

## Completed acquisition by BCA Marketplace plc of SMA Vehicle Remarketing Limited

**ME/6549/15**

The CMA's decision on reference under section 22(1) of the Enterprise Act 2002 given on 17 November 2015. Full text of the decision published on 7 January 2016.

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

### **SUMMARY**

1. On 1 June 2015, BCA Marketplace plc (**BCA**), acting through its wholly-owned subsidiary BCA Trading Limited, acquired the whole of the issued share capital of SMA Vehicle Remarketing Ltd (**SMA**) (the **Merger**). BCA and SMA are together referred to as the **Parties**.
2. The Competition and Markets Authority (**CMA**) considers that the Parties' enterprises have ceased to be distinct and that the share of supply test is met. The four-month deadline for a decision, as extended, has not yet expired. The CMA therefore considers that a relevant merger situation has been created.
3. The Parties overlap in the supply of used vehicle auction services at physical auction sites in the United Kingdom (the **UK**). Given that the Parties operate in a two-sided market with both vendors and buyers as customers, the CMA considered the impact of the Merger on vendors and buyers separately.
4. The CMA assessed whether the Merger would result in higher fees charged to vendors and/or buyers, and/or a reduction in quality of the services provided as a result of horizontal unilateral effects.
5. The CMA assessed the impact of the Merger both at a national level and a local level. For its local assessment, the CMA used a catchment area based on the area from which 80% of each Party's customers are drawn around a physical auction site (the **80% catchment area**) as its starting point.

6. At a national level, the CMA found that the Parties are not close competitors. SMA's auction sites do not provide comprehensive coverage of the entirety of the UK and, therefore, it is limited in its ability to compete for large, national or regional vendors and buyers who use auction sites in multiple regions and negotiate fees on this basis for the sale and purchase of its used vehicles. Apart from BCA, the only other player with national coverage in the supply of used vehicle auction services at physical auction sites is Manheim, who will continue to compete with BCA post-Merger. At a national level, the merged entity will also remain more constrained by alternative vehicle re-marketing channels outside the product frame of reference. Large vendors in particular have a comparatively greater ability to switch volumes to alternative re-marketing channels. Based on this evidence, the CMA concluded that the Merger will not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) at a national level.
7. For its local assessment, the CMA applied a competitor fascia<sup>1</sup> count filter to each 80% catchment for both vendors and buyers separately. For all five of SMA's sites in the UK, and for each BCA site that overlaps with an SMA site, the CMA found that post-Merger no buyer catchment area would have a fascia reduction of five to four or worse. Therefore, the CMA focused its investigation on the impact of the Merger on vendors. The competitor fascia count reduction was five to four or worse in vendor catchment areas for: (i) BCA's site in Newcastle; and (ii) the Parties' sites in Scotland, including BCA's sites in Edinburgh and Glasgow and SMA's sites in Edinburgh and Kinross. For the SMA sites in Birmingham and Leeds, there will continue to be a high number of competing fascia within each buyer and vendor catchment area post-Merger.
8. In relation to BCA Newcastle, the CMA calculated that post-Merger the Parties would have a share of supply of [55-65]% with an increment of [25-35]% with a reduction in effective competitors from three to two. Third parties indicated that the Parties are close competitors in the north east of England and expressed concern that the Merger would impact on vendors' ability to negotiate prices. On the basis of this evidence, the CMA concluded that the Merger will result in a realistic prospect of an SLC in Newcastle.
9. In relation to the Parties' sites in Scotland, the CMA considered that it is more appropriate to consider the competitive constraints faced by the Parties in the

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<sup>1</sup> This fascia count was applied to the 'effective competitors' to the Parties. That is, mainstream physical auction sites used to buy and sell motor vehicles and present within the relevant geographic catchment area, or outside the catchment area to the extent that it is appropriate (but does not include hybrid auction sites or online auction platforms). See paragraphs 99–102.

**Central Belt of Scotland**,<sup>2</sup> rather than considering competition within areas strictly limited to 80% catchment areas. The CMA calculated that post-Merger the Parties would have a share of supply of [45-55]% in the Central Belt of Scotland with an increment of [15-25]%. The Merger will result in a reduction in the number of effective competitors in the Central Belt of Scotland from six to five. The Parties will continue to face competition from four effective competitors for the majority of their vendor customers in the Central Belt of Scotland. Third party responses to the CMA's questionnaire confirmed that the Parties would face competition from Central Car Auctions, Manheim, Morris Leslie Group, and Wilsons.

10. The CMA concluded there will remain four credible competitors in the Central Belt of Scotland and that there will also be some competitive constraint faced by the Parties from alternative re-marketing channels. On that basis, the CMA concluded that the Merger will not result in a realistic prospect of an SLC in the Central Belt of Scotland.
11. In summary, the CMA found that the Merger gives rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the supply of used vehicle auction services at physical auction sites in the Newcastle area.
12. CMA is therefore considering whether to accept undertakings under section 73 of the Enterprise Act 2002 (**the Act**). BCA has until **Tuesday 24 November 2015** to offer an undertaking to the CMA that might be accepted by the CMA. If no such undertaking is offered, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

## **ASSESSMENT**

### **Parties**

13. BCA is an international company which is active in the provision of used vehicle remarketing services, principally the provision of used vehicle auction services at physical auction sites, and related value added services (such as valeting, logistics and repair) thereby facilitating the sale of used vehicles by vendors to predominantly trade buyers in the UK. BCA is listed on the London Stock Exchange.
14. SMA is also active in the used vehicle remarketing sector, providing used vehicle auction services at physical sites and related services, thereby facilitating the sale of used vehicles by vendors to predominantly trade buyers

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<sup>2</sup> The Central Belt of Scotland is defined as being the area lying between the Highlands and the Southern Uplands in Scotland including Greater Glasgow, Ayrshire, Falkirk, Edinburgh, Lothian and Fife.

in the UK. The turnover of SMA in year ending 31 October 2014 was £37.2 million, all of which was generated in the UK.

## Transaction

15. On 1 June 2015 BCA Trading Limited, a wholly owned subsidiary of BCA, acquired the entire issued capital of SMA from its four individual shareholders.

## Jurisdiction

16. As a result of the Merger, the enterprises of BCA and SMA have ceased to be distinct.
17. The Parties overlap in the supply of used vehicle auction services at physical auction sites in the UK, with a combined share of supply of [45-55]% (increment [5-15]).<sup>3</sup> The CMA therefore considers that the share of supply test in section 23 of the Act is met.
18. The Merger completed on 1 June 2015 and was first made public on 1 June 2015. The four month deadline for a decision under section 24 of the Act is 3 December 2015, following an extension under section 25(2) of the Act.
19. The CMA therefore believes that it is or may be the case that a relevant merger situation has been created.
20. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 23 September 2015, and the statutory 40 working day deadline for a decision is therefore 17 November 2015.
21. The CMA opened an own-initiative investigation into the Merger by sending an Enquiry Letter to the Company Secretary of BCA Marketplace plc on 17 June 2015.<sup>4</sup>

## Counterfactual

22. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For completed mergers the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where,

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<sup>3</sup> BCA's submission, Table 5.

<sup>4</sup> See [Mergers: Guidance on the CMA's jurisdiction and procedure](#) (CMA2), January 2014, paragraphs 6.9–6.19 & 6.59–6.60.

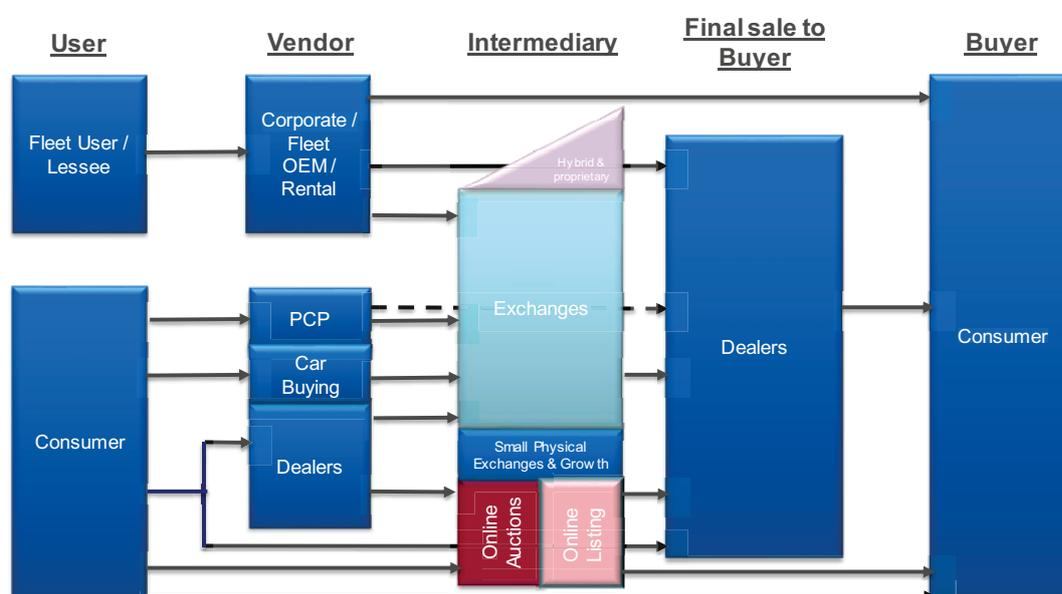
based on the evidence available to it, it considers that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.<sup>5</sup>

23. In this case, there is no evidence supporting a different counterfactual and the CMA considers the pre-Merger conditions of competition to be the relevant counterfactual.

