁹ See Appendix D.

¹³⁰ Only 4.1 per cent of respondents chose a casino because of 'best food & drink'.

Assessment of elements of the casino offer where competition may take place on a national basis

- 7.22 Rank and Gala said that all meaningful competition between casinos took place at the local level but that there were efficiency (administrative or financial) or other reasons (such as risk management) for taking decisions on some parameters centrally. They said that casino managers in most cases had the ability to adapt the central policy to take account of local circumstances. Genting said that some aspects of competition were local and some were national. It said that it competed nationally through the extent of its footprint, brand and loyalty schemes. Genting said that certain elements of its casino offer were set uniformly at the national level, including [REDACTED]. However, it also said that some of these elements may be varied locally.
- 7.23 In paragraphs 5.30 to 5.34 we found that casino customers were only willing to travel relatively short distances to a casino. We also found that convenience (and within it largely location) was the most significant factor in customer choice of a casino (see paragraph 7.28). This suggests that the important elements of competition take place locally. Appendix D also shows an assessment across Rank's casinos of opening hours, house edge/payout ratio for individual games and betting limits for individual games. This shows that (with the exception of house edge/payout ratio which did not vary over time or across casinos) these service features are set locally by each casino. This suggests that these aspects of the casino operation cater for differences in local demand and none of them are set nationally.
- 7.24 However, it is possible that competition on longer-term strategic variables may take place between casino chains. In paragraphs 7.26 to 7.37 we examine aspects of the casino offer that may be set nationally and assess their importance to pre-merger competition. We assess the impact on national competition of national branding (including advertising) and loyalty schemes.
- 7.25 We note in paragraph 7.202, that regulation is an absolute entry barrier in the casino market and entry is only possible in those areas where it is possible to obtain an existing cold licence or bid for one of the remaining 2005 Act licences. Given these constraints on entry we did not consider whether the merger would reduce competition at a national level with regard to casino location. We assess the effect of the merger on the development of the parties' existing casino licences in paragraphs 7.149 to 7.183 and we assess the effect of the merger on bidding for new casino licences in paragraphs 7.184 to 7.187.

National branding

- 7.26 The parties said that a national brand was not an important parameter of competition in casinos and was only important for online casinos. The parties said that their national branding strategy amounted to the sharing of best practice and gave the example of Rank's G Casinos to illustrate that this results in commonalities across casinos. They said that in the past they had often opted to retain the original name of an acquired casino rather than replace it with the national brand. Rank and Gala both said that they had recently 'de-branded' some casinos.¹³¹ Rank's 2011 Strategic Plan noted it had eight logos and three casino websites which [REDACTED]. Therefore Rank's recent adoption of a national brand appears to have been to ensure consistency between its bricks-and-mortar and online casino offers rather than to have a national casino brand.

¹³¹ Gala said that it had de-branded the Golden Horseshoe, Barracuda and Leo casinos and Rank said that it had de-branded its Manchester George Street casino to its original name, Soames casino.

- 7.27 Genting said that branding was an important tool that casino operators used to differentiate themselves and to build customer loyalty. Genting said that it and Rank were planning to spend significant amounts on their brands. It said brand decisions were taken centrally and reflected an operator's national strategy and ambitions.¹³²
- 7.28 We examined whether a national brand could be an important element of competition. We first considered whether customers considered national branding important to their casino choice. Genting said that even if customers only played in one casino the brand was important to making the choice of casino and drawing them in. Genting noted that this might be especially true for customers that did not visit casinos regularly and might at first feel uncomfortable. However, the CC's survey showed that 61 per cent of respondents said the main reason for choosing a casino was convenience (mainly its physical location). Only 4 per cent said they chose a casino because they preferred the brand.¹³³
- 7.29 Second, we considered whether brand was important to customers that visited more than one casino because they may wish to visit the same brand of casino elsewhere. We note that the number of customers that visited more than one of the parties' casinos was low. Rank said that in the last 12 months less than [redacted] per cent of Rank customers outside London (less than [redacted] per cent in London) visited more than one Rank casino on more than one occasion; Gala said that [redacted] per cent of Gala customers with a loyalty card visited more than one Gala casino.^{134, 135}
- 7.30 The two consumer surveys commissioned by the parties¹³⁶ asked casino customers their reason for visiting a particular casino. Only 0.1 per cent in one survey and 0.06 per cent in the other chose 'Part of a chain so easy to play at other locations'. The CC's survey showed that 1 per cent selected 'part of a chain so that I can play at other locations easily' as a reason for visiting a casino.¹³⁷ Genting said that the CC survey, except for London, did not cover areas where the parties operated more than one casino. However, while the CC survey did cover London, the parties' survey also covered areas where a party operated more than one casino within a 30-minute drive-time (eg Leeds and Manchester). Therefore we did not consider the survey to be misleading on this issue. Genting also said that customers might move from one casino to another to change their luck and choosing an alternative casino might be affected by its brand. However, we were not convinced that this was an important factor driving national competition.

- *Advertising*

- 7.31 If national branding were an important element of competition between national chains, we might expect that national campaigns would be used to promote the brand across the UK. There are economies of scale from national advertising that would provide strong incentives to advertise nationally rather than locally.¹³⁸ The parties said that they did not undertake any significant national media advertising for their casinos. Rank said that less than [redacted] per cent of its total advertising and

¹³² Genting said that it had [redacted].

¹³³ CC survey, Q16.2. This question recorded spontaneous answers. Q17 asked the same question but on the basis of pre-selected possible answers (prompted). Although it did not include brand among the possible answers, 'loyalty card' was the second lowest choice among nine possible answers respondents could choose from.

¹³⁴ Genting told us that about [redacted] per cent of its customers visited more than one Genting casino. Genting also told us that this was across all casinos including in areas where Genting had multiple casinos.

¹³⁵ We examined the Rank and Gala customer databases and found that [redacted] per cent of Gala and [redacted] per cent of Rank customers visited more than one of their casinos more than once in the last 12 months.

¹³⁶ The parties conducted two separate consumer surveys covering two different sets of casinos (see Appendix C).

¹³⁷ CC survey, Q16.2.

¹³⁸ We note, however, that in general the total cost of a national advertising campaign may still be higher than that of local advertising.

marketing costs last year related to central marketing. Gala stated that [§] per cent of its total marketing budget for FY13 is allocated to local promotions and marketing. Our review of internal documents suggested that both parties' marketing activity is primarily local and decided upon by local casino managers.

- 7.32 We did not find evidence that the national chains' recent shift from local to national branding indicated national competition. Brand is not an important factor in customer choice of casino and only a small proportion of the parties' customers visit a casino in another town or city within the same chain. Advertising mainly takes place locally despite economies of scale that would arise from national advertising. Therefore we conclude that national branding is not an important factor of competition between casino chains.

Loyalty schemes

- 7.33 The evidence we examined confirmed that the parties, other national chains and some independent casinos¹³⁹ offer loyalty cards and schemes. Members earn points when they spend money in casinos which they can redeem for gifts and services.
- 7.34 The parties said that they offered electronic loyalty cards, though Rank's local casino managers can also decide to run stamp card schemes which in some cases operate alongside electronic loyalty card schemes. The parties said that many other operators ran stamp-based loyalty schemes.^{140,141} The parties said that there was local flexibility in whether the scheme was offered and how it was implemented.¹⁴² Rank's electronic loyalty card was currently available in [§] of its 35 casinos.¹⁴³ Genting said that the main use of its loyalty cards was to identify key individuals and offer them targeted discounts or promotions. [§] It later clarified that head office takes the decisions related to target marketing activities via the loyalty card.
- 7.35 Genting said that when it had revised its loyalty scheme it reviewed competitor schemes. However, Rank told us that its decision to launch a loyalty scheme was influenced by other schemes operating in the retail and leisure sectors in addition to UK and international casino operators. Rank and Gala told us that their loyalty schemes were not often modified in response to competitor changes.¹⁴⁴ Rank said [§].
- 7.36 The parties' survey and the CC's survey suggested that loyalty cards were not an important factor in customers' choice of casino.¹⁴⁵ We noted that the key use of loyalty schemes appeared to be to support local competition and the schemes are not frequently changed in response to national changes in other schemes. We therefore concluded that loyalty schemes are used by local casino managers to allow them to target offers to customers (particularly valuable customers) but they are not an important aspect of national competition.

¹³⁹ Genting, Aspers, The Hippodrome and LCI.

¹⁴⁰ This is a decision of the local casino manager.

¹⁴¹ Almost all customers of the parties are members of their loyalty schemes (for those casinos which have implemented the scheme), though only a proportion of members use them.

¹⁴² Rank told us that while the redemption rates for its Play Points electronic loyalty cards were the same across all its casinos that had implemented the scheme for ease of administration, the earning rate was frequently [§]. Similarly Gala told us that its Fortune and Valuable Player schemes were not specific to any casino and local [§]. [Rank/Gala joint initial submission](#), paragraph 5.9(d).

¹⁴³ Rank also told us that Play Points was not offered at [§].

¹⁴⁴ Rank said that it first introduced its loyalty card in 2008 in its Birmingham casino and it [§]. Gala told us that it launched its Fortune scheme in 2007 and had not modified it in the past three years. It also told us [§].

¹⁴⁵ See [survey report](#), Table 5. Only 2 per cent of respondents said that a good loyalty card was the reason for their choice of a particular casino.

Conclusion on whether casinos compete nationally

- 7.37 We conclude that while branding, advertising and loyalty cards are administered centrally competition on these aspects is predominantly local.

Effect of the merger

- 7.38 In this section we assess the effects of the merger against the situation in the counterfactual. Since our counterfactual is the pre-merger situation in which Rank and Gala competed with one another we first examine existing competition then assess how this would be affected by the merger. This section considers:
- (a) the impact of the merger on competition between operating casinos in local areas (paragraphs 7.39 to 7.144);
 - (b) the impact of the merger on potential competition, where one of the parties was able to develop a casino in competition with the other party (paragraphs 7.146 to 7.187);
 - (c) whether the merger would lead to coordination taking place (paragraphs 7.188 to 7.195; and
 - (d) the impact on foreclosure (paragraphs 7.196 to 7.199).

Impact of the merger on local competition between operating casinos

- 7.39 In paragraphs 7.21 and 7.37 we concluded that competition takes place predominantly at a local level, even if some aspects of the casino offer are set centrally. Since competition appears to be local we assessed whether there were local areas where competition may be harmed as a result of the acquisition. We first considered areas where customers may be harmed because the number of casino operators is reduced by the acquisition (loss of actual competition). Then we considered areas where one of the parties holds a cold licence which may have been developed in the absence of the acquisition to compete with the other party (or where the cold licence exerted a constraint even in the absence of development plans), but as a result of the acquisition this would not happen (loss of potential competition).
- 7.40 We first set out the methodology we used to identify the areas of concern for loss of actual competition, then discuss each area identified.

Methodology for identifying areas where the merger could lead to a loss of actual competition

- 7.41 We used the following conservative filtering rules to identify areas where the acquisition could possibly raise competition concerns. The filtering rules drew on our assessment of the parties' internal documents, the evidence from surveys and the econometric analysis.^{146,147} We identified areas where:

¹⁴⁶ The filtering rules were set conservatively to ensure that we examined in detail all areas that could raise a competitive concern.

¹⁴⁷ We also assessed whether there were competition concerns in London but did not use the above filtering since we considered that drive-times may not have been appropriate to use as a measure of catchment areas in London.

(a) Rank and Gala casinos were within a 60-minute drive-time of each other so that customers located between the two casinos within 30 minutes' drive-time of both casinos¹⁴⁸ would have one fewer casino provider to choose from; and

(b) post-merger:

(i) Gala and/or Rank faced three or fewer additional casino (fascia) competitors within a 30-minute drive-time;¹⁴⁹ or

(ii) regardless of the number of local competitors, if the parties' casinos were within a 10-minute drive-time of each other (reflecting the importance of geographical proximity on the intensity of competition between casinos).¹⁵⁰

7.42 There is necessarily an element of judgement in setting filtering rules. However, criteria (b)(i) and (ii) are designed to reflect the fact that we have evidence showing that variations in the degree of competition within 30 minutes have an impact on turnover, promotions (as a proportion of turnover) and margins and that, in addition, there is evidence that the closer the competing casino the stronger is the constraint.

7.43 In response to the provisional findings, Genting said that it considered the number of clubs was not the only, nor the most appropriate, measure for assessing competition. It said that drop and attendance must also be taken into account in order to ascertain a genuine assessment of casino operators' relative market strengths and the competitive constraint they imposed on each other. It noted that two large city centre casinos in favourable locations would exert a much more significant competitive constraint on each other than other more remote casinos. However, it believed that adopting a different metric would not have altered the CC's conclusions in respect of the transaction. We have used the above criteria for initial filtering only and then perform a detailed assessment of the areas highlighted by our initial screening to be potential competitive concerns.

7.44 The overlap areas indicated in Table 2 were highlighted by our initial screening to be potential competitive concerns. These are shown by geographic region since in many cases the local areas overlap within the region and it is helpful to consider them together.

¹⁴⁸ In this case, the extent of the customers' overlap and the geographic distribution of population were important factors to consider.

¹⁴⁹ The basis for this rule is the evidence we have seen that the competitive constraint faced by a casino is stronger the closer it is to a competing casino and that the number of local competitors affects a casino's promotional spend (as a proportion of turnover) and its margins.

¹⁵⁰ The parties noted that the CC's [survey](#) reported that 74 per cent of customers of the non-London casinos would be prepared to travel up to 30 minutes to go to a casino and so considered this criterion to be overly conservative. However, we note that the relation between the degree of competition and the proximity of two casinos is likely to be higher the closer two casinos are located to one another. We also note that the initial screen is conservative in order not to miss areas of potential concern. This is also supported by the econometric analysis (see Appendix G). We note that in practice we did not identify any SLCs solely on the basis of these filtering rules.

TABLE 2 Areas highlighted by the filtering as possible concerns (shown by region)

<i>Region</i>	<i>Local area</i>	<i>Paragraphs</i>
Scotland	Aberdeen	7.48–7.52
Yorkshire	Bradford	7.57–7.60
Yorkshire	Leeds	7.62–7.66
Yorkshire	Huddersfield	7.67–7.71
Yorkshire	Sheffield	7.72–7.74
Midlands	Coventry	7.75–7.80
Midlands	Leicester	7.81–7.85
Midlands	Northampton	7.86–7.89
North-West	Liverpool & New Brighton	7.90–7.101
North-West	Manchester	7.102–7.108
North-East	Newcastle and Sunderland	7.109–7.113
North-East	Stockton-on-Tees	7.114–7.117
South-West/South Wales	Bristol	7.118–7.125
South-West/South Wales	Cardiff	7.126–7.129
South-East	Luton	7.130–7.133
South-East	London	7.134–7.140
South	Bournemouth & Southampton	7.141–7.144

Source: CC analysis.

Approach to the competitive assessment after the initial filtering

7.45 For the areas identified by the filtering we conducted a more detailed assessment by examining the structure of the market, the impact of the merger and evidence as to whether the parties' casinos were close competitors before the acquisition. Our main focus is on casinos. However, as discussed in paragraphs 5.13 and 5.27, where available, we have taken into account any reliable evidence on the constraint from other gambling and leisure venues in the identified areas. We examined the following evidence:

- (a) The number of competitors that Gala and Rank faced and the fascia reduction within a 30-minute drive-time.¹⁵¹ We considered that when a local market is concentrated, this is important initial evidence that suggests competition between the parties unless other evidence (see below) indicated that they were not particularly close competitors.
- (b) The drive-time distance between the Gala and Rank casinos relative to other casino competitors. The closer the parties' casinos are to one another the closer substitutes they were likely to be for each other. This relationship was supported by evidence in internal documents that in the vast majority of cases only listed nearby casinos and by the results of the econometric analysis. We considered this to be important evidence.
- (c) The extent that Rank and Gala monitored each other in the local area. Most Rank and some Gala casinos monitored neighbouring casinos, with staff regularly visiting competitors.¹⁵² We consider that casinos would monitor closer competitors more often.¹⁵³ We considered that this was important evidence that indicated the

¹⁵¹ We based our assessment on data provided by the GC. When we had additional information (ie recent openings and closures), we took these into account.

¹⁵² This information was not always produced by each casino but nevertheless where available it provided useful context for the local competitive situation. We obtained more detailed information from Rank than from Gala.

¹⁵³ We asked the parties to provide competitor monitoring reports for each of their casinos covering a week per month over a period of one year and each week of the top five events in the year. We also asked the parties to provide other ad hoc competitor monitoring reports. Rank provided us with a consistent set of weekly monitoring reports covering all the weeks, while Gala provided us with ad hoc internal documents.

local casino manager's perception of who were the close competitors of that casino.¹⁵⁴

- (d) We examined internal documents, where available, that provided indications on which casinos were considered the closest competitors of Gala's and Rank's casinos in the overlapping areas. Gala drew up business plans (see, for example, Section 5, paragraphs 7.12 and 7.13, and Appendix E, Annex 1) for many of its casinos indicating which casinos it considered to be its closest competitors. Rank often prepared internal documents assessing casino developments. Rank and Gala also frequently produced 'defence strategy' papers where local entry was expected or a local competitor undertook a refurbishment, typically up to 6 to 12 months ahead of the event, highlighting specific actions proposed to reduce the impact. Most of these documents contained an assessment of the local competitive conditions while others provided information on the expected impact of entry by the other party. Some internal documents also provided information on the parties' views on catchment areas (see paragraphs 5.29 to 5.34). We considered that these documents were important in showing the local competitive environment.
- (e) The extent to which the Gala and Rank¹⁵⁵ casino customer catchment areas overlapped.¹⁵⁶ The higher the proportion of customers that Rank and Gala drew from the same areas, the closer substitutes the two casinos were likely to be. Given that visitors varied in their frequency of visits and also in the amount they spent or they were willing to bet (ie their cash drop), this provided an indication of the significance of the geographic customer overlap but did not show how important the overlap was in revenue terms for each casino.
- (i) The parties provided us with a set of maps which they said provided this information visually. The maps showed every 100 visits from a postal district as a single dot.¹⁵⁷ This assigned more weight (visually) to areas from which there were more visits.¹⁵⁸ The parties said that the number of visits gave a better indication of the distribution of revenue because customers that visited more frequently spent more in aggregate than less frequent visitors.¹⁵⁹ These maps appeared to show in general that the distribution of a casino's customer visits was more concentrated around the casino than would be implied by looking at the distribution of individual customer locations where customers appeared to be more widely spread.
- (ii) While we agreed that the parties' approach highlighted the areas where most of the visits come from we considered that the approach suffered from a number of defects. Ideally, we considered that the best approach would be to consider overlaps in terms of cash drop or spend by postcode. However, we understand from the parties that the recorded cash drop or spend data is incomplete and hence we concluded it is not reliable (see Appendix C). Since

¹⁵⁴ The parties advised that in some cases there may be reasons why a local competitor was not monitored frequently and said, for example, that [X] staff were not allowed to enter [X] casinos.

¹⁵⁵ There appeared to be some differences in the Rank and Gala customer databases that suggest further caution was required in relying on this evidence. In particular, Gala's customer database was a number of times larger than Rank's. Furthermore, the distribution of Gala's customers showed a geographically wide distribution while Rank's customers were generally much more clustered around the local casino. The parties told us that the distribution of visits (rather than the distribution of individual customers) for Rank and Gala was similar.

¹⁵⁶ We identified the location of a customer as the customer's declared home address.

¹⁵⁷ If there were less than 100 visits from a postal district this was not shown on the map.

¹⁵⁸ The parties also provided data on the percentage of total customer visits from particular postcode areas and argued that this provided a better indication of the significance of any areas of customer overlap than a simple visual assessment.

¹⁵⁹ The parties claimed that there was a high correlation between the customers' number of visits and the customer spend. They provided an analysis of Rank's Play Point members that they claimed supported this. However, we note that not all customers had swipe cards and not all of the customers that had swipe cards used them (see Appendix C).

spend and cash drop can vary substantially across casino visitors, we considered that the parties' maps might not appropriately weight (and might not show at all) customers with a high overall cash drop who may or may not visit frequently. An example of the difference between visits and cash drop is shown for Gala's Liverpool casino (see Figure 2 and paragraph 7.94(g) for a more detailed discussion of the parties' comments made in response to our provisional findings). Small numbers of high-value customers are important to a casino. Appendix C (Table 1) shows that the top 100 Gala casino customers for the 17 casinos on which we had data on average account for [redacted] per cent of all (recorded) cash drop but are only [redacted] per cent of customers.¹⁶⁰ This shows that the parties' map with every 100 visits from a postal district as a single dot may not accurately reflect the distribution of cash drop or spend. However, we recognize that a simple map that shows the distribution of all customers does not reflect spend either.

- (iii) We decided to use both the maps of individual customer locations and the parties' maps. We used the maps showing individual customer locations mainly to identify areas where there was limited overlap in customer distributions. In these cases we could reasonably conclude that the extent of pre-merger competition was limited. When the individual customer maps showed more substantial overlaps we complemented them with the parties' maps to indicate areas where the concentrated customer visit distributions still showed a significant overlap. However, because neither map was weighted by revenue we used both with caution and placed limited reliance on the information.¹⁶¹ We also noted that information showing the proportion of customer visits within a given drive-time of each casino and the proportion of customer visits from a particular postcode area were not weighted by revenue either and therefore we also treated this information with caution.¹⁶² Moreover, the same information expressed in terms of cash drop or spend was incomplete (see subparagraph (ii)).

FIGURE 2

Comparison of maps showing every 100 visits from a postal district as a single dot and cash drop by postcode

[redacted]

Source: Gala.

- (f) The relative size of the Gala and Rank casinos in the overlap area in terms of gambling turnover overall¹⁶³ to establish how similar in size the two casinos were. However, this was not an important assessment criterion.
- (g) We also considered whether the CC's and parties' surveys provided useful and reliable information for the local assessment. The CC's survey asked the parties' customers what they would have done instead if, when planning their last trip to

¹⁶⁰ We note it is likely that higher spending customers visit more frequently than lower spending customers but even if we assumed that high spending customers visited daily they would still not account for the same proportion of visits as cash drop.

¹⁶¹ This comment applies to each time the maps are discussed in the local area assessments (see paragraphs 7.50(d), 7.58(d), 7.63(c), 7.69(c), 7.77(d), 7.83(d), 7.87(d), 7.94(g), 7.105(e), 7.111(d), 7.115(e), 7.119(c), 7.127(d), 7.131(c), 7.139(c) & 7.142(c)).

¹⁶² This comment applies each time we discuss in the local assessments the information on the proportion of visits within a particular drive-time (in paragraphs 7.48, 7.57, 7.62, 7.68, 7.76, 7.82 & 7.110) and the information on the proportion of visits from particular postcode areas (in paragraphs 7.58(d), 7.63(c), 7.69(c), 7.77(d), 7.83(d), 7.87(d), 7.94(g) & 7.111(d)).

¹⁶³ We obtained detailed gambling revenue data for each casino from the GC.

the casino they had visited, they had known the casino to be permanently closed ('the CC's diversion question'). The parties' survey asked the parties' customers what they would most likely have done instead if, the last time they had visited the casino, it had been closed for refurbishment for six months ('the parties' diversion question').¹⁶⁴ We considered that in principle the diversion questions could serve to provide some indication of the closeness of competition between local casinos and some indication of the strength of competitive constraint from non-casinos services/venues. However, we were cautious about the weight to attach to the results of each survey, for the reasons detailed in Appendix C. We used the diversion ratio information for ranking local casinos in terms of how close the merging parties were in each local area assessment¹⁶⁵ (the two exceptions are the surveys undertaken in Liverpool/New Brighton—see paragraph 7.94(f)—and Didsbury—see paragraph 7.105(d)). In Appendix C we noted that the CC's and parties' diversion question also provided some information on diversion to non-casino options. Although this could potentially be an indicator of the constraint by non-casino options/venues, we had a number of reservations about this evidence and placed limited weight on it in assessing the constraint from non-casino options. We have instead relied on the parties' internal documents.