## Background

24. BCA submitted that both Parties are active in the used vehicle remarketing sector, and that within this sector there are range of channels through which used vehicles can be sold.
25. BCA submitted Figure 1 below, which illustrates the range of channels available for the sale of used vehicles as part of a lifecycle starting with the initial user selling the vehicle and ending with the final consumer buying it. The Parties are active in the ‘intermediary’ segment of the used vehicle life cycle, whereby they offer used vehicle auction services at physical sites for sales of used cars on a business-to-business basis. A more detailed explanation of the individual disposal routes outlined in Figure 1 is at Annex A.

**Figure 1: Used Vehicle Lifecycle diagram showing main disposal routes**



Source: BCA/OC&C.

<sup>5</sup> *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

26. As indicated in Figure 1, there are a variety of vendors who use auctions (called 'exchanges' in Figure 1). Vendors can be classified into the following broad categories:<sup>6</sup>
- (a) Original equipment manufacturers (**OEMs**), (eg Toyota).
  - (b) Corporates such as car rental/leasing companies.
  - (c) Vehicle purchasing groups (such as We Buy Any Car, We Want Any Car).
  - (d) Dealers.
27. BCA submitted that there are two types of buyers who use auctions:
- (a) Independent dealers and wholesale traders.
  - (b) Franchised dealers.
28. Auctions are generally considered to operate as 'two-sided' platforms. Used vehicle auction providers are intermediaries that are dependent upon their ability to source stock from vendors.<sup>7</sup> To do so, auction providers need to be able to assure vendors that sufficient buyers will use the platform. Similarly, buyers are attracted to a platform with a sufficient choice and quality of available vehicles. Auctions can operate across a number of different channels such as: physical auctions,<sup>8</sup> online only auctions and proprietary auctions.<sup>9</sup>
29. BCA operates 17 physical auction sites in England and Scotland, selling approximately [X] vehicles annually. SMA is the third largest motor auction business in the UK, selling approximately [X] vehicles annually operating five physical auction sites in England<sup>10</sup> and Scotland.<sup>11</sup> BCA operates both closed auctions (where the auction is restricted to those physically present at the auction), auctions where online bidders are also accepted and online only auctions. SMA operates closed auctions at physical sites and auctions which also accept online bidders. However, SMA is not active in the provision of any online-only auctions.

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<sup>6</sup> The Parties provide auction services predominantly to businesses, with private buyers accounting for only [0-5]% of sales through BCAs platform. The CMA does not, therefore, consider the provision of auction services to consumers any further in this decision.

<sup>7</sup> Auction providers compete for, and serve, both vendors (who sell their vehicles) and buyers (who purchase vehicles).

<sup>8</sup> Physical auctions often allow bidders to bid for vehicles online without a requirement to be physically present.

<sup>9</sup> A proprietary platform is a platform on which a fleet owner, vehicle-rental company, vehicle leasing company, or OEM offers used vehicles from their own stock to consumers or trade buyers.

<sup>10</sup> Three sites: Birmingham, Leeds and Newcastle.

<sup>11</sup> Two sites: Edinburgh and Kinross.

30. In addition to auctions, the sales channels which are available to vendors and buyers include:<sup>12</sup>
- (a) **OEMs' platforms.** A number of OEMs manage their own remarketing platforms, which they use to sell their vehicles directly to their franchised dealer network or direct to consumers. OEMs use their own platforms to sell vehicles from their stock to other dealers, or directly to consumers. Approximately 0.9 million vehicles are sold per year by this method.<sup>13</sup>
  - (b) **Large dealer group platforms and dealer-to-dealer platforms.** Large dealer group platforms are those where dealer groups use proprietary online platforms to sell used vehicles to other trade buyers or retail customers. Dealer-to-dealer platforms are those where dealers can buy and sell to each other directly (eg AutoTrade Mail). These platforms are typically only open to trade buyers (and not consumers), and they allow dealers to trade directly with each other. Approximately 0.7 million vehicles are sold per year by this method.
  - (c) **Large corporate platforms.** Where large corporate owners (such as fleet owners, vehicle rental companies, or vehicle leasing companies) use proprietary online platforms to market and sell used vehicles to either trade buyers or directly to consumers. These corporate owners include large financial institutions, large rental companies and other institutions.
  - (d) **Other online platforms and classified listings** (including mainstream classified listings such as eBay and Gumtree).
31. Buyers can also purchase vehicles directly from selling consumers. Dealers will often take the customer's car in part-exchange for the vehicle they are selling. The dealer may keep the vehicle as part of their inventory, or if, for example the vehicle does not meet the dealer's profile, they will seek to dispose of the vehicle by another remarketing route. Approximately 3.1 million vehicles are purchased by dealers in part-exchange each year.<sup>14</sup>

## Frame of reference

### *Product scope*

32. The CMA considers that market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement.

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<sup>12</sup> Initial submission, paragraph 7.7.

<sup>13</sup> Of these, 0.8 million were to a dealer.

<sup>14</sup> Of these, 1.5 million were then sold by the dealer to another dealer using a vehicle remarketing route.

The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.<sup>15</sup>

33. The Parties overlap in the supply of used vehicle auction services at physical sites, facilitating the sale of used vehicles by vendors to trade buyers in the UK. The Parties also provide a number of associated ancillary services with their main auctioneering service, namely the provision of:
- (a) logistics services;
  - (b) vehicle inspection services;
  - (c) vehicle appraisal services;
  - (d) vehicle repair; and
  - (e) valeting.
34. BCA submitted that the relevant product frame of reference should be the provision of vehicle remarketing services for the sale of used vehicles including all the sales channels as set out in Figure 1 above.<sup>16</sup> BCA argued that both vendors and buyers face a wide set of options for selling and buying used vehicles and face little, if any, additional costs in switching between different channels.
35. When defining the relevant frame of reference, the CMA's approach to product scope is generally to consider the narrowest plausible candidate market and see if this can be widened through substitution on the demand-side in response to a small but significant increase in price over a non-transitory period of time (**SSNIP**). If appropriate, the CMA then considers if substitution on the supply-side allows several products, which are not demand-side substitutes, to be aggregated into one wider market.
36. However, with regard to two-sided products, it is difficult to conduct a hypothetical monopolist test because: (i) there is no single price to both sets of customers to which to apply a SSNIP; (ii) the effect of a SSNIP on the demand of one set of customers may be exacerbated by 'indirect network effects' in that the value that one group of customers realises from using the

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<sup>15</sup> [Merger Assessment Guidelines](#), paragraph 5.2.2.

<sup>16</sup> In BCA's submission, the word 'vehicle' was used to refer to a passenger car or a light commercial vehicle.

intermediary depends on the volume of customers from the other group and (iii) the constraints on the merger firms' products may come not only from other two-sided intermediaries but also from 'one-sided' firms serving one set of customers.

37. As its starting point, the CMA has taken the supply of used vehicle auction services at physical sites and considered whether this can be widened to include other types of used vehicle remarketing platforms. The CMA also considered whether the frame of reference could be segmented further by taking into account differentiation of service offering as between used vehicle physical auction sites with respect to customer type and/or vehicle type/age.

#### *Substitutability with other remarketing platforms*

38. BCA submitted that vendors and buyers have a wide range of different channels available to them as demonstrated by Figure 1, and that a number of vendors and buyers commonly multi-source across these different channels. BCA also noted that the distinctions between different remarketing channels are somewhat fluid, with growing importance on the provision of online channels. In particular, BCA submitted that a large number of its vendors use different distribution channels when listing their vehicles and will alter the volumes they send through each distribution channel depending on the returns they are currently receiving from each channel. BCA submitted that switching between channels is quick and easy.
39. The CMA tested the Parties' submission during its market investigation. The CMA understands that a number of vendor customers are also buyers in this market, and that their views may be the same on each side of the market. However, for ease of reference, the CMA has set out below the evidence it gathered separately for buyers and vendors.

#### *Buyers*

40. In response to the CMA's market investigation, third party buyers reported that used vehicle auctions are generally seen as important, with most buyers ranking this vehicle remarketing service highly. This channel was used frequently by most of the respondents and the CMA was told it allows them to improve the profile of the stock they hold quickly and efficiently.
41. The CMA recognises that the alternative remarketing channels are important distribution channels for dealers to obtain used vehicles and many of these channels have similar volumes to the auction channel (see paragraphs 30 and 31).

42. Third party buyers' views on the other types of used vehicle remarketing platforms were as follows:
- (a) **OEM platforms:** While not all buyers reported using OEM platforms, some do view this channel as important and source the majority of their vehicles from these platforms. The vehicles which are sourced from this channel tend to be new and low mileage vehicles.
  - (b) **Dealer group platforms and dealer to dealer platforms:** Dealers noted that these platforms are generally viewed negatively because it involves directly trading with their competitors and therefore securing vehicles can be challenging. It was generally not a preferred buying channel.
  - (c) **Purchasing direct from selling consumers:** Buyers reported different views on the importance of purchasing direct from a selling consumer. Some respondents noted that buying part-exchanges was required to get customers to use their dealerships. However, some buyers noted that most part-exchanges were not subsequently sold through the dealership, but disposed of via remarketing services and that therefore this was not a strategically important buying channel.
  - (d) **Corporate platforms:** Not many buyers use corporate platforms, and of those that do, buyers do not see corporate platforms as the most important channel.
  - (e) **Online platforms:** Buyers did not view online platforms as particularly important, and would typically only use online platforms associated with particular companies such as Motability for a particular type of car (ie a car that met a particular need).
43. Dealers use a variety of channels to buy used vehicles and many of these channels have similar volumes of vehicles to auction sites. However, based on the evidence it has received, the CMA believes that buyers who use auction sites frequently do not view alternative remarketing channels as viable alternatives for them to purchase the vehicles they are looking to sell.
44. The majority of buyers noted that in response to a 5% price increase across used vehicle physical auction sites they would not switch to other remarketing channels and instead accept the price increase. Only a few buyers indicated that they would consider switching to an alternative remarketing service provider (with one buyer noting that they would only switch if the benefits of doing so exceeded the costs).
45. Competitors to the Parties who responded to the CMA's questionnaire indicated that they would expect buyers to accept such an increase in price,

with one competitor noting that it is unlikely that they would find a suitable remarketing channel alternative.

46. Based on the evidence supplied by third parties, the CMA believes that many buyers are unlikely to switch away from using the services of a used vehicle physical auction site to an alternative remarketing channel as a result of a 5% increase in price. Therefore, on a cautious basis, the CMA believes that the product market should not be widened to include other remarketing channels on the buyer side. The CMA, has, however, taken into account the competitive constraint posed by other remarketing channels in its competitive assessment below.

### *Vendors*

47. BCA submitted that vendors can use a number of different remarketing platforms to dispose of vehicles. BCA also argued that vendors can create their own online portals.
48. BCA's internal documents<sup>17</sup> note that there are multiple routes to market which vendors could use to dispose of stock. However, some of these platforms are only available to a particular vendor or types of vendors (eg an OEM branded platform is one that is managed by the OEM, such as Mercedes-Benz).
49. A number of vendors who responded to the CMA's questionnaire indicated that when requesting competitive quotes from car auction companies they would not normally seek similar quotes from other types of vehicle remarketing service providers. In particular, one vendor noted that it is not possible to get the same conversion rates or results from other types of remarketing service providers.
50. However, some large corporate/OEM vendors noted that they do also make use of other remarketing services (such as online platforms).
51. Vendors generally indicated that used vehicle physical auction sites are important sales channels and are frequently used each month. One vendor noted that the transaction speed of car auctions made it the preferred channel, while another indicated that auctions were the cost effective and efficient channel.
52. As noted for buyers, the CMA recognises that the alternative remarketing channels are important distribution channels for dealers to sell used vehicles

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<sup>17</sup> Annex 21.2 of BCA's submission.

and many of these channels have similar volumes to the auction channel (see paragraph 30).

53. In line with this understanding, a number of vendors indicated that they do use different remarketing platforms. However, vendors do not necessarily use all the different available platforms and the different remarketing platforms which are used varied from vendor to vendor:
- (a) **OEM Platforms:** These are used by OEMs to dispose of their vehicles and are frequently used by these vendors.
  - (b) **Dealer-to-dealer platforms and dealer group platforms:** Similarly, vendors noted that these are not used frequently, with one vendor noting that they tried to avoid doing business with its competitors.
  - (c) **Corporate platforms:** Not many vendors use corporate platforms, and those which did use this platform did not use it frequently.
  - (d) **Online platforms:** These were not used frequently by vendors, with one vendor noting that their existing arrangements with physical auction sites were established and successful.
54. The evidence gathered by the CMA indicated that some vendors use a variety of channels to sell used vehicles and many of these channels have similar volumes of vehicle sales to auction sites. However, the CMA found that vendors who use auction sites frequently do not view these alternative remarketing channels as viable alternatives for them to purchase the vehicles they are looking to dispose of.
55. The majority of vendors indicated that they do not switch volumes between different remarketing channels frequently. Vendors provided a variety of reasons for this including that using the same provider builds credibility for their brand, and other channels were not as cost effective.
56. Some vendors (predominantly leasing/fleet management companies) indicated that they regularly make small changes to the volume of vehicles being disposed of across the different remarketing services.
57. A very small number of vendors indicated that they would switch volumes between used vehicle auction suppliers rather than between different remarketing services. A minority of vendors noted that they would switch some of the vehicles which are sold through auction houses to other remarketing service providers, with two vendors noting that it was feasible to sell vehicles over their own platforms.

58. In response to a 5% price increase for the supply of used vehicle auction services at physical auction sites, the majority of vendors indicated that they would accept the increase, with one vendor noting that a 5% increase did not make other channels materially more attractive commercially.
59. There was a mixed response from competitors as to vendors' reaction to a 5% price increase. Four competitors noted that vendors would switch some or all of their volumes to another type of remarketing service, whereas one competitor indicated that vendors would have to accept a 5% increase as they would not be able to obtain the same degree of performance elsewhere.
60. The evidence gathered by the CMA indicated that vendors use physical auction sites frequently, whilst some remarketing channels may not be available or commercially desirable to them. Further, the majority of vendors stated that they would continue to use used vehicle physical auction sites if prices increased by 5%, although some indicated that they would consider using alternative remarketing platforms if it were cost efficient. Considering all of this evidence, and on a cautious basis, the CMA concluded that it was not appropriate to widen the product frame of reference to include other remarketing channels on the vendor side. The CMA, has, however, taken into account the competitive constraint posed by other remarketing channels in its competitive assessment below.

*BCA's internal documents*

61. BCA's internal documents also indicated that used vehicle auction platforms have distinct advantages as compared with other remarketing channels.
62. BCA's internal documents noted an auction house serves as an essential clearing house and critical infrastructure for both buyers and vendors. Vendors get transparency, liquidity, speed, certainty and efficiency through additional services provided by the auction house, while the buyer also gets speed, efficiency, on-market pricing and maximum choice. Furthermore, it was also noted that auctions are especially valuable to high volume buyers and sellers.
63. BCA's internal documents also noted that online channels were becoming increasingly important but set out a number of drawbacks. In particular a strategy paper prepared for BCA by PwC<sup>i</sup> states that 'Online sales platforms offer ... transparent pricing and guaranteed sales, although it can be time-consuming for sellers to advertise, manage potential buyers, and complete the transaction. Sellers also run the risk of payment fraud on the part of

buyers, while buyers may find that cars are not accurately described.<sup>18</sup> A report by OC&C<sup>19</sup> noted that corporates going direct to consumers and dealers could potentially reduce the volumes of vehicles disposed via an exchange, however, the report also noted that limited impact has been observed.

#### *Differentiation across auction platforms*

64. The CMA considered whether auctions themselves are differentiated as regards to:
- (a) the type of vehicles which are available;
  - (b) the types of vendors and buyers that they attract; and
  - (c) the mix of a particular type of vehicle available through a particular auction.
65. Third party buyers indicated that they choose those auctions which will provide the type of vehicle they are looking to purchase. Generally, buyers value a large number and a wide variety of vendors, a large number of vehicles being sold and a mix of vehicles within any given category. In particular, this greater choice and variety of vehicles was valued. Third party competitors also noted that buyers are driven by a good – and relevant – volume mix that meets their needs.<sup>20</sup> One competitor also noted that buyers chose a different set of auction sites for passenger vehicles and Large Commercial Vehicles (**LCVs**).
66. Third party vendors who responded to the CMA’s questionnaire indicated that they generally choose the auction platform based on a number of factors similar to those listed by buyers, including: the volume of cars being sold over the auction,<sup>21</sup> the number of buyers, the other types of vendors present, and the types of car being disposed by other vendors. Vendors generally indicated that the grouping of cars or complementary vehicles at an auction attracts a greater number of buyer and that this in turn generates better results for those vendors.
67. Vendors also noted that combined online and physical channels are important as this would maximise the number of viewers attending the auction, and

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<sup>18</sup> PwC (May 2015), *The future of the UK used car market: Trends and opportunities*.

<sup>19</sup> OC&C Industry Report (August 2014), *The market for Vehicle Exchanges in the UK, France and Germany*.

<sup>20</sup> This will be driven by factors such as the number and range of vendors using the auction platform.

<sup>21</sup> As the grouping of cars or complementary vehicles auctioned together attracts interested buyers

therefore selling prices. One vendor noted that having both channels available is seen as a minimum requirement for an auction site.<sup>22</sup>

68. Furthermore, third party vendors would normally auction passenger vehicles and commercial vehicles (eg LCVs) at separate auctions as the buyer base for these types of vehicles is generally separate. Two competitors also noted that vendors of different types of vehicles don't usually mix.
69. Based on the evidence supplied by vendors and buyers, the CMA believes that customers do regard auction platforms as differing in terms of the types of vehicles which are disposed of, thereby attracting different types of vendors and buyers to use the platform. However, as set out in its competitive assessment, the evidence gathered by the CMA indicated that the Parties' offerings available at their used vehicle physical auction sites was relatively similar, including the portfolio of vehicles sold, and therefore rather than segment the market further in the product frame of reference, the CMA has considered any such differentiation as part of its assessment of closeness of competition in its competitive assessment.