- (h) The parties provided us with an analysis of the impact of a casino entry or refurbishment on certain of the parties' casinos. The analysis compared the change in admissions, cash drop and promotions between four months after and four months before the event with the value in the same period a year earlier.¹⁶⁶ We considered that there were a number of concerns with this analysis which limited the weight we could assign to it. There were large unexplained variations in admissions, promotions and expenditure that did not appear to be related to openings and closures. Nonetheless, the analysis attributed any difference between the two periods to the casino entry or refurbishment, while other unobservable events and non-cyclical trends (such as an unrelated gradual changes in gambling revenues) might also have had an impact. Additionally we noted that the period shown in the analysis provided (roughly four months) might not be the relevant one to assess the full impact of the event. For example, the defence strategy documents noted in paragraph 7.45(d) suggested that casinos might react to an expected entry up to 6 to 12 months in advance of actual entry.
- (i) We also considered that we needed to take the date of opening of the casino into account. In some cases, such as the Rank New Brighton casino, which opened in May 2012 and Rank Didsbury, which opened in February 2012, the evidence available related to a time when the casino had just opened and it was therefore not fully established. In these cases the available evidence may not be a precise indicator of the impact on the other party's casino because the parties' incentives to compete may have been affected by the merger in the period after serious discussions between Rank and Gala commenced. In addition any observed early impact may be different from when the new casino is fully established. A particular concern relates to the reliability of the diversion results from the consumer surveys, which in the cases of Liverpool/New Brighton and Didsbury/Manchester were undertaken shortly after the Grosvenor casinos were launched. This means that a proportion of respondents may not have known of their existence. We con-

¹⁶⁴ In Appendix C we argue that we had concerns in terms of how the parties' diversion question was framed.

¹⁶⁵ See paragraphs 7.50(c), 7.58(c), 7.59(c), 7.64(c), 7.77(c), 7.83(c), 7.84(c), 7.87(c), 7.94(f), 7.97(c), 7.105(d), 7.106(c), 7.111(c), 7.112(c), 7.115(c), 7.119(d), 7.120(c), 7.127(c), 7.128(c).

¹⁶⁶ The parties termed this a difference-in-difference analysis and calculated the percentage change in the variable of interest between four months after the event and four months before (with each month being 28 days) and subtracted the equivalent change for the same period a year previously. The parties argued that this would strip out any seasonality and long-term trends.

sidered that we had to be particularly cautious in interpreting behavioural and documentary evidence in these cases.

7.46 Where all the available evidence did not consistently point to the same conclusion we weighed the evidence and focused more on the evidence which we considered to be more reliable. Our approach to the assessment of the effect of the merger in each area was necessarily qualitative¹⁶⁷ because the type and quality of the evidence available for each area varied to some extent. We have therefore exercised our judgement, including taking account of the quality of the evidence available in each area.

Local assessments

7.47 We set out in summary below the evidence that we have used to make our decision in each area. Background information is shown in Appendix E.

- *Aberdeen*

7.48 There are three casinos in Aberdeen: a Gala casino, a Grosvenor casino and Soul casino. These are the only casinos within a 30-minute drive-time isochrone of the parties. All three casinos are in close proximity to each other in central Aberdeen. The next closest casino is more than 60 minutes' drive-time away and survey results indicate that Aberdeen casino customers would be unlikely to travel to a casino in another town.¹⁶⁸ Data from the parties indicates that [%] per cent of visits to Grosvenor Aberdeen and [%] per cent of visits to Gala Aberdeen are from registered customers with addresses within 30 minutes. The parties' maps also showed a strong overlap between customer distributions.

7.49 This is therefore a merger of three to two on the basis of 30- and 60-minute drive-times.

7.50 We examined evidence on the closeness of competition between the parties:

(a) The parties are located in very close proximity to each other in central Aberdeen (two to three minutes apart). Given the importance of distance in casino choice, this indicated that the parties are close competitors in Aberdeen.

(b) In the set of weekly performance reports submitted by Rank,¹⁶⁹ Gala was mentioned three times and was the only casino to be mentioned. Gala's business plan (see Appendix E, Annex 1) also mentioned Grosvenor as a local competitor and under key threats 'likely pushback from G Casino due to recent performance'.

(c) In response to the CC's diversion question, of those customers that would have gone to another casino, both of the merging parties' customers ranked the other party second after the independent casino, Soul.¹⁷⁰

¹⁶⁷ For example, we have not adopted thresholds for any of the indicators and not used all indicators (because their availability varied) or assigned the same weight (as reliability also varied) in each overlap.

¹⁶⁸ For instance, 51 per cent of customers stated that they walked to the casino on their last visit and 45 per cent travelled 10 minutes or less. Moreover, 43 per cent stated that their willingness to travel extended to 20 minutes and 76 per cent stated that it extended to 30 minutes. CC survey Q4, 5 & 6.

¹⁶⁹ For each casino (where available) Rank provided 12 weekly performance reports for random weeks specified by the CC. Rank also provided a further five weekly performance reports for each casino (where available) for each casino's five highest sales weeks. For each of the Rank casinos we refer to these as the weekly performance reports.

¹⁷⁰ CC survey Q26.

(d) The parties' maps showing every 100 visits from a postal district as a single dot showed a strong overlap, as do the distributions of individual customers, indicating that there may be cause for concern about the merger. See Appendix E, Figures 1 to 4.

(e) GC revenue data showed [REDACTED].

7.51 We examined evidence on the extent of competition from other parties. We first focused on competition between the casinos:

(a) The Soul casino is very close to the parties (just over 2 minutes from the G Casino and just over 1 minute from the Gala casino).

(b) Soul was not mentioned in any of the Rank weekly performance reports. The Gala business plan (see Appendix E, Annex 1) mentioned Soul as one of its two competitors (the other being Grosvenor). Gala listed as a key opportunity [REDACTED].

(c) In response to CC's diversion question, of those customers that would have gone to another casino, both of the merging parties' customers ranked Soul first.

7.52 We also examined the evidence on the constraint exerted by services or venues other than casinos. We noted that the CC's diversion question also provided some information on diversion to non-casino options. However, as noted in Appendix C we had a number of reservations about this evidence and we have placed limited weight on it. The CC survey also indicated that a large proportion of Gala Aberdeen customers had visited the Grosvenor Aberdeen casino.¹⁷¹

7.53 We assessed the effect of the merger in Aberdeen. The reduction in the fascia count in Aberdeen from three to two indicated that Aberdeen was an area of particular concern. The fact that the casinos are located in close proximity to each other and have similar customer distributions indicated that they are close competitors. Although the Soul casino appears to exercise a significant competitive constraint on both of the parties and ranks first in both of the parties' diversion ratios, it is the only competitor to the parties in Aberdeen. We did not consider the constraint from other gambling venues to be of the same magnitude as competition between casino operators and we considered that it was not sufficient to affect our assessment. For the reasons set out above and the assessment in paragraphs 7.48 to 7.51 we have concluded that the merger may be expected to result in an SLC in Aberdeen as a result of the loss of actual competition.

- *Bradford/Leeds/Huddersfield*

7.54 The casinos in Bradford, Leeds and Huddersfield are all within a 30-minute drive-time of each other. In Bradford there is a Gala casino and a Napoleons casino. In Leeds there is a Grosvenor casino, a Gala casino, a further Napoleons casino and an Alea casino. In Huddersfield there is a Grosvenor casino. The merger would therefore reduce the number of competing casino operators within a 30-minute drive-time of the parties in Bradford, Leeds and Huddersfield from four to three.

7.55 There is a 2005 Act casino licence that is due to be awarded in Leeds, within the 30-minute catchment area of all the region's casinos, in Spring 2013. The licence appli-

¹⁷¹ We also noted that in response to the provisional findings Gala told us that Gala [REDACTED] had also designed bespoke marketing campaigns to target [REDACTED].

cation in Leeds has entered phase two.¹⁷² The licence may be awarded to Global Gaming Ventures (GGV), Leeds Football Club (both of which would constitute new entry) or LCI (which would constitute expansion by an existing competitor to the parties but not an increase in overall fascia). Therefore we do not know whether the winner will be a new or existing competitor and have not placed any reliance on this. Clermont Leisure, which is majority-owned by Guoco, has a cold licence in Bradford. [REDACTED] There is a cold licence in Huddersfield, which is owned by a third party.

7.56 In paragraphs 7.57 to 7.71 we examine the evidence on each of the three areas and assess the merger's impact on competition in each area.

◦ *Bradford*

7.57 Data from the parties showed that [REDACTED] per cent of visits are from within a 30-minute drive-time.

7.58 We examined evidence on the closeness of competition between the parties:

(a) Grosvenor Leeds and Huddersfield casinos are approximately 21 and 23 minutes' drive from Gala Bradford respectively. In view of the importance of distance in casino choice, this suggests that these casinos are not especially close competitors.

(b) Gala Bradford is not mentioned as a competitor in the set of weekly performance reports from Grosvenor's Leeds casino, while other competitors are mentioned five times. Gala Bradford is not mentioned at all in Grosvenor Huddersfield's weekly performance reports, with other competitors mentioned ten times. Grosvenor Leeds conducted competitor monitoring exercises, which included 13 visits to competitors, none of which was Gala Bradford. We therefore found no evidence from internal documents of competitive interaction between the parties' casinos in Leeds and Bradford. The Gala Bradford business plan (see Appendix E, Annex 1) did not mention Grosvenor as one of its competitors. The Gala Leeds business plan (see Appendix E, Annex 1) mentioned Grosvenor Leeds.

(c) In response to the CC's diversion question, among those customers that would have gone to another casino, Napoleons casino in Bradford came first in Gala Bradford's diversion ranking, Gala Leeds was second, Grosvenor was ranked third and LCI casinos was fourth.¹⁷³

(d) The parties' maps showing every 100 visits from a postal district as a single dot showed little overlap in the areas where the customers of each of the Bradford, Leeds and Huddersfield casinos are concentrated. However, the maps that showed individual customer distributions showed there is some overlap in the Gala Bradford and Grosvenor Leeds customer distributions. Gala Bradford attracted a significant volume of customers from Leeds and vice versa, although their customers were generally clustered in Bradford and Leeds respectively. There was limited overlap in the customer distributions of Gala's Bradford casino and Rank's Huddersfield casino. Gala Bradford appeared to attract some customers from the Huddersfield area while Grosvenor Huddersfield attracted few customers from the Bradford area. See Appendix E, Figures 41 to 44. The parties submitted an analysis showing that almost [REDACTED] per cent of visits to Gala Bradford

¹⁷² There is a two-stage process for applications for 2005 casino licences. The first stage of the process is a premises licence review. The second stage of the process is an in-depth assessment of each applicant's proposal. See Appendix H for more details.

¹⁷³ CC survey, Q26.

were from Bradford postcodes, compared with [redacted] per cent for Huddersfield postcodes and [redacted] per cent for Leeds postcodes.

(e) GC revenue data indicated [redacted].

7.59 We examined evidence on the extent of competition from other casinos:

(a) Napoleons casino in Bradford is approximately 2 and a half minutes' drive from Gala Bradford. The Alea and Napoleons casinos in Leeds are a 20- to 22-minute drive-time from Gala Bradford. Given the importance of distance in casino choice, this suggests that Napoleons Bradford is Gala Bradford's most important competitor.

(b) Gala's business plan (see Appendix E, Annex 1) listed Napoleons as a key threat ('continued improve business and client base due to Napoleons targeting of our business') and Gala Leeds (also as a key threat [redacted]).

(c) In response to the CC's diversion question, of those customers that would have gone to another casino, Gala Bradford respondents ranked Napoleons in Bradford first.¹⁷⁴

(d) The parties submitted an impact analysis of the opening of Casino Red in Huddersfield on Gala Bradford. However, given our concerns about the parties' impact assessment (see paragraph 7.45(h)), we did not attach significant weight to its results.

7.60 In terms of non-casino venues/services, Gala's business plan (see Appendix E, Annex 1) also lists LBOs as competitors and as a key threat (ie 'loss of business to city centre betting shop area').

7.61 We assessed the effect of the merger in Bradford. The reduction in the fascia count in Gala Bradford's 30-minute isochrone from four to three indicated that there may be a concern in this area. We noted that there was limited overlap between the customer distributions of Gala Leeds and Grosvenor Huddersfield. We also noted there was no mention by Rank Leeds of the [redacted] casino in its competitor monitoring reports while [redacted]. The most significant competitive constraint on Gala Bradford was the Napoleons Bradford casino. To the extent that casinos in Leeds exert a competitive constraint on Gala in Bradford, post-merger there would remain a constraint from Alea and Napoleons. For the reasons set out above and the assessment in paragraphs 7.48 to 7.51 we have concluded that the merger may not be expected to result in an SLC in Bradford as a result of loss of actual competition.

◦ *Leeds*

7.62 Data from the parties suggests that [redacted] per cent of visits for Grosvenor Leeds and [redacted] per cent of visits for Gala Leeds come from within 30 minutes' drive-time. This suggests that the Gala casino has a wider catchment area than the Grosvenor casino.

7.63 We examined evidence on the closeness of competition between the parties:

(a) The parties are closely located within central Leeds, being approximately 2 and a half minutes' drive apart, while the Gala Bradford casino is just over 20 minutes

¹⁷⁴ CC survey, Q26.

from the parties in Leeds. This suggested that the parties are close competitors in Leeds.

- (b) Grosvenor Leeds' weekly performance reports indicated that Gala Leeds is regarded as a close competitor. Gala Leeds is mentioned four times, with attention paid to monitoring its promotions. The reports noted that during one week monitoring visits were made to Gala Leeds [REDACTED] and noted one customer going between the [REDACTED]. Additionally Grosvenor Leeds' competitor monitoring reports indicated seven visits were made to Gala Leeds in June 2011. Gala Leeds' business plan (see Appendix E, Annex 1) listed Grosvenor Leeds as one of its competitors and the expansion of the casino as a key threat. In response to the parties' diversion question, Gala Leeds customers that named a specific casino, ranked Grosvenor Leeds second, while Grosvenor Leeds customers that named a specific casino placed Gala Leeds first.
- (c) Both the parties' maps showing every 100 visits from a postal district as a single dot and the maps that showed the distributions of individual customers showed there was significant overlap between Gala Leeds' and Grosvenor Leeds' customer distributions. Both attracted the bulk of their customers from Leeds itself, in addition to customers from Bradford, Wakefield, Halifax and Huddersfield. There was also some overlap in Grosvenor Leeds' and Gala Bradford's customer distributions (see Appendix E, Figures 45 to 50). The parties stated that [REDACTED] per cent of Grosvenor Leeds' visits and [REDACTED] per cent of Gala Leeds' visits were from customers with a Bradford postcode.
- (d) GC revenue data showed [REDACTED].
- (e) The parties pointed to evidence from an impact assessment that they conducted on the effect of Grosvenor Leeds' refurbishment on other West Yorkshire casinos which they said showed that there was [REDACTED], even though the refurbishment led to [REDACTED] admissions and drop at Rank and [REDACTED].

7.64 We examined evidence on the extent of competition from other parties:

- (a) Alea Leeds and Napoleons Leeds are both within 6 minutes' drive-time of the parties within central Leeds, suggesting that they are also close competitors to the parties. Napoleons Bradford is approximately 20 minutes' drive-time from the parties.
- (b) The Gala Leeds business plan (see Appendix E, Annex 1) mentioned LCI (ie Alea) and Napoleons as competitors and key threats. Grosvenor Leeds' competitor monitoring reports indicated that, in June 2011, six visits were made to Alea Leeds, indicating that Grosvenor regarded it as imposing a competitive constraint. Alea Leeds was mentioned once in the set of weekly performance reports for Grosvenor Leeds and Napoleons Leeds was mentioned once. One report shows that Grosvenor Leeds engaged in promotions in response to [REDACTED].
- (c) In response to the parties' diversion question, Gala Leeds' customers ranked Napoleons Leeds first and Alea Leeds third. For Grosvenor Leeds, Alea Leeds and Napoleons Leeds were ranked joint second.
- (d) GC revenue data indicated [REDACTED].

7.65 The parties said that they would face a significant constraint from the Napoleons and Alea casinos post-merger. The parties also noted that the new 2005 Act casino was likely to increase competition in the area. Rank also told us it had introduced fixed

odds betting terminals to capture revenue that it believed customers were spending in LBOs (see paragraph 5.10).

7.66 We assessed the effect of the merger in Leeds. The reduction in the fascia count from four to three and the overlap in the parties' customer distributions suggested that the merger may give rise to competitive concerns in Leeds. The parties' close proximity and evidence from their internal documents suggested that they are close competitors. However, this evidence also suggested that the Napoleons and Alea casinos in Leeds are strong competitors to the parties and would remain so post-merger. The Gala, Grosvenor, Napoleons and Alea casinos are all very close (within 5.3 minutes' drive-time). We noted that although Rank had introduced some gaming machines in response to competition from LBOs we did not consider the constraint from LBO's in Leeds to be of the same magnitude as competition between casino operators and we considered that it was not sufficient to affect our assessment. For the reasons set out above and the assessment in paragraphs 7.62 to 7.66 we have concluded that the merger may not be expected to result in an SLC in Leeds as a result of a loss of actual competition.

- *Huddersfield*

7.67 The Grosvenor Casino has been the only casino in Huddersfield itself since the closure of Casino Red.

7.68 Data from the parties suggests that Grosvenor Huddersfield attracted [X] per cent of its visits from within 30 minutes' drive-time. The parties said that 80 per cent of visits to Grosvenor Huddersfield were from within [X] minutes' drive of the casino, giving it [X].

7.69 We examined evidence on the closeness of competition between the parties:

(a) The parties are located some distance from each other, with Gala Bradford and Gala Leeds located 23 minutes and 28 minutes from Grosvenor Huddersfield respectively. This suggested that the parties were unlikely to be especially close competitors, although the absence of a competitor within Huddersfield itself may mean that constraints from more distant competitors were more important than they would otherwise have been.

(b) Grosvenor Huddersfield's weekly performance reports mentioned Gala Leeds once, indicating that Grosvenor Huddersfield had [X] due to Gala Leeds introducing a new game with higher stakes. However, most of the monitoring activity that the casino undertook was of the now closed Casino Red. The Gala Bradford business plan did not mention Grosvenor as one of its competitors (see Appendix E, Annex 1).

(c) In paragraph 7.58(d) we noted that the individual customer distributions showed there was some overlap in the parties' customer distributions, with Gala Leeds and Gala Bradford attracting customers from the Huddersfield area, although Huddersfield did not appear significantly to attract customers from Leeds and Bradford. We noted that Gala Bradford appeared to attract some customers from the Huddersfield area while Grosvenor Huddersfield attracted few customers from the Bradford area (see Appendix E, Figures 41 to 44). The parties stated that [X] per cent of visits to Grosvenor Huddersfield came from customers with a Bradford postcode and [X] per cent from customers with a Leeds postcode. This compares with the [X] per cent of customers that had a Huddersfield postcode and [X] per cent that had a Wakefield postcode.

- 7.70 We examined evidence on the extent of competition from other casinos:
- (a) Competitor casinos are located in Bradford, around 20 minutes' drive-time from Grosvenor Huddersfield and in Leeds around 30 minutes' drive-time from Grosvenor Huddersfield. There is no significant difference between drive-time to the parties and drive-time to competitors.
 - (b) Rank's performance reports indicated that most of Grosvenor Huddersfield's competition came from the now closed Casino Red, although Napoleons Leeds is also mentioned.
- 7.71 We assessed the effect of the merger in Huddersfield. Internal documents showed that the Huddersfield casino's main competitive constraint was from the now closed Casino Red, also in Huddersfield. Evidence on the proportion of visits (and not revenues) to Grosvenor Huddersfield within 30 minutes' drive-time suggested that the Huddersfield casino attracted its customers from within a narrow catchment area. This could reflect either that Huddersfield was a narrow, self-contained market, or that the Huddersfield casino was constrained by other casinos in Leeds and Bradford. If Huddersfield was part of the wider area (within a 30-minute drive-time) there is no reason to believe the Gala casinos were the closest of the competitors to Grosvenor Huddersfield. We note that we have found that the merger may not be expected to result in an SLC in either Leeds or Bradford. If Huddersfield was a narrow self-contained market, the merger would not change the competitive situation in Huddersfield. For the reasons set out above and the assessment in paragraphs 7.67 to 7.70 we have concluded that the merger may not be expected to result in an SLC in Huddersfield as a result of loss of actual competition.

- *Sheffield*

- 7.72 In Sheffield Grosvenor faces competition from a Genting casino and two Napoleons casinos. Gala Leeds is at the edge of the 60-minute drive-time isochrone for Grosvenor Sheffield, alongside Grosvenor Huddersfield and Leeds, Napoleons Leeds and Alea Leeds. The merger leaves the fascia count within a 30-minute drive-time isochrone of Grosvenor Sheffield unchanged at two, but reduces the number within a 60-minute isochrone from five to four. We examined evidence on the closeness of competition between the parties:
- (a) The parties are a significant distance apart, the Gala Leeds casino being almost 60 minutes' drive-time from Grosvenor Sheffield, suggesting that the parties were not close competitors.
 - (b) Grosvenor Sheffield's weekly performance reports did not mention Gala at all and the Gala Leeds business plan (see Appendix E, Annex 1) did not mention Grosvenor Sheffield.
 - (c) Grosvenor Sheffield was [redacted] in terms of turnover.
- 7.73 We examined evidence on the extent of competition from other casinos:
- (a) The two Napoleons Sheffield casinos were situated in very close proximity to the Grosvenor casino and were within 8 minutes' drive-time. The Genting Sheffield casino was within 2 minutes drive-time, indicating that these casinos were Grosvenor Sheffield's closest competitors.
 - (b) Grosvenor's weekly performance reports noted the Napoleons Sheffield casinos and the new Genting casino as competitors. Napoleons was mentioned 12 times

and Genting six times, suggesting that Grosvenor regarded them as competitive constraints. Grosvenor's relocation plans from October 2008 mentioned only the two Napoleons casinos. Another Grosvenor internal document discussed how to respond to the Genting club in Sheffield, which was due to open at the end of September 2012.

7.74 We assessed the effects of the merger in Sheffield. There was an overlap within 60 minutes' drive-time between Grosvenor Sheffield and Gala Leeds. However, the two casinos are only just within 60 minutes' drive-time (58 minutes) apart. We found no further evidence that Grosvenor's casino in Sheffield and Gala's casinos in West Yorkshire constrained each other and Grosvenor Sheffield's internal documents appeared only to consider [REDACTED]. For the reasons set out above and the assessment in paragraphs 7.71 to 7.73 we have concluded that the merger may not be expected to result in an SLC in Sheffield as a result of loss of actual competition.

- *Coventry*

7.75 Within a 30-minute drive-time isochrone of Grosvenor in Coventry there is a Genting casino.¹⁷⁵ The parties do not overlap on the basis of a 30-minute drive-time isochrone around Grosvenor Coventry but overlap on the basis of a 60-minute isochrone, as Grosvenor Coventry is within one hour's drive-time of three Gala casinos (in Leicester, Birmingham and Northampton). However, within 60 minutes there are five additional competitor casino operators.^{176,177} The merger therefore leaves the fascia count within 30 minutes of Grosvenor Coventry unchanged at two and reduces the fascia count within 60 minutes from seven to six. Gala also has a cold licence in Coventry.

7.76 The parties stated that the catchment area that includes [REDACTED] per cent of visits to Grosvenor Coventry is [REDACTED]. We have given limited weight to this evidence given that it is not weighted by cash drop.