#### *Conclusion on the relevant product frame of reference*

70. For the reasons set out above, and on a cautious basis, the CMA has considered the impact of the Merger on the basis of a product frame of reference for the supply of used vehicle auction services at physical auction sites and considered the impact of the Merger on vendors and buyers, separately. As part of its competitive assessment, the CMA has taken into account any differentiation between the Parties' service offerings at each overlapping auction site with respect to customers served and type/age of vehicle sold.

#### **Geographic scope**

71. BCA submitted that it is appropriate to assess the possible relevant market for the supply of used vehicle remarketing services on a national basis, for a number of reasons:<sup>23</sup>

(a) The European Commission (EC) in CD&R/We Buy Any Car concluded that the UK was the 'narrowest possible' geographic market for the

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<sup>22</sup> Third party vendors reported a variety of views on the importance of online only auction channels. OEMs generally considered this as an important channel for disposing of vehicles.

<sup>23</sup> BCA's Submission, Paragraph 7.4

assessment of competition in the supply of used vehicle remarketing services.<sup>24</sup>

- (b) Suppliers of remarketing services generally market their services on a UK-wide basis, including the internet.
  - (c) Transport costs do not represent a significant proportion of the wholesale cost of a used vehicle, and therefore do not prohibit vendors or buyers transporting vehicles long distances for resale.
72. The CMA notes that the EC<sup>25</sup> did not conclude on the geographic scope of the market noting: ‘the precise delineation of the relevant product and geographic markets for the supply of used vehicles can be left open.’
73. For the purposes of its competitive assessment, the CMA has considered the competitive effects of the Merger on a national basis. The CMA also conducted an assessment at a local level based on catchment areas for both vendors and buyers.

#### *Catchment areas*

74. The CMA received responses to its questionnaire from third party vendors and buyers that indicated that the location of auction sites is important and helps to mitigate transport costs. In addition, third party vendors noted that location was also important in attracting buyers. Similarly, third party competitors noted that the location of the auction site was an important consideration for vendors and buyers. More specifically, while some buyers bid at physical auctions through online channels, the location of the auction site would still influence the buyer’s logistics costs and therefore the choice of auction.
75. Generally, third party vendors indicated that they would typically transport vehicles less than 100 miles to an auction site indicating that local availability is important. Some vendors noted that they generally use the nearest auction site, as the increased costs would mitigate any additional benefit gained. However, other vendors indicated that the distance they transport vehicles differed across auction sites as they consider transporting vehicles further in order to obtain a better return at another auction site.
76. Some third party buyers indicated that distance was less of a consideration and they would purchase vehicles from an auction site if it was at the correct

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<sup>24</sup> COMP/M.6958 – CD&R/We Buy Any Car (2013), paragraph 21.

<sup>25</sup> Ibid.

price. However, it was noted that the price paid would have to take into account transport costs. Other buyers indicated that they would typically buy vehicles within a 50 or 80 mile radius.

77. Using BCA and SMA's logistics data, the parties determined an 80% catchment area for each of their auction sites:<sup>26</sup>
- (a) The catchment area (driving distance) for buyers ranges from:
    - (i) 75 to 298 miles across BCA's auction sites; and
    - (ii) 88 to 185 miles across SMA's auction sites.
  - (b) The catchment area (driving distance) for vendors ranges from:
    - (i) 41 to 187 miles across BCA's auction sites; and
    - (ii) 41 to 139 miles across SMA's auction sites.
78. This data indicated that customers were typically using the services of used vehicle auction services at physical auction sites in a much narrower geographic area than the UK.
79. One competitor provided information which also showed that its 80% catchment areas for its vendor and buyer collections were similar to BCA and SMA's catchment areas, although these catchment areas also varied considerably across auction sites.
80. Based on the available evidence, and on a cautious basis, the CMA considered it appropriate to assess the competitive effects of the Merger at a local level based on, as a starting point, the 80% catchment area for an auction site for vendors and buyers, respectively. However, the catchment area does not determine the competitive assessment in any mechanistic way and the CMA has considered whether there are customers just outside a catchment area that may be impacted by the Merger or competitors just outside that may alter the CMA's analysis in a particular local area.

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<sup>26</sup> The Parties note that these collection/drop off points do not necessarily reflect the locations of the decision makers (in terms of purchases of remarketing services) or the initial or ultimate destination of the vehicles disposed of, and to be resold. Indeed, BCA considers that the 'transaction data set' is likely to be the best available proxy for the location of the customers' remarketing services procurement decision maker.

### *Conclusion on geographic scope*

81. For the reasons set out above, on a cautious basis, the CMA has considered the impact of the Merger in the following geographic frames of reference:
- (a) a national frame of reference (GB-wide); and
  - (b) a local frame of reference using an 80% catchment area for each of the Parties' auction sites for vendors and buyers separately.

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

82. For the reasons set out above, the CMA has considered the impact of the Merger on the supply of used vehicle auction services at physical auction sites on a national and on a local basis using an 80% catchment area centred on each Party's auction sites. The CMA has considered the competitive effects of the Merger for both vendors and buyers, separately, and has taken into account any differentiation between the Parties' service offerings at a particular site as part of its competitive assessment.

## **Competitive assessment**

### ***Horizontal unilateral effects***

83. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.<sup>27</sup> Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition as a result of unilateral horizontal effects in the supply of used vehicle auction services at physical sites at a national and/or local level.

### ***Competition at a national level***

84. The CMA first considered whether the Merger may result in a loss of competition for those customers which seek to negotiate terms for national coverage. More specifically, the CMA has assessed whether the Merger will result in a reduction in the number of suppliers holding a national network of physical auction sites, and that are capable of supplying the requirements of large customers on a national basis, such that those customers requiring

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<sup>27</sup> [Merger Assessment Guidelines](#), from paragraph 5.4.1.

service on a national basis may face an increase in price and/or a reduction in quality of service as a result of lost negotiating power. In assessing whether the Merger may give rise to a realistic prospect of an SLC at a national level, the CMA has taken into account the post-Merger national shares of supply and the closeness of competition between the Parties.

### *Negotiations*

85. Some large customers are active on both sides of the used vehicle auction services market, participating as both a vendor and a buyer on a nationwide basis, and some of these customers raised concerns with the CMA that they may face a reduction in choice at a national level. Typically, these customers are franchised car dealers or car supermarkets, and have business centres in more than one location. These customers often use multiple auction sites and purchase higher volumes of vehicles from auction sites throughout the UK. The CMA considered whether these large, regional and/or national customers would be adversely affected by the Merger.
86. Large customers are able to negotiate both vendor and buyer fees (buyer fees are typically a list price) due to the high volumes of vehicles which they buy and sell through physical auction sites. In response to the CMA's market testing, one large customer which buys and sells vehicles over auction sites in multiple areas indicated that it negotiates a national rate, while another large customer indicated that the prices it negotiated varied by site.
87. The CMA considered whether the negotiating strength of large, regional and/or national customers may be reduced as a result of the Merger thereby resulting in increased prices and/or a reduction in quality of service.

### *Shares of supply*

88. BCA submitted that the post-Merger share of supply at a national level of used vehicles sold through physical auction sites (ie excluding online-only providers), based on 2014 data, was [45-55]%, with an increment of [5-15]% (as shown in Table 1 below). It can be seen that the next largest competitor is Manheim, with a [15-25]% share of supply followed by Aston Barclay and Wilsons with [5-15]%.

**Table 1: National shares of supply for vehicles sold at physical auction sites in 2014**

<i>Company</i>	<i>Number of vehicles auctioned</i>	<i>Share of supply of vehicles (%)</i>	<i>Number of sites</i>	<i>Share of sites (%)</i>
BCA	[X]	[35-45]	17	17
SMA	[X]	[5-15]	5	5
Post-Merger	[X]	[45-55]	22	22
Manheim	[X]	[15-25]	17	17
Aston Barclay	[X]	[5-15]	4	4
Wilson's	[X]	[5-15]	5	5
Central Car Auctions	[X]	[0-5]	1	1
City Auction Group	[X]	[0-5]	3	3
Fleet Auction Group	[X]	[0-5]	1	1
Bawtry Motors	[X]	[0-5]	1	1
Others	[X]	[5-15]	46	46
Total	[X]	100	100	100

Source: BCA.

### *Closeness of competition between the Parties*

89. BCA submitted that BCA and SMA were not each other's closest competitors and both competed more closely with other providers in the auction segment (where the majority of BCA's top 30 vendors use Manheim as an alternative).
90. BCA has 17 physical auction sites situated across the UK, while SMA has five physical auction sites in England (the furthest south being its Birmingham site) and Scotland. In this respect, SMA is not able to provide comprehensive coverage of the UK and is therefore limited in its ability to compete for national vendors who use auction sites in multiple regions.
91. BCA estimates that of the vendors who have switched away from BCA over the last five to six years, approximately [X]% of this volume lost was to other suppliers of physical auction site services such as: Manheim ([X]%) and SMA ([X]%), Wilson's ([X]%) and Aston Barclay ([X]%). [X]% of volumes were lost to Dealer Auction and Epyx (online platforms) and [X]% to own platforms.<sup>28</sup>
92. Responses to the CMA's questionnaire indicated that:
  - (a) most third parties considered that the Parties are close competitors where they have sites in similar geographic regions. However, a number of third parties noted that SMA has limited geographical coverage in some areas which reduced their ability to compete with BCA on a national basis;<sup>29</sup>
  - (b) the majority of large customers told the CMA that they only use BCA and Manheim. Some large customers explained that the reason for doing so

<sup>28</sup> BCA's submission, Annex 13.