7.77 We examined evidence on the closeness of competition between the parties:

- (a) Grosvenor Coventry is approximately 41 minutes' drive from Gala Birmingham, 42 minutes' drive from Gala Leicester and 45 minutes' drive from Gala Northampton. Given the importance of distance in casino choice, this suggested that the parties were not especially close competitors.
- (b) The Grosvenor Coventry weekly performance reports frequently mentioned Gala, [REDACTED]. The reports also made specific references to Gala Birmingham and Leicester, with Gala Birmingham mentioned more often than Gala Leicester. The Gala Leicester business plan (see Appendix E, Annex 1) did not mention Grosvenor as a competitor.
- (c) In response to the CC's diversion question, of those customers that would have gone to another casino, Genting was first when competitors were ranked by diversion ratios. This compares with other Grosvenor casinos which were ranked second and Gala casinos which were ranked third. This question, though, had a very small base, at 17 when those that did not know which casino were excluded and we treated the evidence with caution.

¹⁷⁵ There were previously two Genting casinos, which relocated to one site in November 2012.

¹⁷⁶ Rainbow, Broadway in Birmingham, Aspers in Northampton, Shaftesbury casino in West Bromwich and Castle casino in Dudley. There are also three Genting Casinos in Birmingham and one in Leicester.

¹⁷⁷ Gala also has a cold licence in Coventry and we discuss the impact of the merger on potential competition in Coventry in paragraphs 7.178–7.183.

(d) The parties' maps showing every 100 visits from a postal district as a single dot showed little overlap between Grosvenor Coventry's customers and those of the Gala casinos in Birmingham, Leicester and Northampton. The map of the distribution of individual customers showed that Grosvenor Coventry's customers overlapped to some extent with those of Gala Birmingham and Gala Leicester but there was little overlap with those of Gala Northampton (see Appendix E, Figures 33 to 40). This indicated some potential for concern with respect to losses in competition from Gala Birmingham and Gala Leicester, but not from Gala Northampton. The parties stated that [redacted] per cent of visits to Grosvenor Coventry were from customers with a Leicester postcode and [redacted] per cent from customers with a Birmingham postcode, while [redacted] per cent of visits to Gala Leicester were from customers with a Coventry postcode and [redacted] per cent of visits to Gala Birmingham were from customers with a Coventry postcode.

7.78 We examined evidence on the extent of competition from other casinos:

(a) Genting's Star city casino in Birmingham is closer to Grosvenor Coventry than the Gala casinos when measured by drive-time, at approximately 32 minutes compared with just over 40 minutes for the two Gala casinos. Genting's casinos in Coventry are approximately 9 and 17 minutes from Grosvenor Coventry.

(b) The only other competitors mentioned in Grosvenor Coventry's performance reports were Genting's Star City casino in Birmingham (mentioned six times) and Aspers in Northampton. The Gala Leicester business plan (see Appendix E, Annex 1) only mentioned Genting (ie Mint) as a competitor.

(c) GC revenue data showed [redacted].

(d) A 2005 Act casino licence has been awarded to Genting in Solihull. However, this will not change the fascia count within a 30-minute drive-time of Grosvenor Coventry.

7.79 Although the parties did not overlap on the basis of a 30-minute drive-time isochrone, the limited existing competition to Grosvenor in Coventry and the overlap between the customer distributions of Grosvenor Coventry and Gala in Birmingham and Leicester suggested that there may be some competitive concerns in Coventry due to the loss of competition from Gala Birmingham and Leicester (but not Gala Northampton).

7.80 We assessed the impact of the merger in Coventry. We noted that if all of the Birmingham casinos constrained Grosvenor Coventry, we would not have concerns about loss of actual or potential competition, since there would be numerous competitive alternatives to the parties in Birmingham. However, if only Gala Birmingham or Gala Leicester constrained Grosvenor Coventry, there would be a concern about a loss of actual competition. However, we noted that Grosvenor's closest competitor in Coventry is the Genting casino in Coventry. Rank's performance reports suggest that there may be some competitive constraint from Gala in Birmingham and, to a lesser extent, Leicester. However, given that distance is the main driver of casino choice, such a constraint is unlikely to be especially strong. There were also numerous competitive alternatives to the parties in Birmingham. For the reasons set out above and the assessment in paragraphs 7.74 to 7.79 we have concluded that the merger may not be expected to result in an SLC in Coventry as a result of loss of actual competition.

- *Leicester*

- 7.81 Within a 30-minute drive-time isochrone of Gala in Leicester there is one Genting casino. The parties do not overlap on the basis of a 30-minute drive-time isochrone around Gala Leicester but Gala Leicester overlaps with Grosvenor Coventry within a 60-minute drive-time. Within 60 minutes the merger reduces the number of competitors from five to four, but we note that Grosvenor Coventry is closer to Gala Leicester than other competitors.¹⁷⁸ The merger therefore reduces the number of competitors within a 60-minute isochrone from five to four.
- 7.82 Evidence from the parties suggested that [X] per cent of Gala Leicester's visits were from within a 30-minute drive-time of the casino and [X] per cent were from within a 45-minute drive-time. This suggested that the catchment area was more limited than for most of Gala's casinos.
- 7.83 We examined evidence on the closeness of competition between the parties:
- (a) Grosvenor Coventry is approximately 42 minutes' drive from Gala Leicester. Although it is closer with respect to drive-time than other competitors, which are more than 50 minutes' drive-time away, this suggested that the parties were not especially close competitors.
 - (b) The Gala Leicester business plan (see Appendix E, Annex 1) did not mention Grosvenor. As discussed in paragraph 7.77(b), the Grosvenor Coventry weekly performance reports mentioned Gala Birmingham and Leicester. This indicated that Grosvenor regarded Gala Leicester as a competitive constraint, but was not informative about the constraint that Grosvenor Coventry imposed on Gala Leicester.
 - (c) In response to the CC's diversion question, of those Gala Leicester customers that would have gone to another casino, another Gala casino came second, compared with a Grosvenor casino that came fourth. This question had a small base at 21 when those that did not know to which casino they would divert were excluded.
 - (d) As noted in paragraph 7.77(b), the parties' maps showing every 100 visits from a postal district as a single dot showed little overlap between Grosvenor Coventry's customers and those of the Gala casinos in Leicester. The map that showed the distribution of individual customers indicated that Grosvenor Coventry's customers overlapped to some extent with those of Gala Leicester (see Appendix E, Figures 51 to 54). Again, as noted in paragraph 7.77(d) the parties stated that [X] per cent of visits to Grosvenor Coventry were from customers with a Leicester postcode, while [X] per cent of visits to Gala Leicester were from customers with a Coventry postcode. This compared with [X] per cent of visits that were from a Leicester postcode.
- 7.84 We examined evidence on the extent of competition from other casinos:
- (a) The Genting casino in Leicester is significantly closer to Gala Leicester than any other casino, at less than 2 minutes' drive-time. Other competitors are all between 50 and 60 minutes' drive from Gala Leicester.

¹⁷⁸ Also within Gala Leicester's 60-minute isochrone are Genting's two casinos in Coventry, one Genting casino in Nottingham and two independent casinos in Nottingham. The driving distance to the Grosvenor Coventry casino is 42 minutes compared with 51–56 minutes for the other competitor casinos.

(b) The Gala Leicester business plan (see Appendix E, Annex 1) only mentioned Genting (ie Mint) as a competitor.¹⁷⁹

(c) In response to the CC's diversion question, of those Gala Leicester customers that would have gone to another casino, customers ranked 'a casino that was not part of a national chain' first, Genting casino third and Aspers fifth.¹⁸⁰ This question had a small base at 36.

7.85 We assessed the effects of the merger in Leicester. Although the parties did not overlap within a 30-minute isochrone of Grosvenor in Leicester, they are approximately 40 minutes' drive-time apart. Given the concentrated market in Leicester, we considered that there may be concern if Grosvenor Coventry was the closest of the (relatively distant) competitors located 30 to 60 minutes' drive from Gala Leicester. Although Gala Leicester was mentioned in Grosvenor Coventry's performance reports, we did not have any evidence from Gala Leicester's internal documents that Grosvenor Coventry imposed a competitive constraint. Likewise, the distance between the parties suggested that the parties' Leicester and Coventry casinos were not close competitors. For the reasons set out above and the assessment in paragraphs 7.81 to 7.84 we have concluded that the merger may not be expected to result in an SLC in Leicester as a result of loss of actual competition.

- *Northampton*

7.86 The parties do not overlap on the basis of a 30-minute drive-time isochrone around Gala Northampton, the only competitor being an Aspers casino. However, the parties overlap on the basis of a 60-minute isochrone through Grosvenor Coventry. There are also two Genting casinos in Coventry and a further Genting casino in Luton. The merger therefore leaves the fascia count in a 30-minute drive-time isochrone around Gala Northampton unchanged at two, while it reduces the count in a 60-minute isochrone from four to three. Gala owns a cold licence in Northampton.

7.87 We examined evidence on the closeness of competition between the parties:

(a) Grosvenor Coventry is approximately 45 minutes' drive from Gala Northampton. This suggested that the parties were not close competitors in this area.

(b) There was no mention of Gala Northampton in Grosvenor Coventry's weekly performance reports. Gala's Northampton business plans (see Appendix E, Annex 1) did not mention any of the Grosvenor casinos as a competitor.

(c) In response to the CC's diversion question, of those Gala Northampton customers that would have gone to another casino, Aspers Northampton was ranked first while very few opted for another Gala casino outside Northampton. This question had a small base at 51.

(d) The maps showing distributions of individual customers showed limited overlap between Gala Northampton customers and Grosvenor Coventry customers, with the exception of Rugby where there were some customers of both casinos. The parties' maps showing every 100 visits from a postal district as a single dot showed no overlap (see Appendix E, Figures 97 to 100). This suggested that there was little scope for concern about the competitive effects of the merger in Northampton. The parties stated that [X] per cent of visits to Gala Northampton

¹⁷⁹ It mentions for Genting [X] and 'relocation of competitor to a new and bigger site'.

¹⁸⁰ CC survey, Q26.

in the last 12 months were from customers with a Coventry postcode, compared with [redacted] per cent of visits from customers with a Northampton postcode.

7.88 We examined evidence on the extent of competition from other casinos:

(a) Aspers' casino in Northampton is significantly closer to Gala than is Grosvenor Coventry, at less than 2 minutes' drive-time. Within 60 minutes' drive of Gala Northampton there are three competitors.

(b) The Gala Northampton business plans (see Appendix E, Annex 1) mentioned Aspers (and other Gala casinos) as competitors and under key threats several times.¹⁸¹ The Gala Northampton business plans also mentioned a 'new casino in Milton Keynes' as a key threat.

7.89 We assessed the effects of the merger in Northampton. We noted that very few of the Gala Northampton customers came from the Coventry area and there was no evidence of Grosvenor Coventry monitoring Gala Northampton. There was very limited overlap in the parties' customer distributions and there was no evidence that the parties' casinos in Northampton and Coventry exercised a competitive constraint on each other. For the reasons set out above and the assessment in paragraphs 7.85 to 7.88 we have concluded that the merger may not be expected to result in an SLC in Northampton as a result of loss of actual competition.

- *Liverpool and New Brighton*

7.90 Rank owns a Grosvenor Casino in New Brighton in the Wirral (which opened in May 2012) and had an electric (machine only) casino in Liverpool (now closed down), while Gala owns a casino in Liverpool (Leo casino). The only competing casinos to the parties within a 30-minute drive-time are owned by Genting, which has one casino in Birkenhead in the Wirral (closer to Rank than the Gala casino) and two casinos in Liverpool (closer to Gala than the Rank casino). Cold licences for Liverpool are owned by each of Rank, Genting and State. The merger reduces the number of existing competitors within a 30-minute drive-time isochrone of the parties from three to two.

7.91 We note that the New Brighton casino opened at about the same time the SPA was signed (May 2012). We considered that this should be borne in mind when considering the extent of pre-merger competition, as the extent of competition between the parties since the New Brighton casino opened may have been less than would have been the case absent the merger. In response to our provisional findings the parties argued that there was no evidence that Grosvenor had deliberately slowed the growth of its New Brighton casino or changed its focus. The parties told us that the behaviour of their casinos in Liverpool and New Brighton was consistent with business strategies which were developed prior to signing the SPA. Rank pointed to a comparison of the number of visits in the period after opening for the G Casinos at New Brighton, Aberdeen, Dundee and Didsbury G Casinos. The parties argued that there was no substantial difference between each casino in the way visits had changed over time. Rank also provided an analysis of staff cost and promotional cost per square metre and per visit for the same G Casinos and said that the analysis showed that the promotional effort and the effort to compete was no less intense in New Brighton as a result of the proposed merger.

¹⁸¹ The threats identified were [redacted].

- 7.92 We considered that it was difficult to draw strong conclusions from the data and analysis presented by the parties. We noted the comparison did not take into account any differences in local factors that could have affected the performance of each of the casinos. The information presented by the parties suggested that the overall marketing and promotional effort did not vary across casinos. However, this could still have been consistent with Grosvenor changing the focus of its promotional effort as a result of the merger (for example, by changing the geographic focus or the focus on particular types of customers). We also noted that Grosvenor did not have an ‘inherited’ customer base¹⁸² and had to market its services from scratch. As a result of these considerations, compared with our approach detailed in paragraph 7.45, for this local assessment we have put less weight on evidence of behaviour and outcomes since New Brighton’s opening¹⁸³ and relied heavily on the location of the parties’ casinos compared with those of competitor casinos.
- 7.93 The parties said that their respective casinos in New Brighton and Liverpool were not close competitors and primarily served different sides of the Mersey so the merger would not remove an important competitor to the Grosvenor New Brighton casino. Gala said that for the year up to September 2012, [redacted] per cent of Gala Liverpool visits (and [redacted] per cent of recorded¹⁸⁴ cash drop) came from customers with a Chester postcode (based in the Wirral and some surrounding areas)¹⁸⁵ and this figure had not changed significantly since the opening of the New Brighton casino. Rank provided data that showed that over the period May to December 2012 the New Brighton casino received [redacted] per cent of visits and [redacted] per cent of recorded¹⁸⁶ spend from customers with a Liverpool postcode.
- 7.94 We examined evidence on the closeness of competition between the parties:
- (a) Grosvenor’s New Brighton casino and Gala’s Leo casino are some 16 minutes’ drive-time apart. However, Genting’s casinos are much closer to each of the parties’ casinos. Genting’s two Liverpool casinos are 3 minutes and 2 minutes from the Gala Liverpool casino while the Genting Birkenhead casino is 9 minutes from the Grosvenor New Brighton casino. This suggests that, although the parties may impose a competitive constraint on each other, the constraint will not be as great as the constraint from the Genting casinos.
- (b) In its internal assessment of the development of the New Brighton site dated January 2011 (hence pre-merger), Rank used a 60-minute drive-time, but excluded customers from the Manchester market since it believed [redacted]. In testing the robustness of its investment case Rank considered situations including and excluding the Liverpool market in its calculations. Rank also acknowledged that an increase in promotional activity from Liverpool casinos could [redacted]. In this assessment, Grosvenor stated that it believed the New Brighton site would attract customers from [redacted] but undertook the analysis [redacted]. Rank identified three principal risks to the New Brighton investment. These included a concerted response from the existing Liverpool casinos [redacted]. It also mentioned that since the New Brighton casino was a development of a cold licence it might take longer to ‘mature’ than previous new G Casinos, which had an existing customer base. Its

¹⁸² The only exception was the customer database of the Rank Electric casino in Liverpool which was closed in February 2012. However, the size of this casino was very small compared with other Liverpool casinos.

¹⁸³ This consideration extends to a proportion of internal documents, although some were drafted at a time when the merger was contemplated but not certain.

¹⁸⁴ The recorded cash drop for Gala Liverpool was estimated by Gala to be 54 per cent of all cash drop at the casino. See Appendix C for further details.

¹⁸⁵ Note all customers from the Wirral would have a Chester postcode which in broad terms includes the Wirral and the wider area South and West of it.

¹⁸⁶ The recorded spend for Rank was estimated by the parties to be approximately two-thirds of all spend at the casino. See Appendix C for further details.

review of competitors focused on Genting in Birkenhead. However, it also considered the casinos in Liverpool, including the Gala casino. This suggested that Rank expected that its New Brighton casino would concentrate mainly on customers with Chester postcodes and that it regarded Gala Liverpool's casino as imposing a competitive constraint. However, in response to our provisional findings Grosvenor supplied a copy of a marketing plan for its New Brighton casino (dated February 2012). This focused on attracting customers with Chester postcodes. There was no evidence of any marketing activity planned in the Liverpool area.¹⁸⁷

- (c) The Gala Liverpool business plan (dated June 2011—see Appendix E, Annex 1) mentioned the G Casino opening in New Brighton as a key threat and stated that the G Casino [redacted]. Gala produced an internal paper detailing its defence strategy against Grosvenor in New Brighton (dated 30 March 2012). This showed that some postcodes in the Wirral [redacted].¹⁸⁸ This suggested that Gala was concerned to retain customers from this area in the light of the entry of the New Brighton casino.¹⁸⁹
- (d) There was no mention of Gala Liverpool or indeed any other casino in Grosvenor New Brighton's weekly performance reports. However, this may reflect the fact that we asked Rank to provide documents covering the period August 2011 to August 2012 and Grosvenor New Brighton only opened in May 2012.
- (e) Gala subsequently supplied a range of internal documents (including emails) that showed that it visited the Genting Circus Liverpool and New Brighton casinos. Most of the monitoring visits to the New Brighton casino were made [redacted]. The Genting casino was visited in [redacted] and [redacted] suggested that Gala considered both the Genting Circus and Rank New Brighton casinos to be threats; however, we note that Gala did not appear to [redacted].¹⁹⁰
- (f) In response to the parties' diversion question, of the Gala Liverpool's customers that named a specific casino, Grosvenor New Brighton was ranked third, while for Grosvenor New Brighton's customers Gala Liverpool was ranked second. We considered that for this local assessment, given the New Brighton casino had only recently opened (the casino opened in May 2012 and the survey interviews took place in June 2012), the survey was likely to be particularly unreliable as many Gala Liverpool customers may not at that time have been aware of the New Brighton casino.
- (g) The maps showing distributions of individual customers showed some overlap in the parties' customer distributions, with significant numbers of Gala Liverpool customers being located in the Wirral. The parties' maps showing every 100 visits from a postal district as a single dot showed a more limited overlap. This indicated the potential for competitive concern about the effects of the merger in Liverpool and New Brighton (see Appendix E, Figures 55 to 58). In response to our provisional findings the parties submitted further information on the distribution of visits and cash drop (for Gala) or spend (for Rank):
 - (i) The parties said this information showed that there was limited overlap between the customers of the Gala Liverpool and Rank New Brighton

¹⁸⁷ Rank told us that when it launched its New Brighton casino it did contact former customers from its Liverpool electric casino (which was closed in February 2012) as a near-zero cost marketing exercise [redacted].

¹⁸⁸ The CH postcode area includes the Wirral Peninsula, Cheshire and parts of North Wales.

¹⁸⁹ For example it identified a number of actions to react to the 'threat' including: [redacted] and [redacted].

¹⁹⁰ For example, its Q2 Marketing Strategy (dated January 2012) mentioned [redacted].

casinos.¹⁹¹ Paragraph 7.93 noted that the number of visits to Gala from Chester postcodes was around [§] per cent and the number of visits to Rank from Liverpool was [§]. The overlap appeared broadly similar for cash drop, however since Gala used cash drop while Grosvenor used customer spend the two figures were not strictly comparable. However, as discussed in Appendix C, we had substantial concerns about the cash drop figures.¹⁹² In this case recorded cash drop was only about half of all total cash drop for Gala and recorded spend was about two-thirds of total spend for Grosvenor.

- (ii) We asked the parties to provide further and more detailed data on their visits, cash drop and promotions. In assessing this data we focused on visits and drop from Gala's customers with Chester postcodes. Since these customers were geographically closer to Grosvenor New Brighton and lived in the area where Grosvenor was actively promoting its casino they were more likely to be affected by its opening.¹⁹³ This simple comparison is still subject to the criticisms highlighted in paragraph 7.45(h); however, by focusing on the area where the entry impact is likely to be stronger it reduced some of these concerns. The analysis showed that visits and cash drop from Gala's customers with a Chester postcode were [§] for the four months after Grosvenor's opening in New Brighton compared with the equivalent month a year earlier.¹⁹⁴ However, we noted this appeared to be a short-term effect and later in the year visits and cash drop [§].¹⁹⁵
- (iii) We also received data on Gala Liverpool's overall spend on promotions (Gala could not provide separate data by postcode). This showed that the total spend on promotions in 2012 was [§]¹⁹⁶ that in 2011 (in absolute terms and as a proportion of turnover). The promotions spend [§], significantly before the New Brighton casino opened and [§] throughout 2012.¹⁹⁷ Gala told us that its promotional spend across all its casinos was [§] in 2012¹⁹⁸ and that Gala Liverpool had held an electronic games promotion that [§]. However, compared with 2011 the promotions spend was [§] in the four months following Grosvenor's entry.
- (iv) We considered the evidence was ambiguous. Gala's decline in visits and cash drop (the latter being a less reliable indicator) post entry suggests that the New Brighton casino has had a short-term impact on visits to Gala Liverpool from Chester postcode areas. Its duration could either mean that the effect was short-lived or that Gala reacted more strongly after the summer and won back some of the lost visits from customers with Chester postcodes.

¹⁹¹ The parties also argued that the tunnel constituted a psychological barrier for people from Liverpool to travel to the Wirral. However, Rank stated that this might be asymmetric and it might not work in the other direction.

¹⁹² We noted that Gala Liverpool was able to identify the location of customers that accounted for about 54 per cent of total cash drop at the casino including (for regulatory reasons) all customers that have a cash drop in the visit of over £1,500. This means the number of customers at Gala Liverpool with a Chester postcode could vary from a theoretical minimum of 5 per cent to a maximum of 51 per cent.

¹⁹³ We [§] an impact of the launch of Grosvenor New Brighton on Gala's customers with a Liverpool postcode.

¹⁹⁴ Gala's visits and cash drop from customers with a Liverpool postcode [§] and the values for each month in 2012 were [§] than the equivalent month in 2011.

¹⁹⁵ Genting told us that its Liverpool casinos had been affected by the launch of Grosvenor New Brighton casino, [§]. It told us that it compared the six months prior and the six months after the launch of Grosvenor New Brighton casino and that [§]. Because seasonality affects casino attendances we did not consider that this analysis was reliable. We had asked Genting to provide us with raw data for a longer period and distinguishing by postcodes but were told that Genting did not record visits and cash drop by postcode. Genting said that a significant proportion of customers visited its casinos on both sides of the Mersey and that the Mersey area should be considered as a whole, consistent with London and Manchester. Genting said that over the past 12 months: [§].

¹⁹⁶ Spend on promotions [§] by [§] per cent from the 2011 to 2012 financial years.

¹⁹⁷ We note the level of Gala Liverpool's promotion spend in 2012 was [§] than that of the previous four years.

¹⁹⁸ Gala said across its 23 casinos promotions spend for each financial period [§] from [§] in FY 2010 to [§] in FY 2012, an [§] per cent. However, we note [§] from FY2011 to FY 2012 was [§] per cent.

However, we noted that the [redacted] in promotions spend took place from 4Q 2011, well in advance of the New Brighton casino opening. Although this could have been in anticipation of the New Brighton opening it could also be related to the Gala strategy of [redacted] promotions spend across all casinos.

(h) GC revenue data showed [redacted].

- 7.95 The parties stated that the New Brighton casino had a large leisure customer base, citing as evidence the fact that F&B accounted for [redacted] per cent of its revenue for the period since opening compared with [redacted] per cent for Grosvenor's casino business as a whole. The parties stated that this positioning was very different from Gala Liverpool's, which was [redacted]. However, we note that in the investment proposal for New Brighton the proportion of F&B revenue out of total revenue was [redacted] per cent. The balance (of [redacted] per cent) was revenue from gambling. The [redacted] per cent was still higher than the average across Rank's G Casinos of [redacted] per cent, but is substantially lower than the actual of [redacted] per cent. We considered this suggested that the New Brighton casino may not be fully established yet rather than suggesting the casino is intended to be substantially different from other Rank G Casinos.
- 7.96 The parties conducted an impact analysis of the opening of the New Brighton casino on Gala Liverpool's admissions, drop and promotions. However, as the New Brighton casino had only been open since May, we considered it unlikely that there was sufficient data to assess its impact properly. We also noted that the casino had only opened around the time the merger was announced between the parties (see paragraph 7.91). In response to our provisional findings the parties provided an analysis based on more recent data that the parties said showed that the results would not have changed by extending the analysis to assess the impact after five, six and seven months.¹⁹⁹ We have already stated that we are cautious about the inferences we can draw from this type of analysis (see paragraph 7.45(h)). The parties' analysis shows that visits at Gala Liverpool were [redacted], while total cash drop was [redacted]. When the parties included Gala's revenues from slot machines (which they did not do for the other casinos where they conducted an impact analysis) this showed that revenues [redacted] over a four-month period but [redacted] over a longer time frame of six or seven months.
- 7.97 We examined evidence on the extent of competition from other casinos:
- (a) Genting's Circus Club and Renshaw Street Casino in Liverpool are located in close proximity to Gala's Leo Casino, being less than 4 minutes' drive-time away from both. Genting's Birkenhead casino is located 9 minutes' drive from Grosvenor New Brighton. This suggests that these casinos are the closest competitors to the parties in this area.
 - (b) In its internal documents on the development of its G Casino in New Brighton, Rank stated that the then only casino in the Wirral, Genting Mint, [redacted]. The document stated that it was believed that large numbers of those in the Wirral who wished to visit a casino crossed the Mersey to visit one of the four Liverpool casinos (Genting Circus, Gala Casino, Genting Mint and Grosvenor E Casino). However, the parties also stated that the Genting Birkenhead casino had recently been refurbished.
 - (c) In response to the parties' diversion question, of Gala Liverpool's customers that named a specific casino, Genting's two Liverpool casinos were ranked first and

¹⁹⁹ The parties also argued that this differed substantially from the impact of Grosvenor's opening a new casino on Gala Teesside which was [redacted].

second. For Grosvenor New Brighton customers, Genting's casino in Birkenhead and Genting club Liverpool were ranked first and third respectively. As discussed in paragraph 7.94(f), in addition to our general concerns about the survey we had strong reservations about the validity of the survey results for this area.

(d) GC revenue data showed [REDACTED].

(e) Rank, Genting and an independent operator (State) each own a cold licence in Liverpool.

7.98 With respect to other leisure venues the Gala Liverpool business plan (see Appendix E, Annex 1) mentioned [REDACTED], but as an opportunity to work with the 'key movers and shakers.' Another opportunity mentioned was to [REDACTED]. The plan also mentioned as a main strength the location of the casino close to the [REDACTED]. This indicated to us that the parties saw the offering of the casino and the leisure complex as complementary rather than a threat, even though the casino said it needed to bring its prices into line. The parties said that their survey showed that overall 76 per cent of Grosvenor New Brighton customers would have diverted to non-casino alternatives. However, as discussed in paragraph 7.45(g) and Appendix C, we did not attach significant weight to the survey evidence.

7.99 The parties also suggested that cold licences provided further constraints and said that a third party (State) had recently purchased one cold licence with the intention of opening a new casino. However, we noted that a recent Gala business plan referred to [REDACTED].

7.100 We assessed the effect of the merger in Liverpool and New Brighton:

(a) The reduction in the number of fascias from three to two and the overlap in the parties' customer distributions indicated that the merger may cause competition concerns in Liverpool. However, a key factor in our assessment was that the parties are much further apart than the Genting Liverpool casinos are to Gala Liverpool or the Genting Birkenhead casino is to Grosvenor New Brighton. Given that we considered that distance is an important indicator of how closely casinos compete, we assigned a particularly significant weight to this factor in this local assessment.

(b) We also placed significant weight on Grosvenor's internal assessment of the development of the New Brighton site. This was dated January 2011 and was in advance of the merger discussions. The document clearly showed that the New Brighton casino's main focus was on attracting customers located in Chester postcode areas.

(c) Gala's internal documents also suggested that its main concern was that the New Brighton casino would attract [REDACTED].

(d) The information we received from Gala showed the New Brighton casino [REDACTED] an impact on Gala Liverpool's customers [REDACTED]. These customers accounted for about [REDACTED] of Gala's visits. The bulk of Gala's business in Liverpool appeared to be [REDACTED].

(e) The Gala spend on promotions [REDACTED] from 2011 to 2012 but there was a substantial increase across all Gala casinos. We noted the spend [REDACTED] after the New Brighton casino opened but then [REDACTED] while the number of Gala Liverpool customers with a [REDACTED] postcode [REDACTED].

7.101 In our judgement, for the reasons set out in paragraph 7.100 and the assessment in paragraphs 7.90 to 7.99 we have concluded that on balance the merger may not be expected to result in an SLC in Liverpool and New Brighton and have therefore reversed our decision made in the provisional findings for this area.

- *Manchester (Didsbury) and Stockport*

7.102 Including the parties there are five casino operators in the Manchester area within 30 minutes of the Grosvenor Didsbury and Gala Stockport casinos (there are additional casino premises but no other operator fascia within 60 minutes). The area was classified as one of potential concern because the parties' casinos were located within 10 minutes' drive-time of each other. The two casinos are situated to the south-west of Manchester. Gala Stockport and Grosvenor Didsbury are approximately 8 minutes' drive-time apart, with Casino 36—an independent casino—1 minute from Gala Stockport. Grosvenor's casinos in central Manchester and those of other competitors (Genting and 235), are 12 to 18 minutes away. Cold licences in Manchester are held by Grosvenor, Genting and two independents.

7.103 On the basis of a 30-minute isochrone, the merger reduced the fascia count from five to four.

7.104 Grosvenor Didsbury casino opened in February 2012. Although this is some months earlier than the opening of Grosvenor New Brighton casino similar considerations apply (see paragraph 7.92) and we put less weight on the evidence of behaviour and outcomes since Didsbury's opening and relied heavily on the location of the parties' casinos compared with those of competitor casinos (see paragraphs 7.45 and 7.46). However, we have reviewed all the available evidence.

7.105 We examined evidence on the closeness of competition between the parties:

- (a) Gala Stockport and Grosvenor Didsbury are approximately 8 minutes' drive-time apart. Grosvenor's casinos in central Manchester are between 14 and 18 minutes' drive-time from Gala Stockport. This suggested that Gala Stockport and Grosvenor Didsbury may be close competitors.
- (b) In a June 2010 board paper discussing the proposal to open a casino in Didsbury Rank undertook an analysis of competitors. This noted that the two nearest casinos were both in Stockport—[REDACTED]. Rank also noted the presence of eight other casinos in the Manchester area, namely Stanley Circus, Manchester 235, G Casino BNR, Grosvenor George Street, Grosvenor Whitworth Street, Grosvenor Salford Quay, Stanley Mint Manchester and Stanley Mint Salford. However, it stated that it expected 'limited cross-over' between its Didsbury casino and [REDACTED]. However, Grosvenor Didsbury's weekly performance reports mentioned Gala only once.
- (c) Gala recognized that it needed to take action in response to the proposed entry of the Grosvenor Didsbury casino. A capex authorization request for Gala Stockport (dated October 2011) noted that [REDACTED]. Gala's Casino Business Plan (see Appendix E, Annex 1) for Stockport listed as a threat the loss of valuable players and poker players to Grosvenor Didsbury. Internal documents from Gala indicated that Gala staff undertook 31 visits to Grosvenor Didsbury between its opening in February 2012 and August 2012. The parties stated that this number should be understood in the context of entry of a new competitor. These documents also indicated that Gala staff visited the Grosvenor casinos in [REDACTED] and [REDACTED].

- (d) In response to the parties' diversion question, of Grosvenor Didsbury's customers that named a specific casino, Gala Stockport came first, while for Gala Stockport customers Gala Didsbury ranked third. We considered that, given the Didsbury casino had only recently opened (the casino opened in February 2012 and the survey interviews took place in June 2012), the survey was likely to be particularly unreliable in this case since a proportion customers of Gala at the time of the survey may not have known about the Didsbury casino.
- (e) The maps that showed the distributions of individual customers appeared to indicate an overlap between the customers of Gala Stockport and Grosvenor Didsbury. The Gala Stockport customer distribution appeared to extend more into central Manchester than Grosvenor Didsbury. The parties' maps showing every 100 visits from a postal district as a single dot showed an overlap in the Gala Stockport and Grosvenor Didsbury distributions with only a small overlap for both into central Manchester. Both types of maps can be found in Appendix E, Figures 83 to 90. In response to our provisional findings the parties noted that [redacted] per cent of customer visits to Grosvenor Didsbury came from north of the casino and these customers were therefore located close to central Manchester.

7.106 We examined evidence on the extent of competition from other casinos:

- (a) Casino 36 is located in Stockport, a 1-minute drive-time from Gala Stockport and 8 minutes' drive-time from Grosvenor Didsbury and is therefore likely to be Gala Stockport's closest competitor. The parties' competitors in central Manchester, namely Genting and LCI, are 12 to 13 minutes' drive from Grosvenor Didsbury and 14 to 15 minutes' drive from Gala Stockport.
- (b) Gala's Casino Business Plan (see Appendix E, Annex 1) for Stockport listed as a threat [redacted]. It also identified 'stealing high rollers and valuables' from Manchester casinos as an opportunity. Grosvenor Didsbury's weekly performance reports mention once each Casino 36 and Genting Circus Manchester. They also mentioned an unnamed casino in Stockport.
- (c) In response to the parties' diversion question, of the Gala Stockport customers that named a specific casino, Club 36 ranked first and LCI Manchester was second. Grosvenor Didsbury's customers that named a specific casino ranked LCI Manchester second and the two Grosvenor Manchester casinos (Grosvenor Salford and Grosvenor Stoke) equal third.²⁰⁰
- (d) The parties cited evidence from an impact assessment of the opening of Grosvenor Didsbury, which found [redacted]. The parties indicated that this was evidence that casinos in central Manchester competed with Grosvenor Didsbury. However, given our concerns about the reliability of the parties' impact analysis we did not place significant weight on this evidence.

7.107 Manchester and Stockport were identified as areas of concern on the grounds that the parties' casinos were less than 10 minutes' drive-time apart. Given that the merger reduces the number of competitors within a 30-minute isochrone from five to four, to find a problem in Manchester we would need to believe either that the parties were especially close competitors in Manchester or that the geographic market in South Manchester and Stockport was distinct from the market in central Manchester.

²⁰⁰ In addition to our general concerns about both the parties' and the CC's survey, we note that the sample was low (at 21).

7.108 We have weighed the evidence carefully and note that some of it is contradictory. The evidence from Rank's internal documents suggests that Gala Stockport is Grosvenor Didsbury's closest competitor. We noted that the evidence from Gala Stockport is mixed. It suggested that it considered opportunities and threats from casinos in central Manchester and monitored them to some extent, as well as paying close attention to Grosvenor Didsbury. We noted that Gala [redacted]. However, we also noted that the independent casino in Stockport, Casino 36, is Gala Stockport's most closely located competitor, which would suggest it is its closest competitor. Rank's internal documents concerning the development of the Didsbury casino suggested that there would be limited crossover between customers of the central Manchester casinos and Didsbury and noted [redacted] was weaker than Gala Stockport. After the merger there would be five fascias within 30 minutes' drive-time. The evidence on customer distributions was mixed and we place limited weight on it. On balance, for the reasons set out above and the assessment in paragraphs 7.102 to 7.107 we have concluded that the merger would not constitute an SLC in Manchester (Didsbury) and Stockport as a result of the loss of actual competition.

- *Newcastle and Sunderland*

7.109 The parties' casinos (Grosvenor in Newcastle and Gala in Sunderland) are within a 30-minute drive-time of each other. There are two other casinos within 30 minutes, Genting and Aspers, which are both in Newcastle. The three Newcastle casinos are within 2 minutes' drive-time of each other while Gala Sunderland is 26 minutes away. The merger reduces the number of competitors within a 30-minute drive-time (in the area encompassing Newcastle and Sunderland) from four to three.

7.110 Evidence from the parties indicates that [redacted] per cent of Grosvenor Newcastle's visits were from within 30 minutes' drive-time, whereas [redacted] per cent of Gala Sunderland visits were from within 30 minutes.

7.111 We examined evidence on the closeness of competition between the merger parties:

- (a) The parties are located relatively far apart, at approximately 26 minutes' drive-time. This suggests that they are not close competitors in this area, in view of the importance of distance in casino choice.
- (b) Grosvenor Newcastle's weekly performance reports did not mention Gala Sunderland. The Gala Sunderland business plan (see Appendix E, Annex 1) mentions the G Casino in Teesside and Newcastle as competitors and under key threats 'new G Casino in Stockton'.
- (c) In response to the parties' diversion question, the Gala Sunderland customers that named a specific casino ranked Grosvenor Newcastle second.
- (d) There was significant overlap in the Grosvenor Newcastle and Gala Sunderland distributions of individual customers. The parties' maps showing every 100 visits from a postal district as a single dot showed much less overlap. Both types of maps can be found in Appendix E, Figures 91 to 96. The parties stated that Gala Sunderland had [redacted] per cent of visits in the last 12 months being from customers within [redacted] drive-time of the casino. The parties also stated that [redacted] per cent of visits to Grosvenor Newcastle were from customers with Sunderland postcodes.
- (e) The parties stated that Grosvenor Newcastle primarily attracted leisure customers, whereas Gala Sunderland attracted customers from the local area and students and pointed to [redacted].

7.112 We examined evidence on the extent of competition from other casinos:

- (a) The Aspers and Genting casinos in Newcastle are within 2 minutes' drive-time of Grosvenor's casino, indicating that they are Grosvenor's closest competitors in this area, but they are over 20 minutes from Gala's Sunderland casino, which lacks a geographically close competitor.
- (b) The Gala Sunderland business plan (see Appendix E, Annex 1) mentioned Aspers and Genting in Newcastle as competitors. In Rank's internal documents from December 2009 on the conversion of its Newcastle upon Tyne casino into a G Casino, Rank contrasted its casino with The Aspers casino. The report noted that [REDACTED]. The document also stated that conversion to the G format would enable the club to target [REDACTED]. Grosvenor Newcastle conducted four monitoring visits to Genting and three to Aspers in the first half of 2012. In Grosvenor Newcastle's weekly performance reports, the parties mentioned Aspers as a competitor nine times and Genting four times.
- (c) In response to the parties' diversion question, the Gala Sunderland customers that named a specific casino ranked Aspers Newcastle first, while Genting Newcastle was third.

7.113 We assessed the effect of the merger in Newcastle. We noted that the three casinos in Newcastle were very close to each other and the Grosvenor Newcastle internal documents suggested that it competed with [REDACTED]. Overall the evidence suggested that Gala Sunderland and Grosvenor Newcastle were not particularly close competitors. For the reasons set out above and the assessment in paragraphs 7.109 to 7.112 we have concluded that the merger would not constitute an SLC in Newcastle and Sunderland as a result of the loss of actual competition.

- *Stockton-on-Tees*

7.114 The parties own the only casinos in Stockton-on-Tees. These are the only casinos within a 30- and 60-minute drive-time isochrone. The parties accepted that the merger will reduce the number of competitors in Stockton-on-Tees from two to one. A 2005 Act licence for Middlesbrough (around 15 minutes from Stockton-on-Tees) was awarded to Gurney Casino in May 2012.

7.115 We examined evidence on the closeness of competition between the merger parties:

- (a) The parties are just over 5 minutes' drive-time apart, which showed that they were close competitors.
- (b) We examined evidence from internal documents to identify the casinos that either Rank or Gala considered important constraints or threats. In an internal document from April 2010 on the development of its cold licence in Stockton-on-Tees, Rank noted that the only trading casino within a 30-minute drive-time catchment for Stockton-on-Tees was a single Gala casino, though there was a further non-trading licence. The document stated that [REDACTED]. In its assessment of the market, Rank used a 30-minute drive-time catchment area but assumed [REDACTED]. Gala was mentioned three times in Grosvenor Stockton's weekly performance reports, illustrating that Grosvenor regarded Gala Stockton as imposing a competitive constraint. Documents from April 2011 indicated that Gala planned to refurbish its Teesside casino in response to Grosvenor's then expected entry in Autumn 2011.

(c) In response to the CC's diversion question, the Grosvenor Stockton customers that would have gone to another casino ranked Gala Stockton first, while the Gala Stockton customers ranked Grosvenor Stockton first.

(d) GC revenue data showed [REDACTED].

(e) The parties' customer distributions overlapped extensively, both on the map of individual customer distributions and the parties' maps showing every 100 visits from a postal district as a single dot, illustrating the potential for concerns over the competitive effects of the merger in Stockton-on-Tees. See Appendix E, Figures 105 to 108.

7.116 Planning permission is being prepared for the 2005 Act casino in Middlesbrough and we understand that the scheme will be in phases. The winner of the licence in July said that it hoped to start the first phase of the scheme early in 2013.

7.117 We assessed the effect of the merger in Stockton-on-Tees. The acquisition constituted a merger to monopoly in Stockton-on-Tees. The merger parties' customer distributions were almost identical and in internal documents the merger parties only identified each other as competitors. We recognize that the 2005 Act casino in Middlesbrough may become operative in a timely fashion. However, it would still mean the presence of only two competitors within a 30-minute drive-time. For the reasons set out above and the assessment in paragraphs 7.114 to 7.116, we have concluded that the merger would constitute an SLC in Stockton-on-Tees as a result of the loss of actual competition.

- *Bristol*

7.118 There are three casinos within a 30-minute drive-time isochrone of the parties in central Bristol: the parties themselves (Grosvenor Bristol and Gala Bristol) and a Genting casino. The parties are only 1 minute's drive-time apart but Genting is also close (only 4 minutes away). The acquisition therefore constitutes a merger to duopoly in Bristol. The parties said that the award of the 2005 Act casino licence in Bath to Global Gaming had changed the dynamics of competition in Bristol. Bath is approximately 30-minutes' drive-time from the parties. The parties also said that there was further scope for entry or expansion due to Genting's possession of a cold licence.

7.119 We examined evidence on the closeness of competition between the parties:

(a) The parties are closely located in central Bristol and are less than a 1-minute drive-time apart. Given the importance of distance in casino choice, this suggested that the parties are close competitors in Bristol.

(b) We examined evidence from internal documents on the casinos that either Rank or Gala considered important constraints. In the weekly performance reports for Grosvenor Bristol, Gala was mentioned 12 times. The documents indicated that [REDACTED]. This suggested that there was significant competitive interaction between the parties. The Gala Bristol business plan (see Appendix E, Annex 1) listed Grosvenor as a competitor and a key threat. It did not make any reference to other threats including the 2005 Act casino in Bath.²⁰¹ In an email on competitor

²⁰¹ Gala said the business plan was written [REDACTED]. However, we note that the decision to allow a 2005 Act casino to be sited in Bath was made in 2008 and the bidding process started in 2010, [REDACTED] (see democracy.bathnes.gov.uk/documents/s22045/Casino.pdf for background). Therefore we would have expected the plan to make reference to the Bath casino if it was considered to be a major competitive threat.

monitoring, Rank stated that most ‘competitive activity’ occurred over [REDACTED] and that Rank’s usual response to actions from competitors in this case was a slots promotion. In this case, Rank had introduced [REDACTED].

- (c) There was significant overlap in the Grosvenor and Gala customer distributions in Bristol, both in maps showing individual customer distributions and in the parties’ maps showing every 100 visits from a postal district as a single dot suggesting that there was a case for concern over the merger (see Appendix E, Figures 25 to 28).
- (d) In response to the parties’ diversion question, Gala’s and Grosvenor’s customers that named a specific casino ranked the other merging party as first.
- (e) GC revenue data showed [REDACTED].
- (f) The parties also pointed to evidence from their survey that showed diversion to non-casino alternatives of 57 per cent for Gala and 41 per cent for Grosvenor.

7.120 We examined evidence on the extent of competition from other casinos:

- (a) The Genting casino is also closely located to the competitors in central Bristol, being within 5 minutes’ drive-time of both parties. This suggested that it was also an important constraint on the parties.
- (b) We examined evidence from Rank’s and Gala’s internal documents to identify the casinos that were considered to be important constraints. In the weekly performance reports, Genting was mentioned five times. This also suggested that it also imposed a competitive constraint. In an email on competitor monitoring, Rank identified Genting, stating that it had introduced [REDACTED] for VIP customers in order to compete with similar offers [REDACTED]. Gala’s business plan (see Appendix E, Annex 1) also mentioned Genting (Mint) as a competitor but as a key opportunity and not a threat (the plan said it would ‘steal valuable players from Grosvenor and Genting’).
- (c) In response to the parties’ diversion question, the Gala Bristol customers that named a specific casino ranked Genting Bristol and three Cardiff casinos as joint second. Likewise for Grosvenor Bristol’s customers, Genting Bristol was ranked second.
- (d) GC revenue data showed [REDACTED].
- (e) A 2005 Act small casino licence for Bath, which is on the edge of a 30-minute drive-time isochrone around the parties, has been awarded to an independent operator, Partouche. Genting also has a cold licence in Bristol.

7.121 In response to our provisional findings Gala argued that there were compelling reasons for the CC to consider that there was not an SLC in Bristol. It said that the 2005 Act casino in Bath would be a major competitive constraint on the parties’ casinos in Bristol and noted that the entry of the 2005 Act casino in Stratford had had a [REDACTED].²⁰² Gala said that, as in other local areas, in Bristol the casinos also faced a

²⁰² It noted that the Stratford casino (a large casino) would have up to 150 B1 gambling machines and the Bath casino could have up to 80, which would be more than the combined total number of B1 machines for the casinos in Bristol. We note the legislation specifies the Stratford casino would be able to have up to a total of 150 category B–D gaming machines (subject to a machine to table ratio of 5:1 and the Bath casino would be able to have up to a total of 80 category B–D gaming machines, subject to a machine to table ratio of 2:1. The casinos in Bristol are limited to 20 category B–D gaming machines but are not subject to a machine to table ratio (see paragraph 4.3).

range of constraints competing for the customers' leisure pound: non-gambling leisure options; other gambling venues and online gambling. It argued that taken in the round these meant the CC should 'give the parties the benefit of the doubt' in Bristol.

- 7.122 We assessed the effect of the merger in Bristol. We noted the reduction in the fascia count from three to two and the close proximity of the parties' casinos. The extensive monitoring by the Grosvenor casino of the [redacted] also indicated close competition between the two (the level of monitoring of the [redacted] was also substantial, though less than that of the [redacted]). We also noted that the Genting casino in Bristol [redacted]. There was significant overlap in the customer distribution of the two casinos. The evidence suggested that the merger would remove each party's most important competitor.
- 7.123 Our Guidelines²⁰³ state that for entry to act as a countervailing factor and prevent an SLC from arising, the entry must be timely, likely and sufficient. We took into account that entry of a small casino with a 2005 licence is planned in Bath. We noted that the casino launch is planned for late 2014.²⁰⁴ However, the casino would be on the edge of a 30-minute isochrone from the parties, which are both located very close to each other. In our view the establishment of the new casino cannot be expected to be sufficient to offset the loss of competition as a result of the merger in the area's main population centre, given the very close proximity of the parties in Bristol compared with the location of the new casino.
- 7.124 We noted that Gala said it should be given the benefit of the doubt (paragraph 7.121) because of competition from non-gambling leisure options; other gambling venues and online gambling. However, Gala's Bristol business plan focused only on other casinos and did not mention competition from other gambling or non-gambling venues. Neither did the Gala internal documents for Bristol refer to the 2005 Act casino in Bath.²⁰⁵ Therefore we considered that the factors Gala pointed to did not change our view about a competitive concern existing in Bristol on the balance of probabilities.
- 7.125 For the reasons set out in paragraphs 7.118 to 7.124 we have concluded that the merger would constitute an SLC in Bristol as a result of the loss of actual competition.
- *Cardiff*
- 7.126 There are three casino operators in Cardiff within a 30- and 60-minute drive-time: Gala, Grosvenor and Les Croupiers. The parties are within 5 minutes' drive-time and Les Croupiers within 8 minutes. The acquisition therefore represents a merger to duopoly in Cardiff.
- 7.127 We examined evidence on the closeness of competition between the parties:
- (a) The parties are closely located, being within 5 minutes' drive-time of each other, suggesting that they are close competitors.
 - (b) In a document from February 2011 on Rank's Cardiff conversion to the G Casino format, Rank listed Gala in its assessment of risks from competitors. [redacted] In

²⁰³ The Guidelines, paragraph 5.8.1.