<sup>29</sup> It was noted that SMA has good coverage in Scotland and the Midlands/North England but no sites in the South of England or Wales.

was that only BCA and Manheim would be capable of handling the volumes of vehicles they required. Only two large customers indicated that they also use SMA. However, large customers also informed the CMA that they were able to switch away from using just BCA and Manheim and would consider doing so in the event of a 5% price rise.

- (c) whilst some large customers expressed concern that their choice and/or ability to negotiate with BCA would be reduced as a result of the Merger, those concerns were limited to local areas or regions where there was a significant overlap with SMA's auction sites, in particular, in Scotland and the north east of England around Newcastle; and
- (d) large customers indicated that they generally had access to, and the option of selling more vehicles through alternative remarketing channels; in particular, a number of vendors had access to their own online remarketing platform.

#### *Conclusion on competitive effects at a national level*

- 93. The evidence gathered by the CMA indicated that SMA's auction sites do not provide comprehensive coverage of the UK, and therefore it is limited in its ability to compete for large, regional or national customers who use auction sites in multiple regions from one provider. BCA's only competitor with a national network of physical auction sites is Manheim, with 18 sites, and this competitor will continue to constrain the merged entity.
- 94. In addition, several large customers noted that they were more likely to make use of alternative remarketing channels and/or with other providers on a local or regional area basis, to help replace any constraint from SMA that may be lost as a result of the Merger. On the basis of the evidence available to it, the CMA concluded that there is no realistic prospect of an SLC at a national level.
- 95. However, the CMA notes that some large customers raised concerns in relation to the impact the Merger would have in particular in Scotland and the north east of England around Newcastle. Insofar as there could be adverse effects in these particular areas, the CMA has considered these concerns as part of its competitive assessment of the Merger in its local area analysis below.

## ***Local Area Analysis***

96. As for its assessment at a national level, the CMA considered the extent to which the Parties' customers' negotiating strength may diminish as a result of having fewer suppliers to trade-off against each other in a local area.
97. A customer's negotiating strength is more likely to be diminished if the Parties' sites in a local area are each other's closest alternative in terms of geographic proximity and service offering. If there are significant differences between the Parties' auction sites, this may limit the scope for unilateral effects, however, even with a degree of service offering differentiation some reduced negotiating strength may still be a consequence of the Merger as a result of greater concentration in a local area, particularly if the remaining alternative suppliers are relatively weak.

### ***Competitor set for filtering***

98. When analysing whether a merger will result in an SLC in a local area it is common practice for the CMA to use a filtering methodology to reduce the number of areas requiring an in-depth analysis.
99. In assessing whether the Merger may give rise to a realistic prospect of an SLC in any local overlap area, the CMA has taken into account the number of effective competitors that the Parties will face within each 80% catchment area for vendors and buyers, respectively.
100. BCA provided detailed information on competitors for those areas in which the Parties' activities overlap using an 80% catchment area (the information included auction volumes, post code data for vendors, buyers and competitors, competitors' activities and local maps) and based on this range of information supplied by BCA, the CMA drew up an effective competitor set capturing competitors in a local area with the ability and capacity to impose a meaningful competitive constraint on the Parties.
101. The CMA applied a fascia count filter to the catchment areas of all five SMA sites and all BCA sites that overlap with the SMA sites.<sup>30</sup> The CMA carried out a more in-depth local area analysis where the fascia count reduction was five to four or less.

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<sup>30</sup> Fascia count is based on a company owner, not number of sites.

## Overlap areas: Findings

102. Table 2 presents the vendors and buyers 80% catchment areas for each of BCA's and SMA's sites. It also presents the fascia count of the effective competitor set as submitted by BCA.

**Table 2: Regional Area Analysis of BCA and SMA sites**

Site	Buyers		Vendors	
	Catchment area (Drive distance)	Fascia count	Catchment Area (Drive distance)	Fascia count
<i>BCA sites</i> <sup>31</sup>				
Belle Vue Cars	191	35:34	50	12:11
Belle Vue Commercials	202	35:34	113	21:20
Birmingham	132	33:32	76	14:13
Blackbushe	114	19:19	92	15:15
Bridgwater	190	28:27	80	7:7
Brighouse	180	32:31	64	13:12
Derby	118	29:28	54	7:6
Edinburgh	298	26:25	50	4:3
Enfield	75	11:11	63	11:11
Glasgow	285	25:24	39	5:4
Measham Cars	134	33:32	64	10:9
Measham Commercials	149	35:34	113	28:27
New Bedford	104	22:21	81	12:12
Newcastle	236	30:29	41	3:2
Nottingham	154	35:34	60	9:9
Paddock Wood	66	8:8	56	8:8
Peterborough	99	20:19	88	15:15
Preston	177	29:28	187	31:30
Walsall	120	30:29	125	30:29
<i>SMA sites</i> <sup>32</sup>				
Birmingham	131	32:31	126	30:29
Edinburgh	141	7:6	41	4:3
Kinross	185	9:8	68	5:4
Leeds	88	18:17	79	16:15
Newcastle	181	23:22	139	14:13

Source: The Parties.

103. The CMA concluded that none of SMA's and BCA's sites result in a fascia reduction of five to four, or worse, with regards to buyers.

104. The majority of BCA's sites also pass the filter regarding vendors. However, the following BCA sites failed the filter:

- (a) Newcastle (Fascia reduction three to two).
- (b) Edinburgh (Fascia reduction four to three).
- (c) Glasgow (Fascia reduction five to four).

<sup>31</sup> BCA's response to question 7 of the CMA's RFI dated 13 August 2015.

<sup>32</sup> BCA's submission, p39.

105. The SMA sites in Birmingham and Leeds pass the filter in relation to vendors. However, the following sites failed the filter:
- (a) Edinburgh (Fascia reduction four to three).
  - (b) Kinross (Fascia reduction five to four).
106. Due to the two-sided nature of the used vehicle auction market, the CMA found that the value that one group of customers realises from using the platform depends on the volume of customers from the other group. Owing to these indirect network effects, the ability of the Parties to raise prices and/or reduce quality of service to vendors in these local areas could be partially constrained by the adverse effect that any reduction in the number or range of vendors at the Parties' auctions is likely to have on a buyer's willingness to attend those auctions. Whilst recognising this interdependence, the CMA was not confident in this case that buyer-side constraints would fully protect the vendor-side from potential unilateral effects. Therefore, as set out in more detail below, the CMA assessed the ability of the Parties to raise prices and/or reduce quality of service to vendors taking into account competitive conditions across the platform in these local areas.

### ***Conclusion on application of filters***

107. On the basis of the filtering methodology set out at paragraphs 98 to 101, the CMA focussed its competitive assessment on the vendor catchment areas for each of the following sites:
- (a) BCA Newcastle;
  - (b) BCA Edinburgh;
  - (c) BCA Glasgow;
  - (d) SMA Edinburgh; and
  - (e) SMA Kinross.

### ***Assessment of geographic overlaps***

#### *Assessing the impact of the Merger*

108. As set out above, the CMA has considered the extent to which customers may be harmed by the Merger as a result of a reduction in negotiating power. Following its initial filtering exercise, the CMA identified five local vendor catchment areas where the fascia count reduction was five to four or less. The

CMA therefore focussed its assessment on the vendor side of the market in these local catchment areas.

109. Vendors tend to enter into negotiations as part of a tender process or through bilateral discussions. Responses to the CMA's questionnaire indicated that factors relevant to negotiations include the volumes of vehicles sold via the auction company, the type of ancillary services which can also be provided (and the charge for these services) and the threat of switching to alternative suppliers. BCA and third parties have informed the CMA that generally, the agreements which are entered into are between two and three years in duration and have no minimum volume obligations.
110. For each local area that failed the initial filtering test, the CMA has considered the fascia count, shares of supply and closeness of competition between the Parties' auction sites in each of the relevant areas. The CMA's assessment of closeness of competition has taken into account the following characteristics applicable to competing used vehicle auction services at physical auction sites:
  - (a) The type of auction held (eg auctions for salvaged/stolen vehicles or 'mainstream auctions').
  - (b) Geographic proximity of the auction sites to each other (the level of overlap between each Parties' catchment areas served as a proxy for assessing the number of customers the Parties competed for pre-Merger in each local area).
  - (c) The volume and age of vehicles being auctioned.
  - (d) Spare capacity available at a site.
111. The CMA's assessment was further informed by third party responses which indicated that BCA and SMA may be particularly close competitors in certain areas.

### *Newcastle*

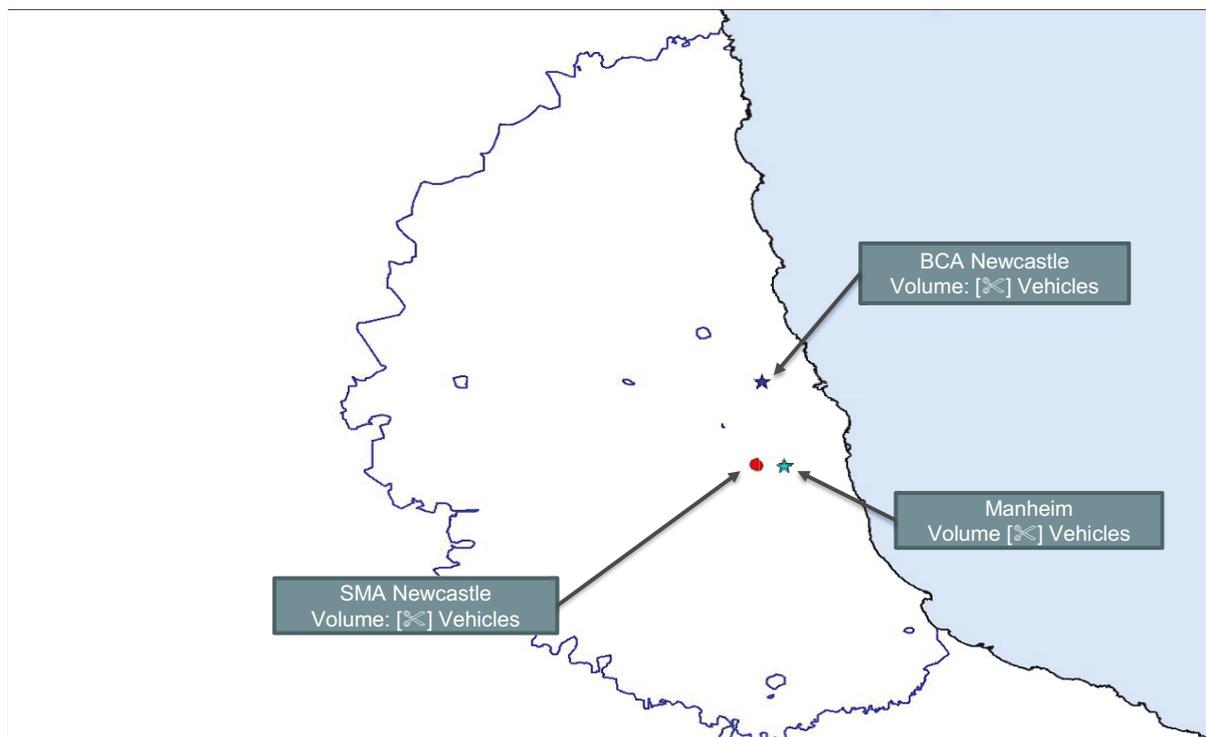
112. Figure 2 shows the catchment area for the BCA Newcastle site (based on drive distance).<sup>33</sup> The CMA's calculations based on data provided by the Parties and third party competitors indicated that BCA has a share of supply of [25–35]%, while SMA's share of supply is [35–45]%. Therefore, post-

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<sup>33</sup> To note, SMA Newcastle's catchment area is 139 miles and has a fascia count of 15:14 or 14:13 and is therefore not considered.

Merger the Parties have a combined share of supply of [55–65]%. The reduction in fascia count, using the effective competitor set, is three to two.

**Figure 2: Geographic catchment area for BCA Newcastle**



Source: BCA and third parties.

113. The BCA Newcastle site is 14 miles from the SMA site. As can be seen from Tables 3 and 4, both sites are active in the auctioning of passenger vehicles and LCVs. The BCA site was used to auction a total of [X] motor vehicles in 2014, while SMA's site was used to auction [X] motor vehicles. BCA's capacity paper notes that the capacity at BCA's Newcastle site is at [X]%.<sup>34</sup> Both auction sites hold auctions five times a week.

114. As noted above, the CMA has not found it necessary to consider the effect of the Merger segmenting its assessment by different types of used vehicles, however, for ease of reference the CMA has set out the Parties' sales of passenger vehicles and LCVs separately. The majority of passenger vehicles sold via BCA's Newcastle site are older than 6.5 years. Similarly the bulk of passenger vehicles auctioned via SMA's Newcastle site are also older than 6.5 years, although, a greater proportion of newer passenger vehicles are also sold over the SMA site. The SMA site therefore offers a wider variety of passenger vehicles to buyers.<sup>35</sup>

<sup>34</sup> Annex 5 of BCA's e-mail dated 25 August, p3.

<sup>35</sup> The difference in the types of vehicle which are sold via auction between the two auction sites is reflected in the average price paid for passenger vehicles.

115. While the BCA site is used to auction LCVs, they are used to dispose of a smaller volume of LCVs relative to SMA's site (although the mix of LCVs is similar). The average price paid for LCVs is similar across these two sites. In this regard, the LCV offering to buyers is similar across the two sites.

**Table 3: Passenger Vehicles auctioned by the Parties in North East England**

Age of vehicle: Passenger vehicles (Years)		Site	
		BCA: Newcastle	SMA: Newcastle
Percentage of vehicles sold	0 - 2.5	[REDACTED]%	[REDACTED]%
	2.5 - 4	[REDACTED]%	[REDACTED]%
	4 - 6.5	[REDACTED]%	[REDACTED]%
	6.5 - 10.5	[REDACTED]%	[REDACTED]%
	10.5+	[REDACTED]%	[REDACTED]%
Total number of vehicles sold		[REDACTED]	[REDACTED]
Average price	Cars: Physical	£[REDACTED]	£[REDACTED]
	Cars: Online	£[REDACTED]	£[REDACTED]

Source: BCA.

**Table 4: LCVs auctioned by the Parties in North East England**

Age of vehicle: LCVs (Years)		Site	
		BCA: Newcastle	SMA: Newcastle
Percentage of vehicles sold	0 - 2.5	[REDACTED]%	[REDACTED]%
	2.5 - 4	[REDACTED]%	[REDACTED]%
	4 - 6.5	[REDACTED]%	[REDACTED]%
	6.5 - 10.5	[REDACTED]%	[REDACTED]%
	10.5+	[REDACTED]%	[REDACTED]%
Total number of vehicles sold		[REDACTED]	[REDACTED]
Average price	Cars: Physical	£[REDACTED]	£[REDACTED]
	Cars: Online	£[REDACTED]	£[REDACTED]

Source: BCA.

116. Post-Merger, the Parties would only face competition from Manheim's auction site in Washington. Information provided by Manheim indicates that its sites are used to dispose of [REDACTED] of passenger vehicles to each of the Parties and [REDACTED] of LCVs. The CMA calculates that Manheim has approximately [REDACTED]. The [REDACTED] at Manheim's site in Washington may reduce their ability to capture significant volumes of additional business from the Parties post-Merger in the event customers were to switch as a result of a price increase. Manheim also offers a similar number of ancillary services, including: logistics, valet and repairs.

117. As mentioned above, third parties told the CMA that they considered BCA and SMA to be close competitors in those areas where they overlap on a geographically proximate basis, including the north east of England. However, one large customer noted that it considered that BCA has a weaker auction

site in Newcastle.<sup>36</sup> In contrast, they believed that SMA has built a strong presence in the area.

118. In response to the CMA's questionnaire, vendors noted that there were concerns about the impact the Merger would have on their ability to negotiate prices. A number of vendors noted that they are able to negotiate fees<sup>37</sup> with auction providers as a result of the volume of vehicles sold through the auction, the ancillary services they purchased, and the ability to use an alternative auction provider. Vendors also noted that they were able to negotiate special rates in relation to transport costs, particularly with SMA.
119. In this regard, there were concerns raised that it would be more difficult for vendors to negotiate a lower fee if there were fewer competitors to haggle with in the Newcastle area. Concerns were also raised that post-Merger, BCA would increase SMA's fees to BCA levels as there would be less need to offer a competitive fee structure.

*Constraints from outside the effective competitor set*

120. BCA submitted that:
- (a) two further auction sites, which lie outside BCA's catchment area, namely: HH Motor Auctions, which is situated in Carlisle, and York Auction Centre, situated in York, impose a competitive constraint; and
  - (b) a further competitive constraint is exercised by two hybrid auction sites within the BCA Newcastle catchment area: Copart (Peterlee) which is 24 miles from BCA (19 miles from SMA), and Paragon (Port of Tyne) which is 7 miles from BCA (9 miles from SMA).
121. BCA argued that Copart primarily focuses on auctioning damaged and salvaged cars from 14 sites and that Copart would compete directly with BCA and SMA in relation to the remarketing of high mileage and/or low value used vehicles (and in respect of certain vehicles of that nature, scrap sales and intact vehicle sales may be considered substitutable to a certain extent). In particular, BCA argued during the Issues Meeting that Copart, who typically auctions salvaged motor vehicles as well as stolen motor vehicles, is a competitive constraint and should be included in the fascia count.
122. BCA noted that the vehicles auctioned by Copart are obtained primarily through salvage or insurance companies. BCA also submitted during the

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<sup>36</sup> They consider that the performance of an auction site is reliant on local management and a succession of weak managers in Newcastle has led to small buyer base.

<sup>37</sup> Either through tender or bilateral discussions.

Issues Meeting that buyers consider damaged and stolen vehicles as an alternative to non-salvaged/non-damaged vehicles, as they may be able to easily repair the vehicles.