²⁰⁴ We also note that the casino has not obtained planning permission yet (although we have seen no indication that the award will be delayed).

²⁰⁵ This contrasts with London, where the Gala Russell Square casino took specific actions in anticipation of the entry of the Stratford casino.

Grosvenor Cardiff's set of 12 weekly performance reports, Gala Cardiff was mentioned as a competitor six times, indicating that it was regarded as imposing a competitive constraint. Gala's Cardiff business plan (see Appendix E, Annex 1) listed Grosvenor as one of the competitors and as a key threat (ie 'loss of valuable players to Grosvenor' and 'Grosvenor refurbishment').

- (c) In response to the parties' diversion question, the Gala and Grosvenor Cardiff customers that named a specific casino ranked the other merging party first in each other's diversion rankings.
- (d) There was significant overlap in the parties' customer distributions, both in maps of individual customer distributions and in parties' maps showing every 100 visits from a postal district as a single dot suggesting that there was a case for concern over a loss of competition. Both types of maps can be found in Appendix E, Figures 29 to 32.
- (e) GC revenue data showed [REDACTED].

7.128 We examined evidence on the extent of competition from other casinos:

- (a) Les Croupiers is located close to the parties, being less than 7 minutes from the Gala casino and less than 8 minutes from the Grosvenor casino.
- (b) Grosvenor Cardiff's weekly performance reports mentioned Les Croupiers five times. The Gala business plan (see Appendix E, Annex 1) listed Les Croupiers as a competitor, though it also mentioned it as an opportunity ('steal valuable players from Grosvenor and Les Croupiers'). In a document from February 2011 on Rank's Cardiff conversion to the G Casino format, Rank listed [REDACTED] in its assessment of risks from competitors. It noted that [REDACTED] had resulted in a competitive impact, its initial impact being [REDACTED]. This document also noted that [REDACTED] most likely response to [REDACTED].
- (c) In response to the parties' diversion question, the Gala and Grosvenor Cardiff customers that named a specific casino ranked Les Croupiers second.
- (d) GC revenue data indicated that [REDACTED].

7.129 We assessed the effect of the merger in Cardiff. There is a reduction in the number of fascias from three to two. The Grosvenor internal documents frequently mentioned Gala as a competitor. The parties' close geographical proximity also suggested that they were close competitors. Although Les Croupiers appeared to impose a competitive constraint on the parties, this would not be sufficient to offset the loss of competition from a merger to duopoly. We also noted the extent of overlap in the distribution of the parties' customers but recognized that this was not weighted by revenue. In our view, the evidence suggested that the merger would remove an important competitor. For the reasons set out above and the assessment in paragraphs 7.126 to 7.128 we have concluded that the merger would constitute an SLC in Cardiff on the basis of the loss of actual competition.

- *Luton*

7.130 There is a Grosvenor casino in Luton and a Genting casino (which includes an Electric casino). There is no Gala casino within a 30-minute drive-time; however, the parties overlap with Gala's central London casinos at just under 60 minutes' drive-

time (56 to 59 minutes).²⁰⁶ The merger therefore leaves the number of fascias within 30 minutes unchanged at two and reduces the fascia count within 60 minutes from six to five.

7.131 We examined evidence on the closeness of competition between the parties:

- (a) The London Gala casinos are a significant distance from Luton and are at the edge of the 60-minute drive-time isochrone. This suggested that the London Gala casinos were not close competitors to Grosvenor Luton. Moreover, in London there are a large number of competitors besides the parties (see paragraphs 7.134 to 7.140).
- (b) Grosvenor Luton's weekly performance reports did not mention Gala's London casinos. Three casinos were mentioned: Aspers in Stratford, Genting in Luton and Aspers in Northampton.
- (c) There was limited overlap in the parties' customer distributions, both in maps of individual customer distributions and in the parties' maps showing every 100 visits from a postal district as a single dot. Both types of maps can be found in Appendix E, Figures 75 to 82.

7.132 Evidence on the extent of competition from other casinos showed:

- (a) The Genting casino in Luton was Grosvenor Luton's most closely located competitor, being approximately 7 minutes' drive-time away.
- (b) An internal document that discussed the relocation of Rank's casino in Luton dated June 2006 mentioned only two other casinos in Luton, both operated by Genting. Grosvenor Luton's weekly performance reports mentioned three casinos: Aspers in Stratford, Genting in Luton and Aspers in Northampton.
- (c) The CC's survey showed that for London casinos, diversion to any casino outside London was low, ranging from 0 to 8 per cent, although given our concerns about the survey we placed limited weight on this evidence.²⁰⁷
- (d) GC revenue data showed that [REDACTED] Genting casino in Luton.
- (e) The process has begun for the award of a 2005 Act licence in Luton. Applications have closed. Grosvenor and Genting have submitted applications, together with two other bidders. [REDACTED].

7.133 We assessed the effect of the merger in Luton. The merger did not alter the number of competitors within a 30-minute drive-time. Within 60 minutes the merger reduced the fascia count from six to five suggesting limited scope for concern. Internal documents and customer distributions did not suggest that Grosvenor Luton competed significantly with Gala's London casinos. Stage 1 of the application process for the 2005 Act Licence in Luton has now closed. The two existing operators in Luton have bid along with two others. The outcome of the process will therefore be that the fascia count would either remain the same or increase further. For the reasons set out above and the assessment in paragraphs 7.130 to 7.132 we have concluded that the merger would not constitute an SLC in Luton as a result of the loss of actual competition.

²⁰⁶ We note that traffic speeds in London may be slower than in the rest of the country, with the result that the 60-minute isochrone around the Luton casino in any event may be drawn too widely.

²⁰⁷ CC survey, Q26.

- London

7.134 Grosvenor and Gala both own four London casinos. Guoco, Gala and Rank also hold cold licences in London.

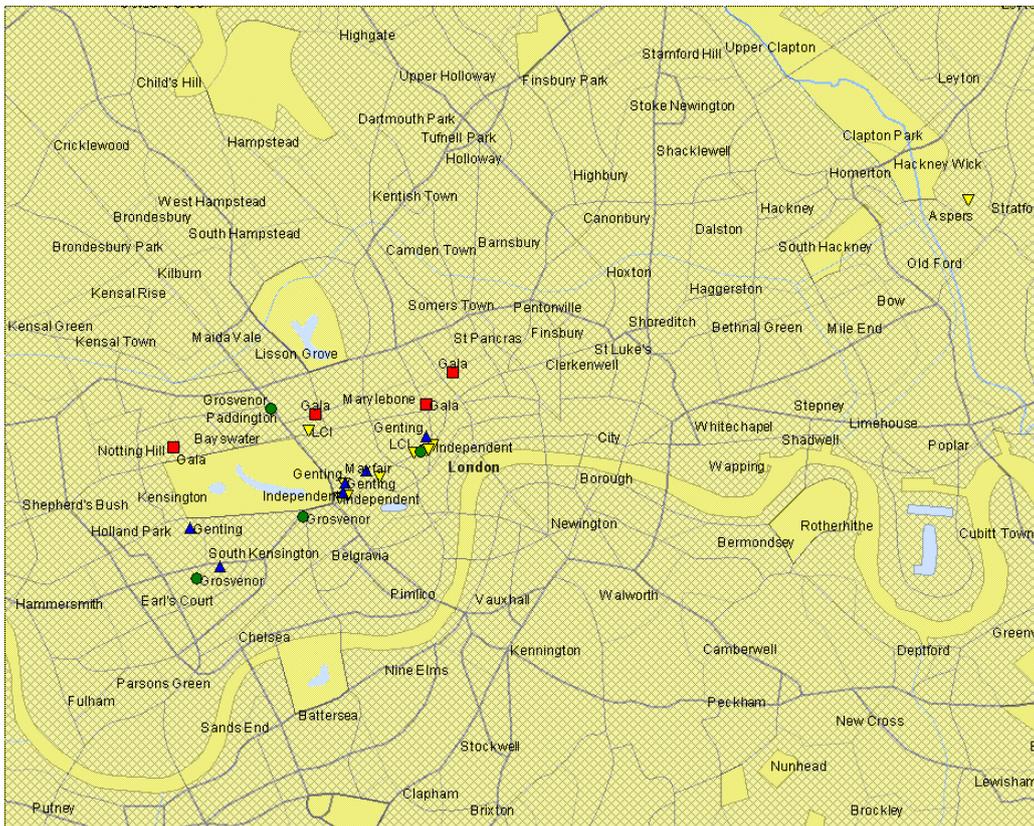
7.135 There are a large number of casinos in London. The CC's survey evidence suggested that the parties' casinos had relatively wide catchment areas, with the average journey time for London casino customers being 26 minutes, compared with 18 minutes for non-London casino customers.²⁰⁸

7.136 Excluding high-end casinos, the merger reduced the fascia count from seven to six. With the exception of Aspers in Stratford all of the casinos are located in central London (see Figure 3).

7.137 We have not used drive-times for our assessment, since these were less relevant in London, where more travel is done on public transport and customers appear to be more widely dispersed (see paragraph 5.31).

FIGURE 3

Map of standard London casinos



Source: CC analysis.

7.138 We noted that London is different from other areas of the UK because there were also six high-end casinos in London (see paragraph 4.5). Rank said that its staff were aware that some of the customers of its London casinos sometimes visited high-end casinos and that there was a degree of overlap between customer bases. However,

²⁰⁸ CC survey report, Figure 21.

the parties' internal documents did not include any reference to any high-end casinos being a competitive constraint on or threat to the Rank or Gala casinos in London. We also noted that there are substantial differences (including membership requirements and high minimum stake limits) between high-end and standard casinos and the high-end casinos' catchment area for many customers was international. We therefore concluded that high-end casinos did not impose a significant constraint on standard casinos and focused our assessment on standard casinos.

7.139 We examined evidence on the closeness of competition between the parties compared with the closeness of competition with other casino operators:²⁰⁹

- (a) Evidence from Rank's weekly performance reports did not suggest that the parties were close competitors in London. The Gala casinos were not mentioned in any of the performance reports for any of the four Rank casinos in London. This compared with numerous mentions of [REDACTED].
- (b) Internal documents suggested that Gala perceived competitive constraints from parties other than Grosvenor. Gala identified the opening of Aspers in Newham as [REDACTED].
- (c) Customer distribution maps, both of individual customer distributions and the parties' maps showing every 100 visits from a postal district as a single dot, showed that the customers of all the parties' casinos ([REDACTED]) were generally fairly widely dispersed (see Appendix E, Figures 59 to 74). The customer distribution of casinos located in the heart of the West End, in Piccadilly and Leicester Square, appeared to be more widely spread than the parties' other casinos. We noted that some of these distributions appeared to reflect public transport options, which would be used in many cases to get to the casino. For example, the Gala Russell Square casino, the nearest stations to which are King's Cross, Holborn and Russell Square, attracted more customers from [REDACTED]. Internal documents suggested that casinos on the outskirts of central London may have some advantage in attracting customers who drive. Gala noted that it was an advantage for Russell Square to be the first casino reached by customers driving to central London from the north and east. It said that this benefit was enhanced by the casino's 'excellent' local car parking facilities (and noted that this benefit was not shared by many other casinos in central London). Another Gala internal document, a competitor analysis of the Hippodrome casino, suggested that it regarded this casino [REDACTED].
- (d) Gala noted that [REDACTED] of its customers lived close to the site of the Aspers casino in Newham. It noted that, [REDACTED] lived within 5 miles of the Aspers casino.

7.140 We assessed the effect of the merger in London. London was included by our filtering requirement that areas in which the parties were less than 10 minutes' drive-time apart were of potential concern. The merger reduced the number of competitors within London from seven to six. A significant number of competitors remain post-merger and evidence from the parties' internal documents suggested that other casinos imposed at least as significant a competitive constraint on the parties as the parties did on each other. The customers of all casinos appeared to be fairly widely spread, although the customers of some casinos outside the West End of London may be concentrated more in particular areas of London and the casinos based in the West End of London may have more extensive customer catchment areas. However, all the catchment areas overlapped substantially and this suggested that

²⁰⁹ We report them together because there is generally less evidence of direct competition between the parties than in other areas.

London casinos in general imposed a competitive constraint on each other, including on the parties' casinos. We did not see any evidence that there were exceptions ([REDACTED]). For the reasons set out above and the assessment in paragraphs 7.134 to 7.139 we have concluded that the merger would not be expected to result in an SLC in London as a result of loss of actual competition.

- *Bournemouth and Southampton*

7.141 Gala Bournemouth and Grosvenor Southampton are situated on the edge of each other's 60-minute drive-time isochrones. There is also a Genting casino in Bournemouth and two further Genting casinos in Southampton. Further there are a Genting and two Grosvenor casinos in Portsmouth, within 60 minutes of Southampton but not Bournemouth. An independent operator owns a cold licence in Bournemouth. Within a 30-minute isochrone of each of the parties in Bournemouth and Southampton, the merger leaves the number of competitors constant at two, though in a 60-minute isochrone it reduces the fascia count from three to two.

7.142 We examined evidence on the closeness of competition between the merger parties:

(a) The merger parties are almost 60 minutes' drive-time apart. Taking into account the importance of distance in casino choice, this suggested that the parties are not close competitors.

(b) The performance reports for Grosvenor Southampton showed that they monitored only the Genting Southampton casinos and this was done relatively infrequently. We found no evidence from internal documents that the parties regarded their casinos in Bournemouth and Southampton as competitors.

(c) The maps that showed the distributions of individual customers showed that the bulk of Gala Bournemouth's and Grosvenor Southampton's customers were situated in Bournemouth and Southampton respectively. However, there appeared to be some crossover between the casinos. Some of the Gala Bournemouth customers came from Southampton, but few from Bournemouth went to the Southampton casino. The parties' maps showing every 100 visits from a postal district as a single dot showed little overlap between the two casinos' customer catchment areas (see Appendix E, Figures 9 to 16). There is no large population centre between these casinos. This suggests that there may be only limited scope for competitive concerns in these areas.

(d) GC revenue data showed [REDACTED].

7.143 We examined evidence on the extent of competition from other parties:

(a) The Genting casino in Bournemouth is Gala Bournemouth's most closely located competitor, being less than 2 minutes' drive-time from Gala. Similarly, the Genting casinos in Southampton are both less than 3 minutes' drive from the Grosvenor casino. In addition, the Genting casino in Portsmouth is just over half an hour's drive-time from Southampton. (There are two further Rank casinos in Portsmouth.) This suggested that other parties imposed a stronger competitive constraint on the parties than the parties imposed on each other.

(b) Grosvenor Southampton's weekly performance reports monitored the Genting casinos in Southampton but did not monitor Gala in Bournemouth. This suggested that Rank regarded the Genting casinos as imposing a competitive constraint.

(c) GC revenue data showed that in Southampton [redacted]. In Bournemouth [redacted].

(d) Although an independent operator owned a cold licence in Bournemouth, there did not appear to be any plans for entry. Additionally there is provision for a 2005 Act licence in Southampton but the award process has not yet started. Both merger parties have considered bidding for the 2005 Act licence in Southampton.

7.144 We assessed the effects of the merger in Bournemouth and Southampton. On the basis of 60-minute isochrones, the merger reduces the fascia count from three to two. However, the parties are located a considerable distance apart and there was no evidence from their performance reports or internal documents that they regarded each other as competitive constraints in Bournemouth and Southampton. The evidence suggested that there was limited competitive interaction between the parties. For the reasons set out above and the assessment in paragraphs 7.141 to 7.143(d) we have concluded that the merger would not be expected to result in an SLC in Bournemouth and Southampton as a result of loss of actual competition.

- *Summary of local area assessments for the loss of actual competition*

7.145 Table 3 summarizes the results of each local assessment.

TABLE 3 **Area assessments**

<i>Region</i>	<i>Local area</i>	<i>SLC found</i>
Scotland	Aberdeen	Yes
Yorkshire	Bradford	No
Yorkshire	Leeds	No
Yorkshire	Huddersfield	No
Yorkshire	Sheffield	No
Midlands	Coventry	No
Midlands	Leicester	No
Midlands	Northampton	No
North-West	Liverpool & New Brighton	No
North-West	Manchester	No
North-East	Newcastle and Sunderland	No
North-East	Stockton-on-Tees	Yes
South-West/South Wales	Bristol	Yes
South-West/South Wales	Cardiff	Yes
South-East	Luton	No
South-East	London	No
South	Bournemouth & Southampton	No

Source: CC analysis.

Potential competition

7.146 We assessed the impact of the merger on potential competition in local areas.^{210,211} Elimination of potential competition from a likely new entrant as a result of the merger may give rise to an SLC whether or not such potential for new entry had already constrained the firms in the market. We also considered whether the loss of a bidder for 2005 Act licences where the tender process has not yet begun also caused competition concerns.

²¹⁰ As we have concluded that casinos in the main compete on a local basis we focused on the loss of potential competition at a local level.

²¹¹ The Guidelines (paragraph 5.4.13 et seq) note there are two ways in which the removal of a potential entrant could lessen competition by weakening the competitive constraint on an incumbent supplier. The first way is where the merger involves a potential entrant that could have increased competition. Such 'actual potential competition' is a constraint only if and when entry occurs. The second way is where the merger may remove a firm which is not in the market, but which nevertheless imposes an existing constraint because of the threat that it would enter if existing firms in the market raised their prices.

7.147 In our analysis of whether the merger might result in a loss of potential competition as a result of cold licences held by the parties not being developed as a consequence of the merger, we focused on the possible loss of actual potential competition.²¹² Paragraph 5.4.15 of our Guidelines states ‘In assessing whether a merger leads to unilateral effects from a loss of ‘actual potential competition’, the Authorities will consider the following questions:

- (a) Would the potential entrant be likely to enter in the absence of the merger; and
- (b) Would such entry lead to greater competition.’

7.148 For cold licences we considered there to be a loss of actual potential competition in cases where we had information to suggest that absent the merger there it was more likely than not that a cold licence holder would have developed it into a casino. For 2005 Act licences, we considered areas where there was a realistic prospect that both Rank and Gala would have bid for the same licence and they both would have been serious contenders to win the licence and examined whether it was more likely than not that this would have been the case in the absence of the merger.

Impact of the merger on local potential competition

7.149 Where one of the parties would have developed a casino to compete with the other party in a local area, there would be an increase in competition in a local area which would not occur in the event of the merger. Rank (including Guoco) and Gala have a number of cold—ie not currently used—licences that they could develop and the merger would result in Rank having 18 cold licences overall. There are also seven new licences yet to be awarded under the 2005 Act and we considered whether competition for these licences might be reduced as a result of the merger.

Cold licences

- *Filtering approach*

7.150 We considered that concerns relating to a loss of potential competition could arise where one of the parties had a cold licence in an area served by the other’s casino.²¹³ We examined all the areas in, or close to, the boundaries of the local authorities where either Rank (including Guoco) or Gala had a cold licence to identify overlaps with the other party’s casinos and adopted the following (conservative) filtering rules to identify potential areas of concern:

- (a) Areas of potential overlap: we identified a potential overlap if one of the parties had a casino which was within a 60-minute drive-time of the boundary²¹⁴ of the local authority where a cold licence was held by the other party.
- (b) Where there was a potential overlap we assessed the degree of pre-merger competition faced by the existing party’s casino. We considered that a potential concern may arise if within a 30-minute drive-time around the casino:

²¹² We considered whether the existence of cold licences, even where there was no evidence that the development would take place, raised a potential concern in terms of loss of perceived potential competition. However, we did not see any evidence to suggest that the presence of a cold licence alone affected the behaviour of casino operators.

²¹³ Or if both parties had one or more cold licences in the same or close local authorities. However, we did not find any areas where this was the case.

²¹⁴ This is because cold licences could be developed anywhere within the boundaries of the licensing local authority.

- (i) there were no more than three additional casino operators—ie the market was concentrated—and the cold licence holder did not also have an operating casino in the area;²¹⁵ or
- (ii) regardless of the number of local competitors, one party owned a cold licence and the other party operated a casino within the boundaries of the local authority where the cold licence was held. Similar to the filtering rules described in paragraph 7.41, this reflected the importance of geographical proximity on the intensity of competition between casinos.

7.151 Applying these filtering rules, which we considered to be consistent with the rules used for assessing the loss of actual competition, we identified the following potential overlap areas of concern:

- Edinburgh (Rank’s cold licence);
 - Glasgow (Guoco’s cold licence); and
 - Coventry (Gala’s cold licence).
- *Factors we considered in identifying whether we had a concern over the loss of potential competition*

7.152 The identification of an overlap area of potential concern is a necessary but not sufficient condition for a loss of potential competition to arise. A loss of actual potential competition would arise if, as a result of the merger, either Rank or Gala would not have developed a casino that the evidence suggests it was more likely than not that they would otherwise have developed in the absence of the merger^{216,217} and which would have increased competition in the area. We examined Rank’s and Gala’s internal financial budget and planning documents for evidence of concrete plans of development in each of the potential overlap areas of concern prior to the date when the parties started merger discussions in April 2011 (Appendix F also examines the overall cold licence plans of Rank, Guoco and Gala).

7.153 In the case of assessing a loss of (actual) potential competition we considered relevant factors²¹⁸ that would affect our decision on whether the loss of potential competition in an area was sufficient for us to find an SLC were:

- (a) whether one of the parties had clear plans or a strong intent pre-merger to develop a cold licence into a casino in a local area where it would have increased competition; and
- (b) whether the party would have developed the casino in a relevant time frame (see further below at paragraphs 7.155 to 7.161) absent the merger and when the development of the casino would have been likely to cause competitors to react to the entry (eg by refurbishment of casinos or increasing promotions/staff levels).

²¹⁵ If there was a casino owned by the cold licence holder this would be analysed by assessing the loss of actual competition.

²¹⁶ Or would have delayed previously planned development until after the merger when the parties were no longer in competition.

²¹⁷ If Rank were to develop the casino after the merger there would be the same number of casinos as in the counterfactual but a reduction in the number of casino providers. Alternatively the merger could have led to a delayed or less extensive development by Rank (ie by co-locating Rank’s cold licence within the existing Gala casino), or Rank’s licence may not be developed at all.

²¹⁸ We consider these factors to be consistent with our Guidance on actual potential competition, which states that the CC will consider whether the potential entrant would be likely to enter in the absence of the merger and whether such entry would lead to greater competition.

7.154 We use this framework in paragraphs 7.162 to 7.177 to assess whether there is a concern over a loss of (actual) potential competition in the three potential overlap areas of concern (Edinburgh, Coventry and Glasgow).

- *The relevant timeframe*

7.155 In response to the CC's provisional findings on actual potential competition, the parties principally focused on the timing of the development of the Rank cold licence in Edinburgh, where we had provisionally found an SLC. They stated, referring to the CC's guidance, that when addressing a possible reduction in actual potential competition, the CC should consider whether a potential entrant would have been likely to enter in a sufficiently timely manner in the absence of the merger and whether such entry would have led to greater competition. They stated that, using the CC's test for entry to be 'timely', it should occur within two years as per the Guidance at paragraph 5.8.11. The parties said that there was no prospect that Rank would have opened a casino in Edinburgh within [X], irrespective of whether the starting point for that timeframe was when merger talks first commenced or the date of the CC's final report.

7.156 We considered the parties' comments carefully in the light of our Guidelines. Our Guidelines (paragraph 5.4.15) state that when assessing whether a merger leads to unilateral effects from a loss of actual potential competition, we should consider whether the potential entrant was likely to enter in the absence of the merger and whether the entry would have led to greater competition.

7.157 We consider that our assessment of whether the potential entrant was likely to enter includes an assessment of whether entry would be timely. Paragraph 5.8.11 of the Guidelines discusses entry²¹⁹ and states that the CC may consider entry within less than two years as timely. However, paragraph 5.8.11 of the Guidelines states that the timeliness of entry should be assessed on a *case-by-case basis, depending on the characteristics and dynamics of the market*. Consistent with this, we considered that, provided the evidence we received indicated that development of a cold licence would take place within a time frame for the development of a casino that was not unusually long given the *characteristics and dynamics of the market*, it would be reasonable to conclude that development was likely within a relevant time frame. We also noted that this assessment should take account of local factors when considering the *characteristics and dynamics of the market* since we consider competition to mainly be local (paragraph 7.21).

7.158 We consider the time it takes to enter the casino market in paragraphs 7.200 to 7.204 and Appendix F. There we note that under present regulations it is not possible to enter the casino market unless an operator has or is able to acquire a cold licence for the specific area it wishes to enter.²²⁰ We concluded it would typically take two to four years for an existing casino operator already holding a cold licence to open a new venue (but this period could be longer or shorter)²²¹ and that entry would not be likely, timely or sufficient to act as a countervailing factor unless an operator already had a cold licence and was in the process of developing a casino in a specific area. However, the outcome of the assessment would depend on the characteristics and dynamics of the market in the local area.

²¹⁹ Albeit in the context of where post-merger entry is expected to constrain a merged firm.

²²⁰ Unless an operator bids in one of the remaining tenders for a 2005 Act licence.

²²¹ Rank told us at the hearing that it took it 18 months to develop its New Brighton and Didsbury casinos but it had been trying to open a casino in Birmingham and Reading over a period of seven years (it noted the Reading casino would open in March 2013).

7.159 We also considered what should be the starting point for the relevant time frame. The parties argued that we had been inconsistent in our assessment of the starting point for the relevant time frame for development, since in the assessment of loss of actual potential competition in some local areas where we considered entry we had referred to the relevant time frame starting from the date of the counterfactual and in other cases we had referred to the relevant time frame starting from the date of the report. Notwithstanding that the merger discussions may have slowed the development of Rank's cold licence for some time (potentially since the counterfactual date of April 2011), we considered that we should assess whether entry should take place in a reasonable time frame from the date of this report since we are concerned with assessing actual potential competition at this point.

7.160 We also consider the relevant time frame should take account of the point in time at which the development of a casino would have affected local competition—ie when would competitors have reacted to the expected entry. In paragraph 7.45(d) we noted that casino managers may react to prospective new entry through defensive actions to improve their offer and casinos are often refurbished in response to prospective new entry. These action plans are drawn up typically up to 6 to 12 months before the expected date of entry. Although the plans may not be implemented immediately after being drawn up, the impact of entry is likely to precede the entry itself by several months.

7.161 Rank also argued that, in its assessment of actual potential competition, the CC must show a compelling level of evidence to support its findings. The Guidelines state (in paragraph 2.12) that in assessing whether or not there is an SLC, the CC will apply a 'balance of probabilities' threshold to its analysis, ie the CC addresses the question: is it more likely than not that an SLC will result? This is the test we consider to be appropriate in our assessment of potential competition.

- *Edinburgh*

7.162 In Edinburgh Gala has a casino and Rank has a cold licence. Genting is the only other casino operator present within a 30- (and a 60-) minute drive-time of the Gala casino with three casinos. Therefore, failure to develop the cold licence would mean that there would be two rather than three casino operators in Edinburgh.

- *Whether Rank had clear plans or a strong intent to develop a cold licence in Edinburgh*

7.163 We assessed how likely Rank would be to develop its cold licence absent the merger.

7.164 Rank's internal documents showed that it intended to develop the Edinburgh cold licence. A Rank internal document prepared in [REDACTED] discussed the development of the Edinburgh cold licence. The document examined the market potential for a Rank casino, a number of possible postcode locations for development and discussed local competition and drive-times around the locations. The evidence available therefore showed that [REDACTED] Rank had firm plans to develop the Edinburgh cold licence.

7.165 Merger talks with Gala became more serious from [REDACTED] (see paragraph 3.1). In response to the provisional findings Rank said that there was no evidence to support the assertion that negotiations with Gala from [REDACTED] caused it to reduce its interest in developing the Edinburgh licence and Rank said that it continued to progress the [REDACTED]

beyond this date. However, it accepted that from [REDACTED] and attempts to develop the [REDACTED] site may have been 'deprioritized'.²²²

- 7.166 Rank told us that [REDACTED]. Rank said that it [REDACTED]. However, Rank later told us that it was still keen to develop a [REDACTED] casino (see paragraph 7.169).
- 7.167 The City of Edinburgh Licensing Board told us that Rank had obtained planning permission and identified a site and the City of Edinburgh Licensing Board considered it a live prospect. This was based on last speaking to Rank's local agent at least a year ago.²²³ However, Rank said that it had had the Edinburgh licence since 2007, but it had not been able to find suitable premises since it identified this as a licence it wished to develop in 2010. It had obtained planning permission for one site in 2007 but had not been able to finalize details with the developer. Rank said that the site was not considered suitable and the development plans were rejected by Rank's finance committee in October 2010. It said the planning permission had now lapsed.
- 7.168 Rank said that it did not currently have a planning permission in Edinburgh for a casino site and, [REDACTED], there could be no positive expectation that it would be able to develop its Edinburgh cold licence within the foreseeable future. [REDACTED] However, in response to our provisional findings it said that [REDACTED] but it wanted to find another site (for a new G Casino).
- 7.169 In response to our provisional findings, Rank set out further details of the sites it had attempted to develop in Edinburgh. It said that it had attempted to develop [REDACTED] different sites with [REDACTED] different development proposals,²²⁴ but had experienced [REDACTED] with each development. However, Rank confirmed that it was still keen to develop a [REDACTED] casino. Rank said that in the past it may have focused too much on trying to find the 'ideal' site, which it acknowledged may not be achievable in practice. It said that in the future, where it had realistic leads it would at least work them up to a commercial model to try to find a better site, located in the city centre, than the [REDACTED] it is developing at present.
- 7.170 The further information provided by Rank in response to the provisional findings continued to show that Rank continued to consider Edinburgh to be an attractive market for a G Casino and was proposing to take a more pragmatic approach to site development, in order to open a G Casino—ie by potentially looking at less than 'ideal' sites. We therefore concluded that, absent the merger, Rank was likely (on a balance of probabilities) to enter the Edinburgh market.
- 7.171 In our view the merger talks reduced Rank's incentives to develop its cold licence in Edinburgh. This does not mean that no effort was made to develop the licence but the drive to develop it was reduced or there was a greater incentive to wait for an 'ideal' site to become available than there would have been in the absence of the merger. We concluded that Rank may have taken a more pragmatic view to site development in the absence of the merger that may have made site development more likely to be successful.

²²² Rank said that its director of acquisitions [REDACTED] and in 2012 his main focus was on [REDACTED].

²²³ From September 2012, when we spoke to the City of Edinburgh Licensing Board.

²²⁴ The sites were: [REDACTED].

- *Whether Rank would have developed the casino in the local market in a relevant time frame in the absence of the merger and when the development of the casino would have been likely to cause competitors to react*

7.172 We assessed whether in the absence of the merger Rank would enter the Edinburgh market in a relevant timeframe. In a [REDACTED] email Rank's director of acquisitions estimated it would take [REDACTED] to the date of opening a casino for the [REDACTED] site. We recognize that developing a site into an operating casino is dependent on obtaining planning permission and, depending on the site, may also require Rank to enter into other agreements (for example to enter into access agreements with neighbouring sites) or gain other consents. Therefore the likelihood of developing any one site may be subject to some uncertainty.

7.173 However, we note that there are already four casinos in the Edinburgh area so entering the local market is possible. We also note that the characteristics and dynamics of the market in Edinburgh may make entry more difficult than in some other areas—eg due to a possible lack of suitable city centre premises—so the relevant time frame in Edinburgh may also be longer. However, on the balance of probabilities, we think it more likely than not that in the absence of the merger Rank would have developed a casino that would have competed with the Gala and Genting casinos in Edinburgh. We also consider that Gala and Genting would have reacted to Rank's planned entry some time in advance of the actual entry. Therefore, in the absence of the merger we considered that it was more likely than not that the development of the cold licence would have resulted in the number of local casino competitors increasing from two to three operators and competition in Edinburgh would have increased.²²⁵

- *Conclusion on Edinburgh*

7.174 We therefore find that the merger may be expected to result in an SLC in Edinburgh as a result of a loss of (actual) potential competition.

- *Glasgow*

7.175 Gala has three casinos in Glasgow. It currently faces three competitor operators—Genting, Alea (LCI) and Napoleons (an independent). Guoco has a cold licence in Glasgow. Therefore, failure to develop would mean that there would be four rather than five casino providers in Glasgow.

- *Whether Rank or Guoco had clear plans or a strong intent to develop a cold licence in Glasgow*

7.176 We had no Guoco internal documents on its Glasgow licence. Guoco (Clermont Leisure) told us that it had [REDACTED] to develop its cold licence. It told us that it had considered [REDACTED]²²⁶ in Glasgow. However, it told us that there were doubts over the potential profitability of the casino given the highly competitive nature of the Glasgow market [REDACTED].

²²⁵ Gala argued that the focus on fascia count does not reflect the fact that in Edinburgh (as in Liverpool/New Brighton) Genting has three casinos. Gala argued that because location is a very important factor in consumers' decisions and each casino has its own distinct character and offering, three casinos represent three individual and separate competitive constraints on Gala or other competitors. While we understand the broad logic in argument put forward by Gala, we consider that the number of different operators in a local area is more relevant to competition. Therefore, we consider that the appropriate approach for the local area assessment (in Edinburgh and other local areas) should focus on the number of competitors and not the number of casinos in a local area.

²²⁶ [REDACTED]

7.177 We note that there are four competitors in Glasgow. [REDACTED] it does not appear likely that Guoco would have developed the cold licence in a relevant time frame. Since there is no evidence of clear plans or a strong intent to develop the cold licence in Glasgow there is no need to investigate the other factor detailed in paragraph 7.153. We conclude that the merger may not be expected to result in an SLC in Glasgow as a result of a loss of (actual) potential competition.

- *Coventry*

7.178 In paragraphs 7.75 to 7.80 we found that lack of overlap of the Grosvenor Coventry customer base with neighbouring town casinos (Birmingham, Leicester and Northampton) led us to conclude that the merger may be expected not to result in an SLC in Coventry as a result of a loss of actual competition. However, given that Gala has a cold licence in Coventry, we need to consider the impact of the merger on potential competition in that area.

- *Whether Gala had clear plans or a strong intent to develop a cold licence in Coventry*

7.179 Gala's internal documents showed that it had in the past considered [REDACTED] to open a new casino in Coventry [REDACTED]. After the merger talks with Rank started, [REDACTED] indicated that the Coventry investment had been removed from the budget. [REDACTED] indicated that Gala might consider a small-scale casino or using the licence on an alternative site.²²⁷ [REDACTED] Gala stated it has [REDACTED]. Gala also said that [REDACTED].

7.180 Gala told us that it had decided not to pursue [REDACTED] development of [REDACTED].

7.181 The Managing Director of Gala said [REDACTED] that despite the lease Gala had signed, which was a sunk cost, Gala still did not consider that the development of the casino would have been attractive.

7.182 Gala said [REDACTED]. Rank told us that if the merger went ahead [REDACTED].

7.183 In view of Gala's comments about the Coventry cold licence and the fact that Gala did not develop the licence despite having sunk investment into a lease, we consider it unlikely that Gala would have developed a casino in Coventry to compete with Rank within a relevant time frame and accordingly there is no need to investigate the other factor detailed in paragraph 7.153. Therefore we conclude that the merger may not be expected to result in an SLC in Coventry as a result of a loss of (actual) potential competition.

Impact of the merger on bidding for 2005 Act licences

7.184 We assessed whether the merger would lead to a loss of actual potential competition in bidding for new licences under the 2005 Act. We considered that a loss of actual potential competition would arise if, in the absence of the merger, it was more likely than not that both Rank and Gala would have bid for the same 2005 Act licences and the merger would have a significant impact on the outcome of the bidding process—ie they both would have been serious contenders to win the licence.

²²⁷ Since the licence is not transferrable, the alternative site would have been in the Coventry area.

- 7.185 Of the 16 new casinos that would be permitted under the 2005 Act, eight have been awarded and three are at stage 2.²²⁸ Rank has bid unsuccessfully for the Milton Keynes, Solihull, Newham (London), Bath and Leeds licences.²²⁹ Gala (together with Apollo) submitted a bid for only one, the Bath licence, but was unsuccessful. Therefore, the parties have so far only bid once (Bath) against each other. Furthermore, [REDACTED].
- 7.186 We examined the likelihood of both the parties bidding for the remaining 2005 Act licences. Rank and Gala have both stated [REDACTED]. However, we examined Rank's and Gala's internal documents to identify where the parties were likely to have bid against each other in the absence of the merger. The Rank 2011 Strategic Plan identified [REDACTED] areas of particular interest: [REDACTED] as priority areas for large casinos and [REDACTED] as priority areas for small casinos.²³⁰ Gala identified [REDACTED].²³¹ Therefore [REDACTED]. Rank indicated [REDACTED] as a high priority and Gala considered [REDACTED].
- 7.187 Although we found that both parties' internal documents indicated that they had an interest in [REDACTED], we concluded that it is unlikely that Rank would have perceived Gala as such a threat in bidding for any of the remaining 2005 Act licences that the merger would lead to a lowering in the quality of bids from Rank. It is also unlikely, given that Gala had only bid for one 2005 Act licence, that the loss of Gala as a competitor would lead to reduced quality of bids for the remaining 2005 Act licences. As a result, we concluded that the merger may not be expected to result in an SLC in relation to a loss of competition in bidding for 2005 licences.

The impact of the merger on coordination

- 7.188 A merger may give rise to an SLC through coordinated effects. Coordinated effects may arise when firms operating in the same market recognize that they are mutually interdependent and that they can reach a more profitable outcome if they coordinate (either explicitly or tacitly) to limit their rivalry.²³²
- 7.189 When assessing coordinated effects, the CC will analyse the characteristics of the market that could be conducive to coordination and assess whether there is evidence that the firms in the market were coordinating pre-merger. If so, it will examine whether the merger makes coordination more stable or effective, given the characteristics of the market. If there is no evidence of pre-merger coordination, it will examine whether the merger makes it more likely that firms in the market will start to coordinate, given the characteristics of the market.
- 7.190 The merger could have an impact on both national and local coordination. However, since we regard competition as being mainly local, we focused on the effect of the merger in local areas (see paragraph 7.37).

Local coordination

- 7.191 Our review of internal documents (including documents relating to specific local areas and/or casinos) did not reveal evidence suggesting pre-merger coordination at the local level. We assessed whether the acquisition may create the conditions for

²²⁸ See Appendix H for a more detailed description of the two-stage process for awarding licences under the 2005 Act.

²²⁹ In each case it did not make stage 2 of the bidding process.

²³⁰ These were licences which Rank identified as of high interest. [REDACTED]

²³¹ Gala told us that [REDACTED].

²³² The Guidelines, paragraph 5.5.1.

coordination to arise post-merger in some overlap areas, by reducing the number of local competitors.

- 7.192 In our analysis of whether the merger might make it more likely that companies in the market would start to coordinate, we considered whether post-merger (a) the remaining casino operators in each local market would be able to reach and monitor the terms of coordination; (b) coordination would be internally sustainable among the coordinating group; and (c) coordination would be externally sustainable. All three of these criteria would need to be met in order for the CC to reach a conclusion that coordination is likely post-merger.
- 7.193 In each overlap area there are often few casino providers. By reducing the number of suppliers, the merger could facilitate reaching an agreement and make monitoring of the terms of coordination easier. However, monitoring coordination does not appear easy either pre- or post-merger. We considered that there is no clear focal point on which to coordinate and the most important service features are not very amenable to coordination—ie deviations would not be easy to spot. We considered a number of possible focal points: gambling prices, wider service features and a geographical focus. We found gambling prices²³³ (although visible and hence easy to monitor) were either fixed by regulation, not amenable to changes (because they are set according to established conventions on the rules of the game) or not very important in determining consumers' choices. The survey evidence suggested that wider service features (such as general ambience, customer service, friendliness of staff etc) were important because consumers decide which casino to visit largely on the basis of these features. However, we considered these aspects were very difficult to monitor and therefore not suitable for coordination. We found that casinos could coordinate by not targeting potential customers in areas close to other providers. However, we considered that it would be difficult to monitor the behaviour of other operators, as at least some casino operators (ie Rank, Gala and Genting) had large customer databases which they used to offer promotions. Any promotional activity by one casino would not be very visible to other members of a possible coordinating group.²³⁴
- 7.194 Given that we considered that the first condition for coordination was not met, it was not necessary to examine also the two remaining conditions mentioned in paragraph 7.192.
- 7.195 In conclusion, we have not seen evidence that such local coordination is currently taking place. We considered that monitoring the terms of any coordination would remain difficult post-merger. Therefore we have concluded that the merger may not be expected to result in an SLC as a result of local coordination between casino operators.

Impact of the merger on foreclosure

- 7.196 [X] the merger would increase the ability of Rank to obtain exclusivity from suppliers of (B1) slot machines (and to a lesser extent electronic games—ie roulette). In particular, [X] post-merger Rank would have the ability and incentive to obtain exclusivity from the main supplier of slot machines to UK casinos (Novomatic) and

²³³ See discussion in paragraphs 7.15 & 7.17.

²³⁴ We note, however, that the local nature of the interaction and the casino's local manager's personal relationship with many of its valuable customers may mean that it is able to spot some deviations via targeted promotions.

foreclose (either fully or partially²³⁵) other casino providers in the UK from obtaining access to these key inputs.

- 7.197 The parties noted that Genting, LCI and Aspers were owned fully or partly by significant international casino operators who were large customers worldwide, and that Novomatic was also a global supplier. The parties considered that other customers would therefore have leverage over slot machine suppliers for their UK business.
- 7.198 We assessed whether the merger would provide Rank with the ability and incentive to obtain exclusivity and to compensate (ie by paying a premium over the current market price) its main slot machine suppliers (ie Novomatic) in exchange for exclusivity; and if Rank obtained exclusivity, whether this would harm customers.²³⁶ Further details are provided in Appendix D. We noted that:
- (a) Novomatic has substantial sales to other UK casinos so the amount of compensation it would have to pay Novomatic to secure exclusivity would be substantial. The amount of compensation can be expected to increase when the 2005 Act licences become operational. All the ones so far awarded have been won by operators independent of Rank and Gala. We also note that these casinos, in general, were likely to have a higher number of machines per casino than the casinos operated by Rank.²³⁷ The compensation that Novomatic would require in exchange for exclusivity would be much higher.
 - (b) Slot machines are only one of the services offered by casinos. Only 15 per cent of all UK casinos' GGY came from machines compared with 65 per cent from table games.²³⁸ The CC's survey shows that only 20 per cent of respondents played slot machines when they last visited a casino.²³⁹ This suggests that most customers would be unlikely to change casino simply because of the quality or range of the slot machines offered.
 - (c) Concerns about foreclosure would only arise if there were entry barriers to the supply of B1 slot machines to UK casinos. Astra Games, the UK subsidiary of Novomatic AG, said that there were substantial development costs due to the specific regulatory requirements in the UK, but Inspired said that entry costs were not prohibitive and pointed to the recent entries by Novomatic and Gauselmann. Gala told us that it also trialled [redacted]. This suggested that entry overall is feasible, could be sponsored by a casino provider and had occurred in the past.
 - (d) We have not heard arguments from other casino providers that they may be disadvantaged [redacted].

7.199 We therefore concluded that it is unlikely that Rank would have the ability or incentive to obtain exclusivity or that this would result in foreclosure or that consumers would be likely to be harmed. Partial foreclosure would be less costly to Rank than exclusivity but it would also be less effective as a way to exclude competitors. Accordingly,

²³⁵ Partial foreclosure could arise if Rank's casino competitors were supplied by Novomatic with a delay and/or at a higher price. [redacted] that machine suppliers could also worsen their offer to other casino operators and there was evidence that delivery times to it were longer than those to Rank.

²³⁶ European Commission, *Communication, Guidance on its enforcement priorities in applying Art 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings*, available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2009:045:0007:0020:EN:PDF>.

²³⁷ Up to 150 machines in a large and 80 in a small 2005 Act casino, compared with a maximum of 20 at other casinos. Therefore if all licences are taken up at new casinos and they were able to use their full allocation of machines, this may account for up to 1,840 machines (ie (150 machines * 8 casinos) + (80 machines * 8 casinos)) compared with around 1,140 Rank/Gala machines (ie 57 Rank + Gala casinos * 20 machines per casino).

²³⁸ Genting, [redacted], said that in 2011 [redacted] per cent of its gaming revenues in the provincial estates came from slot machines rather than live tables.

²³⁹ CC survey, Q12.

we concluded that the merger may not be expected to result in an SLC as a result of foreclosure.

Other competitive constraints which might offset the effect of the merger

Market entry/expansion

- 7.200 In line with the Guidelines (paragraph 5.8.3), in each of our assessments of the impact of the merger on local competition we assessed whether entry by new companies or expansion by existing ones might mitigate the initial effect of the merger on competition.
- 7.201 We also considered local entry through the development of one of the parties' cold licences and concluded that, in the absence of the merger, Rank would have developed a new casino in Edinburgh through the development of a cold licence. This led us to find an SLC arising from the merger in Edinburgh.
- 7.202 Entry is discussed in Appendix F. We note that regulation is an absolute entry barrier in the casino market. Unless an operator is able to acquire an existing cold licence for the specific area it wishes to enter, entry is not possible,²⁴⁰ except by bidding in the remaining tenders for 2005 Act licences. Regulation also limits the ability of an operator to expand a casino. There may be planning issues that could affect expansion and the permitted number of slot machines is limited unless there is a cold licence that the operator could use for the same building.
- 7.203 It would typically take two to four years for an existing casino operator with a cold licence to open a new venue but it could take longer. For a 2005 Act licence, there is also the award process run by the local authority to select the operator. This may add a further one to two years to the process. The cost of entry is likely to range from £[§] million per casino (based on development proposals for Rank and Gala casinos) but the parties and other parties have told us of higher costs for some casinos.²⁴¹
- 7.204 We concluded that there are barriers to entry for land-based casinos and that entry would not be likely, timely or sufficient to act as a countervailing factor in relation to competition issues arising from the merger unless an operator already had a cold licence and was in the process of developing a casino in a specific area. We took into account known plans for development of cold licences by third parties in our competitive assessment of local areas affected by the merger. In each of the areas where we concluded that the merger may be expected to give rise to an SLC between operating casinos, we did not find that entry would have been sufficient to offset the reduction in competition brought about by the merger.

Other competitive constraints

- 7.205 We have not found any other competitive constraints that might offset the effect of the merger.

²⁴⁰ We note that licence portability (ie the ability to use a licence in other areas besides the area in which it was awarded), is being discussed between casino operators and the Government; however, there are no existing plans to implement this change.