123. The CMA has not seen any internal documents suggesting that BCA or SMA actively compete for vendors supplying salvaged or damaged vehicles nor that suppliers such as Copart compete for vendors supplying vehicles that have not been salvaged or damaged. In this regard, auction providers specialising in salvaged and damaged cars obtain their vehicles from a separate type of vendor, which the Parties do not aggressively compete for. Furthermore, there may be some distinction between buyers who are willing to purchase salvage vehicles and those that may not.
124. The CMA does not consider that auction providers specialising in salvaged and damaged vehicles, such as Copart, are close competitor to the Parties, or provide a significant competitive constraint.
125. With regards to the competitive constraint imposed by HH Motor Auctions and York Auction Centre, the CMA notes that they are 61 and 90 miles from BCA's site respectively. Given the distance these competitors are from BCA's site (whose catchment area for vendors is 41 miles), the CMA considers that they impose a weak competitive constraint. In addition, these competitors are comparatively small, with BCA estimating that the annual sales at HH Motor Auctions site is 5,000 vehicles.
126. BCA also submitted that the Parties face competition from alternative remarketing routes. BCA argued that the availability of alternative remarketing channels and the relative ease that vendors and buyers have in switching between remarketing channels will constrain their ability to raise prices. Third party responses to the CMA's questionnaire indicated that a number of third parties (though not all), particularly the larger customers, do have the ability to switch volumes to alternative remarketing channels.
127. Further, due to the two-sided nature of the auction market, as mentioned at paragraph 36, the value that one group of customers realises from using the intermediary depends on the volume of customers from the other group. Therefore, the ability of the Parties to raise prices and/or reduce quality to vendors could be constrained by the adverse effect that any reduction in the number or range of vendors at the Parties auctions is likely to have on buyers willingness to attend these auctions. However, the CMA considers that the Merger is unlikely to change the Parties incentive to increase prices to one side of the platform (see footnote 32).

128. The CMA believes that the alternative remarketing channels will place some competitive constraint on the Parties but this constraint will not be sufficient to outweigh the anticompetitive effects of the Merger in Newcastle.

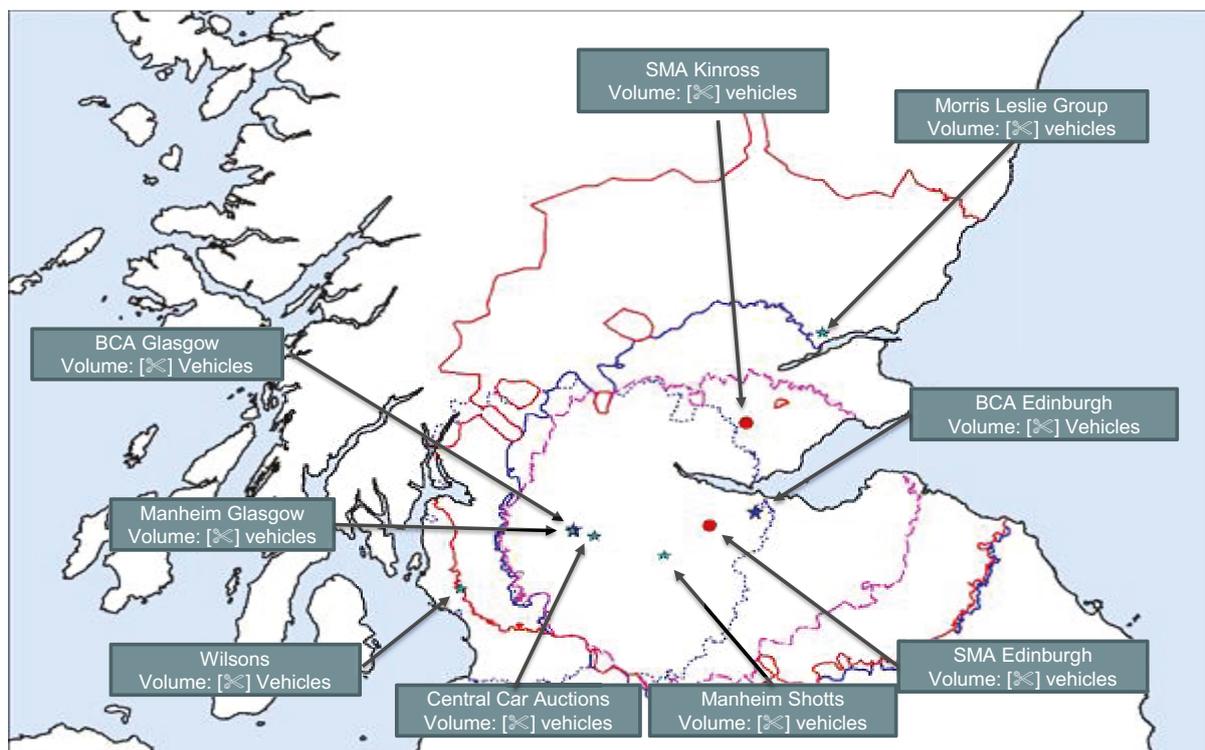
*Conclusion on Newcastle*

129. Post-Merger, the Parties would have a share of supply of [55–65]% with an increment of [25–35]% and will only face competition from one other competitor with a physical auction site. Third parties considered the Parties to be close competitors in the north east of England and expressed concern that the Merger would impact on vendors' ability to negotiate prices. Whilst there may be some competitive constraint emanating from other remarketing channels, the CMA concluded that such constraints were insufficient to prevent a finding of a realistic prospect of an SLC in Newcastle arising from the Merger.

*Central Belt of Scotland*

130. Figure 3 below shows the catchment areas for BCA and SMA sites situated in the Central Belt of Scotland (based on drive distance). It can be seen that all of the Parties' sites catchment areas for their sites in the Central Belt of Scotland overlap.
131. In this case, the CMA considered that it is more appropriate to consider the competitive constraints faced by the Parties in the Central Belt of Scotland, rather than considering competition within areas strictly delimited by each 80% catchment area, in particular given high level of overlap for vendors in the Edinburgh and Glasgow conurbations.

**Figure 3: Overlapping Catchment Areas of BCA and SMA sites in the Central Belt of Scotland**



Source: BCA and third parties

132. Table 5 shows the shares of supply for each of the competitors present in one or more of the geographic catchment areas for each of BCA’s and SMA’s sites in the Central Belt of Scotland.

**Table 5: Overview of the shares of supply in the Central Belt of Scotland for BCA and SMA sites**

<i>Auction company (Site)</i>	<i>Volumes</i>	<i>Shares of supply in Central Belt of Scotland:</i>
SMA Edinburgh	[redacted]	[15-25]%
SMA Kinross	[redacted]	[15-25]%
BCA Edinburgh	[redacted]	[5-15]%
BCA Glasgow	[redacted]	[5-15]%
Total (Post-Merger)	[redacted]	[45-55]%
Manheim (Shots & Glasgow)	[redacted]	[5-15]%
Central Car Auctions	[redacted]	[25-35]%
Wilsons	[redacted]	[5-15]%
Morris Leslie Group	[redacted]	[0-5]%

Source: BCA’s submission and responses to competitor questionnaires

133. The Parties’ sites in Edinburgh are only 12 miles apart whilst the largest distance between SMA’s and BCA’s sites in this area is the 42 miles between SMA’s Kinross site and BCA’s Glasgow site.

134. Each BCA site auctions [redacted] passenger vehicles, while SMA’s sites were used to auction more motor vehicles (approximately [redacted] passenger vehicles at

each site). BCA's capacity paper notes that the capacity at BCA's Glasgow site is [REDACTED]%<sup>38</sup> and [REDACTED]% for its Edinburgh site.<sup>39</sup>

135. BCA Edinburgh holds auctions seven times a week while BCA Glasgow holds 11 auctions per week. SMA Edinburgh and SMA Kinross have auctions four times a week (with SMA Kinross holding an additional auction once a month).
136. As noted above, the CMA has taken account of the Parties' sales of passenger vehicles and LCVs separately. As can be seen in Tables 6 and 7, the BCA Edinburgh site is more likely to auction vehicles which are older than 10.5 years and the BCA Glasgow site is more likely to auction vehicles which are between four and 6.5 years old.
137. While BCA is active in the auctioning of LCVs the majority of the volume sold is predominantly through BCA Glasgow. SMA Kinross appears to be the next largest site for LCVs, but auctions significantly fewer LCVs (See Table 7).
138. Given that the vehicles auctioned by SMA and BCA are broadly similar in profile, the CMA concludes that these sites are close competitors.

**Table 6: Passenger Vehicles auctioned by the Parties in the Central Belt of Scotland**

	Age of vehicle: Passenger vehicles (Years)	Site			
		BCA: Edinburgh	BCA: Glasgow	SMA: Edinburgh	SMA: Kinross
Percentage of vehicles sold	0 - 2.5	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
	2.5 - 4	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
	4 - 6.5	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
	6.5 - 10.5	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
	10.5+	[REDACTED]%	[REDACTED]%	[REDACTED]%	[REDACTED]%
Total number of vehicles sold		[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Average price	Cars: Physical	£[REDACTED]	£[REDACTED]	£[REDACTED]	£[REDACTED]
	Cars: Online	£[REDACTED]	£[REDACTED]	£[REDACTED]	£[REDACTED]

Source: BCA.

<sup>38</sup> BCA submitted that physical auction sites can operate in excess of 100% capacity (ie above the maximum number of vehicles which the existing car park can hold) as operators can use additional parking (such as customer car parks and adjacent roadways) to store overflow stock.