²⁴¹ For example, Genting said that its Sheffield casino cost £[§] million. Gala's internal papers said that the Hippodrome casino cost £[§] million. However, Gala said that it now understands the cost was [§].

Summary of findings on competitive effects

7.206 We have concluded the following:

- (a) *Pre-merger competition.* Casinos compete locally with other casinos. Casinos compete locally by focusing mainly on their customer service, offering promotions and events. Branding, advertising and loyalty cards are administered centrally but this is mainly for reasons of administrative efficiency, and casino competition on these aspects is predominantly local.
- (b) *Effect of the merger.* We have examined the effect of the merger on local competition between operating casinos. Our initial screening identified 17 areas that were potentially areas of concern. We also assessed London to identify whether there were any concerns about the parties' London casinos. We have concluded that the merger may be expected to result in an SLC in the following areas:
 - (i) Aberdeen;
 - (ii) Stockton-on-Tees;
 - (iii) Bristol; and
 - (iv) Cardiff.
- (c) In our provisional findings we had also identified Liverpool/New Brighton as an area where the merger may be expected to result in an SLC. In light of evidence received in response to our provisional findings, we have concluded that the merger may not be expected to give rise to an SLC in Liverpool/New Brighton.
- (d) We also examined the impact of the merger on potential competition that would have arisen if one of the parties had used a cold licence in an area to develop a casino to compete with the other party's operating casino. Our initial screening identified three areas of potential concern. After a detailed assessment of these areas we have found that the merger may be expected to result in an SLC in Edinburgh, where we considered that it was more likely than not that a cold licence would have been developed into a casino in the absence of the merger and would have substantially increased competition. We did not consider that the loss of Gala as a competitor would lead to reduced quality of bids for the 2005 Act licences that are still to be awarded.
- (e) Since we have concluded that competition is predominantly local, we did not consider that the merger would create the conditions for coordination at the national level. We have not seen evidence that local coordination is currently taking place. While coordination may appear to be an attractive option for casino operators locally, there are likely to be difficulties in monitoring the coordination as there is no clear focal point given that the most important competitive variables are difficult to monitor. Therefore the merger may not be expected to result in an SLC as a result of local coordination between casino operators.
- (f) It is unlikely that post-merger Rank would have the ability or incentive to obtain exclusivity or preferential treatment from electronic machine manufacturers in order to foreclose (partially or fully) competitors.
- (g) In each of the areas where we concluded that the merger may be expected to result in an SLC, we have assessed whether entry by new companies or expansion by existing ones might mitigate the effect of the merger on competition. We

found that there are barriers to entry for casinos and entry would not offset the effect of the merger in a local area unless an operator already had a cold licence and was in the process of developing a casino in a specific location. We took into account known plans for development of cold licences by third parties in our competitive assessment of local areas affected by the merger. In each of those areas, we found that entry would either have been unlikely or would not have been sufficient to offset the reduction in competition brought about by the merger in the relevant area. We did not find any other competitive constraints that might offset the effect of the merger.

Conclusions on the SLC test

7.207 We have found an SLC in the local areas identified in paragraphs 7.206(b) and 7.206(c), ie Aberdeen, Stockton-on-Tees, Bristol, Cardiff and Edinburgh.

8. Remedies

8.1 Having concluded that the merger may be expected to result in an SLC in a number of local areas, we are required to decide whether action should be taken to remedy, mitigate or prevent the SLC or any adverse effects resulting from the SLC. This section discusses possible remedies that we have identified to remedy the SLC and its resulting adverse effects.

8.2 Section 36(3) of the Act places a duty on the CC to decide on three questions concerning remedial action, namely:

(a) Should the CC itself take action to remedy, mitigate or prevent the SLC or any adverse effect which may be expected to result from the SLC?

(b) Should the CC recommend the taking of action by others, eg Government, regulators and/or public authorities, for the purpose of remedying, mitigating or preventing the SLC or any adverse effect which may be expected to result from the SLC?

(c) In either case, if action should be taken, what action should be taken and what is that action designed to address?

8.3 The Act requires that the CC, when considering these remedial actions, shall 'in particular, have regard to the need to achieve as comprehensive a solution as is reasonable and practicable to the SLC and any adverse effects resulting from it'.²⁴² To fulfil this requirement, the CC will seek remedies that are effective in addressing the SLC and its resulting adverse effects and will then select the least costly remedy that it considers to be effective, in order to be reasonable and proportionate. In accordance with the Act,²⁴³ the CC may also have regard to the effect of any action on any relevant customer benefits arising from the merger.

Remedy options

8.4 It is possible to distinguish two broad categories of merger remedies:

²⁴² Section 36(4).

²⁴³ Section 36(5).

- (a) structural remedies, such as divestment or prohibition—these are generally one-off measures that seek to restore or maintain the competitive structure of the market through a direct change in market structure; and
 - (b) behavioural remedies—these are normally ongoing measures designed to regulate or constrain the behaviour of merger parties.
- 8.5 In merger inquiries, the CC generally prefers structural remedies to behavioural remedies because:²⁴⁴
- (a) structural remedies are likely to deal with an SLC and its resulting adverse effects directly and comprehensively at source by restoring rivalry;
 - (b) behavioural remedies may not be effective and may create significant costly distortions in market outcomes; and
 - (c) structural remedies do not normally require monitoring and enforcement once implemented.
- 8.6 In our Notice of Possible Remedies (Remedies Notice) published on 18 December 2012, we consulted on three possible structural remedies that we said might be effective to address the provisional SLCs:
- (a) prohibition of Rank’s acquisition of Gala in its entirety (‘full prohibition’): under this option, Rank would be prohibited from acquiring Gala or from entering into any transaction or other agreement that would lead to Rank acquiring the 23 casinos and three cold licences that were the subject of the reference;
 - (b) prohibition of the acquisition by Rank of specified Gala assets (including casinos and cold licences) in those local areas where the CC has provisionally identified an SLC (‘partial prohibition’); or
 - (c) divestiture by Rank of relevant assets (including casinos and cold licences owned by Rank) before being permitted to complete the acquisition of Gala (‘upfront buyer remedy’). Under this option, Rank would be required to find one or more ‘upfront buyers’ for specified Rank or Gala casinos and cold licences in order for it to be allowed to complete its acquisition of corresponding Gala casinos in the corresponding local areas.
- 8.7 We invited views from interested parties both on these remedies and also on whether there were other remedies which we should consider. We also asked for views on the costs of remedies and proportionality and for comments on relevant customer benefits. We received comments on the Remedies Notice and held response hearings with each of the parties and some third parties. In response to the Remedies Notice, the parties said that we had not shown that there was an SLC in Edinburgh and Liverpool/New Brighton.²⁴⁵ Notwithstanding this, the parties commented on the remedies options set out in the Remedies Notice.

²⁴⁴ In practice, the CC has selected structural remedies in the vast majority of merger inquiries that have required remedies under the Enterprise Act regime. In some of these inquiries behavioural remedies have, however, been required in a supporting role, for example to protect the divested entity for a limited period or to ensure continuation of key contracts or inputs.

²⁴⁵ In the provisional findings (published on 18 December 2012), the parties submitted further evidence on Liverpool/New Brighton. After consideration of this evidence, we decided that there was not an SLC in Liverpool/New Brighton.

Assessment of remedy options

8.8 For each remedy, we discuss how it would operate and summarize the responses made (by the parties and third parties). We first consider the effectiveness of the three remedies proposed in our Remedies Notice. Then we examine the effectiveness of an additional remedy option suggested by the parties for Edinburgh. Finally, we consider the cost of the remedies and proportionality (paragraphs 8.81 to 8.88) and relevant customer benefits (paragraphs 8.89 to 8.94). Then we set out our decision on remedies (paragraph 8.95).

Full prohibition

Description of the remedy

8.9 This remedy would prevent Rank from entering into any agreement that would result in the transfer to Rank of the assets and activities that are the subject of the reference.

Views of the parties

8.10 Rank said that a full prohibition would be an effective remedy, but that it would not be proportionate because a partial prohibition remedy would be effective.

8.11 Gala said that a full prohibition would be an effective remedy but that individual casinos would constitute viable stand-alone businesses and therefore it would be possible to define a smaller divestiture package comprising the Gala casinos in the specific local areas where a provisional SLC finding had been made to implement an effective remedy. It said therefore that a full prohibition would not be proportionate because the CC had identified competition concerns in a small proportion of the local areas (five local areas, relative to the overall transaction which involved 23 casinos and three cold licences).

Conclusion on the effectiveness of full prohibition

8.12 We concluded that full prohibition would be an effective remedy because it would preserve the counterfactual market structure and would be effective straight away. It could be implemented without additional cost and would not entail any risks associated with divestment.

Partial prohibition

Description of the remedy

8.13 This remedy would prevent Rank from entering into any agreement that would result in the transfer to Rank of the Gala casinos in local areas where the CC had provisionally found an SLC (the 'Prohibited Gala Assets'^{246,247}).

8.14 Under this remedy option:

²⁴⁶ The Prohibited Gala Assets are: Gala Aberdeen Casino, Gala Bristol Harbourside Casino, Gala Cardiff Casino, Gala Casino Edinburgh and Gala Stockton-on-Tees Casino. The Gala Casinos brand would also be part of the Prohibited Gala Assets.

²⁴⁷ We have included the Gala Edinburgh casino as a Prohibited Gala Asset. However, we discuss an alternative remedy for Edinburgh only (involving an upfront buyer) in paragraphs 8.60 to 8.75).

- (a) Gala would retain the Prohibited Gala Assets. Gala would not be restricted in its freedom to choose the appropriate strategy for the retained casinos—eg to retain them or subsequently sell some or all of these casinos to a party other than Rank (provided that such sale was not intended to circumvent the prohibition). Any subsequent sale by Gala would be subject to the usual merger control processes.
- (b) Rank and Gala would not be prevented from reaching an agreement to acquire any assets that were not identified as Prohibited Gala Assets. For example, Rank and Gala could negotiate a new agreement concerning the remaining 18 casinos²⁴⁸ and three cold licences²⁴⁹ that had not been identified by the CC as Prohibited Gala Assets (the ‘Revised Transaction’). A *sunset clause*²⁵⁰ of ten years is normally applied to this type of prohibition.²⁵¹

Views of the parties

- 8.15 Rank and Gala told us that a partial prohibition remedy would be effective to address the SLC in the local areas where the CC had provisionally found that the merger may be expected to result in an SLC due to a reduction in competition between operating Rank and Gala casinos. Rank considered that Gala would continue to be an effective competitor as the continuing owner of the casinos in these areas.
- 8.16 Rank said that any sunset clause should expressly recognize that Rank could seek written consent from the OFT to acquire one of the casinos prior to the expiry of the ten-year period, as this would allow sufficient flexibility in the remedy to cater for future developments in the relevant local markets (such as new entry). Gala said that a sunset clause was not necessary because there was no divestiture required under the partial prohibition remedy. It said that it was therefore not appropriate to limit Gala’s future strategic decisions and that it would be disproportionate to apply an absolute restriction on Gala in relation to a loss of local competition. Gala also considered that there was scope for local competition to evolve during the ten years and any future transaction would be subject to the OFT’s merger control powers in the usual way.
- 8.17 Gala said that a partial prohibition remedy would be effective. It would be a straightforward and effective solution to the provisional SLCs in the relevant local areas and it would be the least costly and intrusive remedy that would be effective. Gala also considered that it had the advantage of being ‘ready-made’ (ie Gala already managed and operated the affected casinos and would simply continue to do so. Gala said that it would provide certainty for the parties and third parties and quickly and directly address the CC’s competition concerns at source. However, both parties said that in Edinburgh it was not necessary to prohibit the acquisition of the Gala casino because the sale of Rank’s cold licence would constitute an effective divestment package that would restore the pre-merger structure of competition.

²⁴⁸ The 18 Gala Casinos are: Barracuda (London), Birmingham, Bournemouth, Bradford, Glasgow Merchant City, Glasgow Riverboat, Glasgow Princes, Golden Horseshoe (London), Hull, Leeds, Leicester, Liverpool, Northampton, Nottingham, Russell Square (London), Stockton, Sunderland, Tottenham Court Road (London).

²⁴⁹ The three Gala cold licences are: Coventry, Northampton, Wolverhampton.

²⁵⁰ The CC may in the Final Undertakings specify a long-stop date in a ‘sunset clause’ beyond which the measures contained in the Final Undertakings will cease to apply. The period used for the long-stop date will depend on the circumstances of the case.

²⁵¹ Our Remedies Guidance (CC8, [paragraph 3.8](#)) envisages that where a merger is prohibited, the merger parties will generally be prohibited from subsequently purchasing assets or shareholdings in the business that is subject to the prohibition, or acquiring material influence over them for a period of ten years. This prohibition could be made subject to the proviso that no such acquisition would take place without first seeking the written consent of the OFT. The effect of this is that if the parties were to seek to subsequently acquire this business, or a substantial proportion of them, they would be required to seek release from the undertakings or order (or seek prior written consent to the acquisition if the prohibition is subject to a proviso to this effect). This would enable a review of the competitive effects of any subsequent acquisition regardless of whether or not it qualified as a relevant merger situation for the purposes of the Act.

- 8.18 Gala said that it was incentivized to continue to invest in and ensure the ongoing successful operation of the Prohibited Gala Assets and confirmed that it would continue to operate the retained casinos on a profit maximization basis. Gala intended to maintain effective competition by continuing to operate the Prohibited Gala Assets and it would not close any of them. Gala provided a three-year business plan for the casinos that it would retain under the partial prohibition option.²⁵² The business plan contained a summary of the strategy and investment plans for each casino. Gala explained that it would provide executive management resources and central support for the retained casinos from [REDACTED]. The forecasts show that the retained casino business unit [REDACTED].
- 8.19 Gala said that it should not be constrained with respect to strategic decisions for the retained casinos, which may, for example, include their potential sale to third parties (either individually or collectively) or their operation on a continuing basis in the ordinary course of business. Gala's central assumption was that the retained casinos remain within [REDACTED] and that any subsequent transaction that Gala's shareholders might contemplate would be [REDACTED]. Gala's current shareholders were likely to [REDACTED].
- 8.20 Gala also noted that there are several examples of independent casinos that were run by operators that only owned and operated one or two casinos²⁵³ in support of its confidence that the smaller business unit would be viable.
- 8.21 Genting said that it thought that a partial prohibition could be effective, but that this remedy gave rise to some uncertainty [REDACTED]. Genting said that Gala might seek to maximize value in various ways, including growing the business, maximizing cash flow by reducing investment, or close it, and a competitive outcome could not be assured. Whether a subsequent owner of the Gala casinos would be at least as, or more, competitive was difficult to predict.
- 8.22 GGV told us that in its view, Gala did not appear to be a natural long-term owner of the retained casinos because it had originally sought to exit the entire casino division and the reduced scale of operations would be subscale in size relative to Gala Coral's betting and bingo operations. GGV therefore thought it likely that Gala would seek to sell some or all of the retained casinos soon.
- 8.23 Aspers considered that Gala would seek to sell any casinos that it retained to independent operators and that if any of these were unprofitable Gala might close them.

Assessment of the effectiveness of partial prohibition

- 8.24 We considered whether retention by Gala of the Prohibited Gala Assets would result in the casinos remaining as viable competitors in each local area. In doing so, we considered composition, purchaser and asset risks,²⁵⁴ which, under our Merger Remedies Guidelines, we apply to divestment remedies.²⁵⁵

²⁵² The business plan included: Aberdeen, Bristol, Cardiff, Liverpool and Stockton-on-Tees, but excluded Edinburgh. (At the time we consulted on the Remedies Notice, we had provisionally identified Liverpool/New Brighton as an SLC.)

²⁵³ For example, the Hippodrome Casino Ltd owns only the Hippodrome in London; Clockfair owns the Broadway casino in Birmingham and the Shaftsbury casino in West Bromwich; Double Diamond Gaming Limited owns only the Rainbow Casino in Birmingham; and PB Devco owns only the Soul Casino in Aberdeen.

²⁵⁴ Composition risks are risks that the scope of the assets may be too constrained or not appropriately configured to allow a purchaser (in this case, Gala retaining the Prohibited Gala Assets) to operate as an effective competitor; purchaser risks are risks that a suitable purchaser is not available or that the merger parties will dispose to a weak or otherwise inappropriate purchaser; and asset risks are risks that the competitive capability will deteriorate before completion of a divestiture.

²⁵⁵ We recognize that partial prohibition is not a divestment. However, we consider that if Gala were to continue to operate a small number of casinos excluded from the transaction, the same framework would be useful in our evaluation.

- *Composition risks*

8.25 Gala intended to retain the Dundee and Gibraltar casinos and a cold licence in Westminster if the merger proceeded and therefore had envisaged continuing to operate a reduced scale of business.²⁵⁶ We also note there are a number of casino operators in the UK that operate a small number of casinos or single casinos.²⁵⁷ We considered that Gala would be able to operate its business on a substantially reduced scale compared with the pre-merger business.

- *Purchaser risks*

8.26 The counterfactual assessment concluded that Gala would continue to compete as an effective competitor absent the merger. We did not find any evidence that Gala faced any financial or operational impediments to continue to invest in the business and compete. We have no reason to believe that this conclusion would be any different if Gala retained a subset of its current casino assets.

8.27 We noted that if the ownership of the retained casinos were to change in the future, a sale by Gala of the Prohibited Gala Assets to a purchaser other than Rank, provided the purchaser did not intend to sell the assets on to Rank, would not be likely to undermine the effectiveness of this remedy. In this event, Gala would wish to realize maximum value for the assets on a sale of the casinos (which are all profitable). Licences to operate casinos in any local area are limited and there may be a number of interested purchasers that would be incentivized to operate them as casinos individually or as part of a group. We also note that any such transaction would be subject to the usual merger control processes.

- *Asset risks*

8.28 Gala's business plans (which related to the five casinos²⁵⁸ excluding Edinburgh) showed [redacted] without the Liverpool casino. We note that even if Gala decided to sell the casinos at some future time, it would remain a rational business strategy for Gala to seek to maximize the performance of its casinos in the period up to the sale by competing strongly. Gala would continue to operate casinos that it is operating at present. Therefore we also do not envisage that there would be significant asset risks. We did not consider that this asset risk would be materially different if Gala were also to retain the Edinburgh casino, as this casino [redacted].

- *Conclusion on effectiveness of partial prohibition*

8.29 We did not consider that there would be significant composition, purchaser or asset risks and therefore concluded that a partial prohibition remedy which resulted in the continued operation of the retained casinos would be an effective remedy for the local areas where the acquisition of a Gala asset by Rank had been identified as the provisional SLC (including Edinburgh). We gained sufficient comfort from Gala that it would continue to operate the retained casinos as viable competitors in the relevant local areas in the future. We did not identify reasons to be concerned that a subsequent divestment by Gala resulting in a change of ownership would have a different competitive outcome (provided that such sale was not to a purchaser that intended to sell any of the Prohibited Gala Assets on to Rank) and note that any subsequent

²⁵⁶ [redacted]

²⁵⁷ See Table 1.

²⁵⁸ As noted in paragraph 8.18 the five casinos included Liverpool.

divestment would in any event be subject to the usual merger controls. The remedy could also be implemented without additional cost or monitoring or risks.

- 8.30 Based on our Merger Remedies Guidelines, we considered that a sunset clause of ten years would be appropriate. We noted Gala's comments about why the CC should not in this instance require a sunset clause, but considered that there was not sufficient reason for us to depart from our usual practice, so we require a sunset clause of ten years in this case. We did not accept Gala's view that this would restrict its future strategic decisions because it would be free to sell the casinos to all potential purchasers with the exception of Rank. We note that the parties could approach the OFT²⁵⁹ earlier, if they considered that there was a particular reason why the sunset clause should no longer apply in a particular local area as a result of local market changes.

Upfront buyer remedy

Description of the remedy

- 8.31 Under this remedy, the relevant party (ie Rank or Gala) would be required to divest one of the overlap casinos in each of the areas with a provisional SLC to a suitable purchaser that was identified as an upfront buyer. The implementation of the remedy in each local area where there was a provisional SLC would need to be completed before any other transaction between Rank and Gala could proceed.

Views of the parties

- 8.32 In response to the Remedies Notice, when responding to this option Rank focused on the sale of the Prohibited Gala Assets to suitable purchasers.
- 8.33 Rank told us that an upfront buyer process in which a third party purchaser for the Gala casinos in Aberdeen, Bristol, Cardiff, Liverpool and Stockton-on-Tees could be found to address the provisional SLCs in these areas was possible, but it would involve significant further delay in the transaction and a continuation of the uncertainty surrounding both the Rank and Gala businesses compared with the partial prohibition remedy.
- 8.34 Gala said that it did not believe it would be necessary or appropriate to have an upfront buyer remedy because it would involve significant further delay to the transaction, whereas there was an alternative remedy—the partial prohibition—that would be no less effective and could be implemented more quickly. In relation to potential purchasers, Gala noted that there would be some smaller casino groups for which the transaction would be of strategic interest, but the CC would need to satisfy itself that the acquirer was independent of Rank and that the financial resources of the bidder would be sufficient to fund the acquisition and ongoing investment required to compete.
- 8.35 GGV considered that any upfront buyer process should be structured to avoid complexity that could occur, eg from a transfer of leases through multiple stages of ownership (eg from Gala to Rank and to a third party), and that the partial prohibition was less complex.

²⁵⁹ This would include any successor body to the OFT.

- 8.36 Aspers considered that Rank would prefer to keep its existing casinos in the relevant local areas, particularly if there had been recent investments in particular casinos, but that Rank may wish to have a choice of which assets to acquire.
- 8.37 Genting considered that it would be unnatural for Rank to acquire a Gala and sell a Grosvenor casino in a particular area and that a subsequent buyer would be concerned about confidential information that Rank would have during its period of ownership (eg customer lists). An upfront buyer remedy should therefore apply to Gala casinos only. If this option were pursued, then it might be expected that a new owner, who had proceeded with the decision to buy one or more casinos, would be committed to the business. It might also be more practical if a single buyer was available for all of the affected casinos.

Assessment of the effectiveness of the upfront buyer remedy

- 8.38 We considered whether divestiture using an upfront buyer in relation to the casinos would be an effective remedy using the framework of composition, asset and purchaser risks (see paragraph 8.24).
- 8.39 As set out in our Merger Remedies Guidance,²⁶⁰ reasons for requiring an upfront buyer include: where the CC is not able to gain comfort that prospective purchasers will be persuaded as to the viability and/or ability of the proposed divestiture package to compete effectively (ie composition risk); there may be only a limited pool of suitable purchasers (ie purchaser risk), the competitive capability of the divestiture package may deteriorate pending the divestiture (ie asset risk) or completion of the divestiture may be prolonged. Our Merger Remedies Guidance notes that the CC may also require that the upfront buyer completes the acquisition before the merger may proceed.
- 8.40 We consider that it is straightforward to ensure that an individual casino would contain all relevant assets required to compete (ie composition risk is low). As noted in paragraph 8.24, individual casinos can compete because the operations are broadly self-contained. The acquired casinos could therefore be owned and operated as individual casinos or as part of a larger group.
- 8.41 We anticipated that it may be easier to find buyers for some casinos than others, bearing in mind the approach that the CC would need to undertake to approve purchasers.²⁶¹ We also identified concerns regarding asset risk because of the ongoing uncertainty this would create in each of the casinos in the relevant local areas.
- 8.42 To address these risks, we considered that the divestments involved in this remedy would need to be to an upfront buyer to maintain the appropriate incentive to complete the sale of all the casinos required in the SLC areas and ensure that there is minimum delay in completion of the transaction. Completion of the sale to an agreed party after a short due diligence period would also reduce the risk of asset deterioration relative to a longer sales process (eg involving multiple rounds of bidding) because there would be less risk of a loss of focus on the business due to uncertainty for management or staff. (This is consistent with the approach detailed in our guidance and set out in paragraph 8.38.)

²⁶⁰ CC8, paragraph 3.19.

²⁶¹ Specifically, in order to assess the suitability of purchasers, the CC generally specifies four broad categories of suitability—(a) independence from Rank; (b) appropriate expertise to operate the casinos; (c) appropriate financial resources to acquire and operate the casinos; and (d) absence of further competition concerns.

8.43 However, the upfront buyer remedy option could delay the completion of a merger between those Rank and Gala assets where no competition concerns had been identified (ie the Revised Transaction). The delay would be caused by the time required to identify the upfront bidder, approve its suitability and complete the commercial and legal negotiations and agreements.²⁶²

- *Conclusion on the effectiveness of the upfront buyer remedy*

8.44 We concluded that this remedy would be likely to take longer to implement and could encounter purchaser risks and other practical difficulties in implementation compared with full or partial prohibition. However, despite these risks, this remedy could be effective in maintaining the current market structure and hence in addressing the SLC.

Additional remedy option for Edinburgh proposed by the parties: divestiture of the Edinburgh cold licence

Description of the remedy

8.45 In relation to Edinburgh, the parties told us that the partial prohibition remedy was not appropriate because the competition issue in Edinburgh could be remedied via an alternative remedy, involving the divestiture by Rank of its cold licence in Edinburgh.

8.46 The parties proposed that the divestiture should be undertaken by Rank after it had completed the Revised Transaction and the purchase of the Gala Edinburgh casino. The parties said that an upfront buyer should not be required for the Edinburgh licence in light of the cost and delay the sale of the cold licence would cause for the Revised Transaction.

Views of the parties

8.47 Rank told us that two parties, [X] and [Y], had indicated an interest in its Edinburgh cold licence and identified an additional [Z]²⁶³ parties that it considered may be potentially interested in the opportunity. Rank said that there might be additional interested parties that had not yet been identified. It told us that only Genting would give rise to potential competition concerns if it were to acquire the Edinburgh cold licence, on the basis that it was the only third party casino operator that currently owned either an operational or a cold licence in Edinburgh.

8.48 Gala told us that there would be a pool of companies that would potentially be interested in acquiring Rank's cold licence in Edinburgh, including: Casinos Austria (which operated a club in Glasgow), GGV, Aspers, LCI, A&S and other new entrants.

8.49 Aspers said that in its view a number of casino operators, including itself, would be interested in acquiring the cold licence. However, it said that it was more likely that the new owner would hold the licence in its dormant form than develop a casino. In order to determine whether to develop a cold licence in Edinburgh, Aspers said that it would need to carry out a feasibility study and identify a suitable location from which to operate.

²⁶² However, we consider that the conditionality on this part of the transaction would maintain an incentive to conclude the divestitures quickly to ensure that the SLCs were addressed.

²⁶³ The parties mentioned [Z].

- 8.50 GGV told us that there would be interest in the Edinburgh cold licence. However, GGV thought it unlikely that an acquirer would be able to give an outright contractual commitment to open a casino in Edinburgh, but might be able to make reasonable endeavours in this regard. GGV considered that the economics of developing a licence in Edinburgh could be marginal to good, rather than exceptional. GGV considered that in addition to the price of the cold licence, an investment of £5–£6 million would be needed to open a casino.
- 8.51 Genting considered that divestiture of the Rank cold licence in Edinburgh would be an effective remedy, but that if Rank was not able to find a buyer for the licence, then it should be surrendered to the local authority. [REDACTED]

Assessment of the effectiveness of the parties additional remedy proposal

- 8.52 The CC's guidelines (CC8) set out the principles for the design of remedies and the divestiture risks that should be considered in relation to the design of the remedy. This risk assessment identifies three broad categories of risk—composition risk, asset risk and purchaser risk.
- 8.53 We considered composition and asset risks and noted that an annual fee²⁶⁴ is payable to the Edinburgh Licensing Board in order to avoid revocation of the licence. We did not think that Rank has any incentive to allow the cold licence to lapse prior to its sale to an approved purchaser, but our remedy should provide a safeguard against this possibility.
- 8.54 If Rank became the owner of the Gala casino in Edinburgh before it sold the cold licence to a suitable purchaser, it may not have an incentive to facilitate the transfer of the cold licence to a suitable purchaser within a reasonable time period. We therefore concluded that there are some asset and composition risks associated with the divestiture remedy.
- 8.55 We then considered purchaser risk. Rank told us that Edinburgh was an attractive market and was keen to develop a [REDACTED] casino (paragraph 7.169). Therefore for the remedy to be an effective solution to the SLC, we would need to be satisfied, on the balance of probabilities, that a purchaser would have a similar intention to that of Rank prior to the merger discussions with Gala to develop an operational casino that would compete with the Gala casino that Rank proposes to acquire. Interested parties that sought to acquire the cold licence merely to retain an option, or bought the licence with a view to portability—ultimately allowing the party to use the licence elsewhere—would not be suitable.
- 8.56 We wrote to the additional [REDACTED] parties that Rank considered may be potentially interested in the opportunity in Edinburgh (see paragraph 8.47) to seek views on whether they would, in principle, have an interest in acquiring Rank's cold licence in Edinburgh. We did not receive any responses to this consultation, which highlighted the significant uncertainty regarding the likelihood of there being suitable purchasers. This indicated that there was purchaser risk in relation to the sale of the cold licence.
- 8.57 We considered that if Rank were permitted to acquire the Gala casino in Edinburgh before it sold the cold licence, there would be risk of it not having the appropriate incentive actively to pursue the sale of the cold licence. This is because not finding a buyer that was satisfactory to the CC would result in Rank retaining its cold licence in addition to acquiring the Gala casino in Edinburgh.

²⁶⁴ £2,550 Source: Edinburgh Licensing Board.

8.58 Based on paragraphs 8.55 to 8.57, we concluded that there were significant purchaser risks associated with the parties' additional remedy proposal.

- *Approaches to mitigate purchaser risk*

- *Divestiture trustee*

8.59 We considered whether a divestiture trustee could provide protection against the purchaser risks identified. Our guidance states that divestiture risks can be overcome, at least in part, through the design of the divestiture and by adopting protective measures such as appointment of monitoring and divestiture trustees and requiring 'upfront buyers'.²⁶⁵ Rank told us that it would be willing to offer an undertaking that, unless it concluded an agreement to sell the Edinburgh cold licence to a purchaser approved by the CC within an initial divestiture period of [REDACTED], that the CC would be entitled to require the appointment of a divestiture trustee to dispose of the licence within [REDACTED] at the best available price, subject to approval by the CC of the purchaser. However, there would still be the risk that the divestiture trustee would be unable to find a suitable buyer satisfactory to the CC and this would not effectively remedy the SLC that we have identified.

- *Upfront buyer remedy for Edinburgh only*

8.60 We considered whether an upfront buyer remedy could be applied to Edinburgh only, in order to reduce purchaser risk to an acceptable level. Under this option, Rank would not be permitted to acquire the Gala casino in Edinburgh until the cold licence had been sold to a suitable purchaser but would be able to complete the Revised Transaction (ie acquire the 18 non-prohibited casinos and three cold licences).²⁶⁶ If no suitable purchaser was identified by the divestiture process, Rank would not be permitted to acquire the Gala casino in Edinburgh.

8.61 Gala considered that an upfront buyer was akin to a partial prohibition in Edinburgh. Gala said that it was keen to avoid disruption. It said that requiring an upfront buyer for Rank's Edinburgh cold licence would be disproportionate, since a less restrictive and equally effective alternative was available. It said that if an upfront buyer remedy was required for the Rank cold licence in Edinburgh, [REDACTED].

8.62 Rank considered that its cold licence in Edinburgh was worth [REDACTED] and that, as the capital of Scotland, the location could be attractive to several parties who would seek to open a casino rather than retain it as an option to use the cold licence elsewhere if portability was permitted. It did not consider that there would be any material purchaser, asset or composition risks associated with the disposal of the cold licence and, as such, did not consider that an upfront buyer requirement was necessary. However, Rank agreed that, should the CC consider that an upfront buyer requirement was necessary in Edinburgh, preventing completion of the entire transaction, including the casinos and cold licences where there was no SLC pending disposal of the Edinburgh cold licence, was unnecessary and would impose disproportionate costs on the parties.

8.63 We assessed the need for an upfront buyer remedy for Edinburgh only. As set out in our guidance, the main reason for requiring an upfront buyer is if there is doubt as to the viability or attractiveness to purchasers of a proposed divestiture package (ie

²⁶⁵ CC8, paragraph 3.5.

²⁶⁶ Requiring an upfront buyer for the Edinburgh casino only would substantially reduce the cost of delay to Rank since there would be only one casino affected. The Revised Transaction would exclude Gala's Edinburgh Casino.

composition risk) or if we believe that there may be only a limited pool of suitable purchasers (ie purchaser risk) or if the competitive capability of the divestiture package may deteriorate pending the divestiture (ie asset risk).

- 8.64 We concluded in paragraph 8.58 that there were significant purchaser risks associated with the parties' additional remedy proposal. This is particularly the case because we have decided, on the balance of probabilities (see paragraph 7.170), that Rank would have developed the cold licence into an operating casino. Therefore when evaluating potential purchasers, we will need to conclude, again on the balance of probabilities, that an acceptable purchaser of the Rank cold licence would also develop an operating casino in Edinburgh. We noted Gala's concern that there would be a further period of uncertainty for the staff and customers of its Edinburgh casino. However, we were satisfied that Gala had strong incentives to continue to manage this risk effectively, as it has done throughout the period of investigation of the merger in relation to its entire casino estate.
- 8.65 We consider that the upfront buyer remedy, which would by design prohibit Rank from acquiring the Gala casino in Edinburgh in the event that the Rank cold licence were not sold to a suitable purchaser, substantially reduces the risks identified with the parties' remedy proposal, and there is sufficient concern about those risks to mean that the parties' remedy proposal should be modified to include the upfront buyer requirement.
- 8.66 We noted Genting's comment that if Rank or a divestiture trustee were unable to sell the licence, it should be surrendered to the local authority rather than sold for a nominal price. However, this would result in a less competitive outcome than we would be seeking to maintain via the divestiture remedy. We also consider that the market value of the licence would not be large enough (Gala estimated that the value would be £[redacted]) relative to the overall cost of developing a casino (possibly several million pounds) to give a purchaser a significant competitive advantage if the price paid was low.
- 8.67 We considered whether a monitoring trustee (MT) would be required.²⁶⁷ Rank said that it did not consider that it would be appropriate for the CC to appoint an MT for the Edinburgh divestiture process because there was no asset risk and Rank would be able to demonstrate its commitments via the divestiture undertakings that it would offer to the CC.
- 8.68 We agreed that the asset risk was small, but noted that there was substantial purchaser risk. However, we concluded that there was no need to appoint an MT at the start of the divestiture period, but this should be kept under review during the implementation period.
- 8.69 We also decided that the upfront buyer remedy for Edinburgh only would not require a Divestiture Trustee appointment, for the reasons set out in paragraph 8.59. In the event that the Rank cold licence were not sold to a suitable purchaser, Rank would not be permitted to acquire the Gala casino in Edinburgh. We decided that this would be sufficient incentive for Rank to find a suitable purchaser for the cold licence.

²⁶⁷ The CC's guidance (CC8, [paragraph 3.23](#)) states that where divestiture undertakings are in place, the CC will normally require the appointment of an independent MT to oversee the parties' compliance with the undertakings and, if applicable, the performance of the hold-separate manager. The MT will have an overall duty to act in the best interests of securing an appropriate divestiture. The MT will monitor the ongoing management of the divestiture package and the conduct of the divestiture process. The CC will have the right to propose and direct measures necessary to ensure compliance with the Undertakings.

- 8.70 We considered the time Rank should be allowed to sell the Edinburgh cold licence to a suitable purchaser. Rank said that if it were to carry out a divestiture process after the completion of the Revised Transaction, the initial divestiture period for the sale of the Edinburgh cold licence should be [redacted] in duration. Gala considered that it may take several months (rather than weeks) for a potential purchaser with evidence of a business plan, funding and financial projections to emerge in a sale process.
- 8.71 We consider that the divestiture of a cold licence itself is a relatively straightforward process and is likely to be significantly less complex than the divestiture of an operational business. Potential purchasers would require time to prepare the evidence needed by the CC to perform its assessment of purchaser suitability. However, we think that the nature and extent of information required by the CC would be broadly similar to that needed for a purchaser to satisfy itself of the commercial logic of an acquisition. The CC generally considers six months to be the maximum duration for divestitures, [redacted].²⁶⁸
- 8.72 Overall, we concluded that the upfront buyer process should be concluded within [redacted] following the date of publication of the CC's final report. We would need to be persuaded that satisfactory progress was being made towards concluding a sale before any request for a short extension to the initial divestiture period [redacted] could be granted.
- 8.73 In order to implement the remedy, it would be necessary to develop and apply a screening process to obtain evidence about the likelihood that a potential purchaser would develop a casino in Edinburgh. We noted in paragraph 8.55 that, for the remedy to be an effective solution to the SLC, we need to be satisfied, on the balance of probabilities, that a purchaser would have a similar intention to develop an operational casino to that of Rank prior to the merger discussions with Gala. Our screening process would have to identify purchasers that, on the balance of probabilities, would develop the licence into an operating casino. We have set out the purchaser suitability criteria in Appendix J. In so doing, we have sought to match as closely as possible the information that a credible purchaser would need to prepare in any event to justify an investment of this scale (eg to evaluate the investment, obtain internal corporate approval or secure external financing).
- 8.74 We considered whether it would be necessary for the CC to require a purchaser to offer an undertaking that it would develop a casino and, if so, whether there would be a time limit on this and any monitoring required of this development. We considered that the purchaser suitability assessment detailed in Appendix J specifies the evidence that bidders would need to supply to the CC in order to be approved as a suitable purchaser, so that this matter could be dealt with at the remedies implementation stage. There would remain a risk, given that our assessment of the buyer (in line with our assessment of the SLC) would be on the balance of probabilities, that following its acquisition of the cold licence a buyer could fail in its plans to open a casino, or substantially delay or amend its plans due to issues that were not foreseen when the cold licence was purchased. However, we did not consider it to be practical to require an undertaking or definitive commitment from the buyer regarding the opening of a casino.

²⁶⁸ CC8, paragraph 3.24.

- *Conclusion on the effectiveness of the additional remedy option proposed by the parties: divestiture of the Edinburgh cold licence*

8.75 We considered the parties' additional remedy proposal carefully. Both Rank and Gala have expressed a clear preference for the post-completion divestiture remedy rather than the partial prohibition or upfront buyer remedy. However, we consider that there would be substantial risks in allowing the divestiture of the Edinburgh cold licence. We found that these risks could be effectively mitigated by requiring an upfront buyer for the Edinburgh licence, such that the remedy would be effective in remedying the SLC in Edinburgh.

Behavioural remedies

8.76 We do not think that behavioural remedies would be effective on their own due to challenges in specifying an appropriate set of rules for the competitive interaction of the parties. In addition, there would be substantial ongoing costs of monitoring and compliance.

8.77 We considered whether behavioural remedies could be used alongside structural remedies to increase their effectiveness. In this regard, we have decided to require Rank not to take any action to delay or frustrate a planning application or approvals required or other relevant milestones necessary for the new owner to open a casino in Edinburgh using Rank's cold licence.

8.78 GGV said that we should consider a behavioural remedy in the form of a recommendation to the Government to deregulate the casino industry to facilitate new entry and expansion in markets where there was demand for a casino. However, we did not consider this relevant to our merger inquiry.

Summary of the effectiveness of the remedy options

8.79 In relation to the four local areas where we had found that an SLC existed in relation to local competition between operating casinos (Aberdeen, Bristol, Cardiff and Stockton-on-Tees), we concluded that there were three effective remedies: a full prohibition; a partial prohibition; and an upfront buyer remedy.

8.80 In relation to Edinburgh, we considered that there were two effective remedies: the partial prohibition option that would prohibit Rank from acquiring the Gala casino in Edinburgh (along with the other four Gala casinos) or the upfront buyer remedy, which would prohibit the acquisition of the Gala casino in Edinburgh unless a suitable purchaser is found for Rank's cold licence.

Cost of remedies and proportionality

8.81 Our remedies guidelines explain that having considered the effectiveness of the remedy options, the CC will then consider the costs of those remedies that it expects would be effective in addressing the SLC and the resulting adverse effects. In order to be reasonable and proportionate, the CC will seek to select the least costly remedy, or package of remedies, that it considers will be effective. The CC will seek to ensure that no remedy is disproportionate in relation to the SLC and its adverse effects.²⁶⁹

²⁶⁹ CC8, paragraph 1.9.

- 8.82 We first consider the costs and proportionality for the local areas where we had found that an SLC existed in relation to local competition between operating casinos (Aberdeen, Bristol, Cardiff and Stockton-on-Tees), then we consider Edinburgh.

Four local areas excluding Edinburgh

- 8.83 The principal difference between the two prohibition remedy options is that the full prohibition would mean that Rank would not be able to proceed with the proposed acquisition, and Gala could not proceed with the sale, of the 18 Gala casinos and three cold licences in local areas where there was no SLC finding. We noted that if the upfront-buyer remedy were applied, the proposed acquisition would be allowed to proceed, but only after the required divestitures had taken place.
- 8.84 We concluded that a full prohibition would be significantly more intrusive than a partial prohibition and, given both Rank and Gala's clear preference for partial prohibition, that an upfront buyer remedy would be more intrusive than a partial prohibition in those areas. We therefore concluded that the least costly, least intrusive, effective remedy to the SLCs that we have found may be expected to arise in Aberdeen, Bristol, Cardiff and Stockton-on-Tees was partial prohibition.

Edinburgh

- 8.85 We noted that Rank and Gala would need to agree a separate transaction for the Gala Edinburgh casino subsequent to the divestiture of its cold licence in Edinburgh, and integration of the Edinburgh casino to the Rank central systems would need to be deferred until the Edinburgh cold licence had been sold. However, we concluded that the parties would be keen to proceed with the Revised Transaction as soon as possible and any incremental costs associated with the purchase of Edinburgh at a later date would not be material relative to the overall costs of the transaction.
- 8.86 In order to proceed with the divestiture remedy, Rank would need to conduct a process to solicit interest in the cold licence from potential purchasers. The costs associated with this are not relevant to our selection of the remedy because Rank could avoid them if it did not proceed with the acquisition of the Gala casino in Edinburgh.²⁷⁰ Potential purchasers would also need to satisfy the CC of their suitability. The costs associated with bidding for the cold licence, acquiring it and developing a casino in Edinburgh would not be relevant to our selection of remedy because purchasers are free to choose whether or not to pursue the investment opportunity, and such costs would in any event be expected to be offset by returns from the investment in due course. In this regard, we concluded that a divestiture of the Rank cold licence to an upfront buyer would not be a more costly remedy than a prohibition of the acquisition of the Gala casino in Edinburgh.
- 8.87 We noted the relative size of Gala's operational casino compared with Rank's cold licence. The Gala casino is already operating from physical premises in Edinburgh, is profitable and generates substantial sales (around £[REDACTED]). By contrast, the Rank cold licence is not an operational business and has no physical premises. However, it grants the holder the right to develop a future casino in Edinburgh, which would otherwise not be possible.

²⁷⁰ We consider that such costs are akin to the costs of divestiture in the context of a completed merger. As noted in CC8 (paragraph 1.10), the CC will generally attribute less significance to avoidable costs. In this instance, the costs of disposal could be avoided under the partial prohibition remedy and the option of a disposal of the cold licence is being pursued at the parties' request. We also note that if it succeeds in disposing of the cold licence to a suitable purchaser, Rank will acquire a fully operational casino, without having to incur development costs.

8.88 We concluded that if possible Rank should be given the opportunity to acquire the Gala casino provided it could divest its cold licence to a suitable purchaser. Therefore we have concluded that the least costly, least intrusive, effective remedy in relation to Edinburgh would be the divestiture of Rank's cold licence via an upfront buyer process.

Relevant customer benefits

8.89 Having identified the least costly, least intrusive remedy or package of remedies, the CC may decide to modify it to take account of the impact on any relevant customer benefits.²⁷¹ Relevant customer benefits are limited by the Act to benefits to relevant customers in the form of:

(a) 'lower prices, higher quality or greater choice of goods or services in any market in the United Kingdom ... or

(b) greater innovation in relation to such goods or services.'²⁷²

8.90 The Act provides that a benefit is only a relevant customer benefit if it would be likely to accrue within a reasonable period from the merger and would be unlikely to accrue 'without the creation of that situation or a similar lessening of competition'.²⁷³

8.91 Rank said that a relevant customer benefit was the investment by Rank in the Gala casinos (eg a public commitment to invest £25–£30 million²⁷⁴ in improving the quality of the acquired Gala casinos).

8.92 We note that some of the investment planned by Rank may have been planned for the areas where we found an SLC. However, we did not consider that Rank's proposed investments met the statutory test to be considered relevant customer benefits. In relation to Rank's proposed investments, we did not have any concerns about the level of investment that Gala would make in the casinos absent the merger. We have found that competition takes place primarily on customer service quality, promotions and events and that such competition is more intense, the closer competing casinos are to one another. We note that, given the nature of competition in this market, in the areas where we have found an SLC, we would expect both Rank and Gala to invest to improve their competitive offer in response to the competition that would be preserved in those areas (as a result of the partial prohibition of the merger). By contrast, in the absence of the remedies package, the incentives to invest in areas where competition was reduced as a result of the merger would be diminished. We could not conclude that the claimed benefits were unlikely to be achieved in the absence of the merger.

8.93 Gala said that Rank might be able to co-locate its Edinburgh cold licence with the acquired Gala casino in order to be permitted to add up to 20 additional gaming machines. Rank later said that while this may be a short-term option, it would seek to develop a new casino in Edinburgh. We noted that the upfront buyer remedy is designed to find a purchaser that on the balance of probabilities would be likely to

²⁷¹ The CC does not take account of relevant customer benefits in deciding on the existence of an SLC and its resulting effects. Instead, the CC may take relevant customer benefits into account, as permitted by the Act, once it has decided on an SLC by considering the extent to which alternative remedies may preserve such benefits.

²⁷² Section 30(1).

²⁷³ Section 30(4).

²⁷⁴ Specified in the shareholder circular for the initial acquisition of 23 casinos and three cold licences (see paragraphs 3.1 to 3.5).

develop a casino in Edinburgh. This would remedy the SLC, introduce greater competition and variety into Edinburgh and produce greater customer benefit.

- 8.94 We therefore did not identify any relevant customer benefits that would alter our provisional view that the least intrusive, effective remedies would be a partial prohibition of the four Retained Casinos and a divestiture of Rank's cold licence in Edinburgh to a purchaser approved by the CC, prior to allowing Rank to purchase Gala's Edinburgh casino.

Decision on remedies

8.95 We have concluded that the remedy package will be:

- (a) the prohibition of the acquisition of the Gala casinos in Aberdeen, Bristol, Cardiff and Stockton upon Tees and a sunset clause of ten years to apply to the prohibition;
- (b) the divestiture of Rank's Edinburgh cold licence to a suitable purchaser approved by the CC: in the event that the Rank cold licence were not sold to a suitable purchaser within a specified timescale, Rank would not be permitted to acquire the Gala casino in Edinburgh (a ten-year sunset clause would also apply in this event);
- (c) Rank or Gala will not be permitted to appeal against a planning application or other licensing requirements needed by a purchaser of the Edinburgh cold licence to develop a casino in Edinburgh and Rank to take all steps required to maintain the licence before its sale to a suitable purchaser; and
- (d) Rank will be allowed until [redacted] to dispose of the Edinburgh cold licence to a suitable purchaser satisfactory to the CC using the criteria and process set out in Appendix J. We may consider a short extension to this process ([redacted]) if Rank is able to demonstrate it is making good progress in finding a suitable purchaser.