<sup>39</sup> Annex 5 of BCA's e-mail dated 25 August, p3.

**Table 7: LCVs auctioned by the Parties in the Central Belt of Scotland**

	Age of vehicle: LCVs (Years)	Site			
		BCA: Edinburgh	BCA: Glasgow	SMA: Edinburgh	SMA: Kinross
Percentage of vehicles sold	0 - 2.5	[X]%	[X]%	[X]%	[X]%
	2.5 - 4	[X]%	[X]%	[X]%	[X]%
	4 - 6.5	[X]%	[X]%	[X]%	[X]%
	6.5 - 10.5	[X]%	[X]%	[X]%	[X]%
	10.5+	[X]%	[X]%	[X]%	[X]%
Total number of vehicles sold		[X]	[X]	[X]	[X]
Average price	Cars: Physical	£[X]	£[X]	£[X]	£[X]
	Cars: Online	£[X]	£[X]	£[X]	£[X]

Source: BCA.

139. Post-Merger, the Parties would face competition from the Manheim auction site in Shotts, and Central Car Auctions in Baillieston, Glasgow. Additionally, at least some of the Parties' sites face competition from Morris Leslie Group Ltd in Errol, Perth and from Wilsons in Dalry, Ayrshire.
140. One competitor indicated that, in addition to the above, there are a number of smaller independent auction sites in Scotland which they competed against. A large customer also noted that there was a long tail of independents in Scotland which they could consider using.
141. Information provided by the Parties indicates that the volume of motor vehicles auctioned via Central Car Auctions was 50,000 motor vehicles last year and it is the largest competitor in the Central Belt of Scotland. However, one competitor indicated that Central Car Auctions only participates in car auctions, and does not auction commercial vehicles. It was further noted that Central Car Auctions also offers similar ancillary services to the Parties, and can offer special rates on ancillary services (such as transport).
142. Information provided by Manheim indicates that:
- (a) Manheim Shotts disposed of [X] passenger vehicles and [X] LCVs. The maximum number of vehicles which can be sold is [X]; and
  - (b) the Manheim Glasgow site disposed of [X] passenger vehicles and [X] LCVs. The Manheim Glasgow site is now closed and [X].
- As noted above, Manheim also offers a number of ancillary services, including: logistics, valet, and repairs.
143. Third party responses noted that the Merger would result in consolidation in the Central Belt of Scotland. Vendors raised concerns about the impact this would have on their ability to negotiate prices.

144. Some vendors noted that they may transport some of their vehicles further than 150 miles, but still raised concerns as the sites used in England were still operated by BCA and SMA in England.
145. Within the Central Belt of Scotland, the Parties will face competition for vendors in the Edinburgh and Glasgow conurbations from four credible competitors. As evident from Figure 3 above, Central Car Auctions and Manheim are within BCA and SMA's 80% catchment area for all sites. Although Wilsons and Morris Leslie group are not within the 80% catchment area for all sites it is evident that these companies will provide a competitive constraint on the Parties. Albeit that Wilsons may be a stronger constraint when BCA/SMA compete for vendors in Glasgow than in Edinburgh, and Morris Leslie Group may be stronger constraint when BCA/SMA compete for vendors in Edinburgh than in Glasgow.

*Constraints from outside the effective competitor set*

146. BCA submitted that a competitive constraint is exercised by Copart, (Whitburn) which is 15 miles from BCA, and six miles from SMA.
147. As discussed at paragraphs 121 to 124, auction providers specialising in salvaged and damaged vehicles obtain their vehicles from a different type of vendor (eg salvage companies or insurance companies), which the Parties do not aggressively compete for. In addition, these vehicles are likely to be high mileage and/or low value used vehicles. The CMA therefore considers that these competitors do not impose a significant competitive constraint.
148. BCA also submitted that the Parties face competition from alternative remarketing routes. BCA argued that the availability of alternative remarketing channels and the relative ease that vendors and buyers have in switching between remarketing channels will constrain their ability to raise prices. Third party responses to the CMA's questionnaire, particularly responses received from larger customers, indicated that they do have the ability to switch limited volumes to alternative remarketing channels.
149. Further, as discussed at paragraph 127, the two-sided nature of the auction market may constrain the incentive of the Parties to raise prices or reduce quality to vendors due to the adverse effect that any reduction in the number or range of vendors at the Parties' auctions is likely to have on a buyer's willingness to attend these auctions. However, the CMA considers that the Merger is unlikely to change the Parties' incentive to increase prices to one side of the platform (see paragraph 106).

150. The CMA believes that the alternative remarketing channels will place a weak competitive constraint on the Parties, albeit a stronger one than in the north east of England due to the presence of additional competitors, but not enough to for them to form part of the same frame of reference, see paragraphs 46 and 60.

*Conclusion on sites in the Central Belt of Scotland*

151. The Parties will hold a significant position in terms of number of sites and share of supply in the Central Belt of Scotland. However, there will remain four competitors to the Parties post-Merger, including the largest player in the Central Belt of Scotland, Central Car Auctions. Each of these competitors is trading significant volumes of used vehicles and, accordingly, vendor customers will credibly be able to use the threat of switching in their negotiations with suppliers to resist any price increases and/or diminution in service quality as compared with pre-Merger levels of competition. Based on this evidence, the CMA does not believe there is a realistic prospect that the Merger will lead to an SLC in the Central Belt of Scotland.

*Conclusion on horizontal unilateral effects*

152. As set out above, the CMA found that the Merger gives rise to a realistic prospect of a substantial lessening of competition in the Newcastle area based on an 80% catchment area for the BCA Newcastle auction site for vendors.
153. The CMA has found that the Merger does not give rise to a realistic prospect of a substantial lessening of competition in the Central Belt of Scotland where a number of the Parties' sites overlapped based on an 80% catchment area centred on the Parties' physical auction sites.

***Barriers to entry and expansion***

154. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no substantial lessening of competition. In assessing whether entry or expansion might prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.<sup>40</sup>
155. BCA submitted that barriers to entry are minimal, particularly for online auctions and smaller-scale physical auctions. As well as the threat of new

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<sup>40</sup> [Merger Assessment Guidelines](#), from paragraph 5.8.1.

entry, the threat of expansion of existing operators could also constitute a very significant competitive constraint on the merged entity. In particular, BCA submitted that entry barriers are particularly low as:

- (a) there are minimal start-up costs for companies choosing to purchase smaller plots of land or provide an online platform;
- (b) scale is not necessary;
- (c) it is easy to build vendor relationships and a solid buyer base (particularly for those entering from an adjacent sector); and
- (d) while the planning process may be more onerous in respect of large scale greenfield sites, any barriers in respect of smaller sites are commensurately less.

156. With regards to the ease of expansion, BCA submitted that expansion is likely to take several different forms:

- (a) Existing competitors could purchase new sites for expansion.
- (b) Existing competitors could easily expand existing sites.
- (c) Specialist competitors could expand into the physical space.
- (d) Competitors with spare capacity could process additional volumes through existing facilities.

157. BCA submitted that smaller or more specialist competitors may be acquisition targets for businesses looking to enter the UK vehicle auction segment, or to expand.

158. The Parties' internal documents did not support this submission. SMA's information memorandum noted that 'the threat of new entrants is low, however, due to the relatively high barriers to entry in market'. In particular the following barriers to entry are mentioned: high start-up costs, the scale required in order to operate efficiently, the time and expertise required to build up vendor relationships, the difficulty in obtaining planning permission, and the difficulty of securing good quality vendor contracts and developing the reputation necessary to build up a solid buyer base.

159. Third parties who responded to the CMA's questionnaire indicated that barriers to entry are high, as:

- (a) there is a need to acquire land with sufficient capacity and transport links to host a physical auction;

- (b) there is a need to obtain planning permission;
  - (c) margins in the industry have reduced and the associated returns would not justify such an investment; and
  - (d) it is difficult for a new auction site to attract sufficient volumes of vendors and buyers.
160. The CMA has not received any evidence that there will be any entry and/or expansion that will be timely, likely and sufficient to mitigate the realistic prospect of an SLC resulting from the Merger in Newcastle.
161. For the reasons set out above, the CMA considers that entry or expansion would not be sufficiently likely to prevent a realistic prospect of a substantial lessening of competition as a result of the Merger.

### ***Countervailing buyer power***

162. In some circumstances, an individual customer may be able to use its negotiating strength to limit the ability of a merged firm to raise prices. The CMA refers to this as countervailing buyer power.<sup>41</sup>
163. BCA submitted that the industry is characterised by a high degree of countervailing buyer power. The Parties submit that the primary source of countervailing buyer power for vendors and buyers is their ability and propensity to switch and to multi-source between auction providers and between channels. That is, buyers and vendors have the incentive and ability to disintermediate away from physical auctions through the use of proprietary on-line remarketing channels and networks (or to sponsor new entry in this regard).
164. The CMA notes that the ability of customers to switch away from the Parties does not in itself constitute countervailing buyer power, and that the Merger removes an independent switching alternative for customers.
165. While the Parties may negotiate with vendors, there is no indication from the Parties' internal documents or from third party responses that customers have particularly strong countervailing buyer power.
166. For the reasons set out above, the CMA considers that countervailing buyer power would not be sufficient to prevent a realistic prospect of a substantial lessening of competition as a result of the Merger.

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<sup>41</sup> [Merger Assessment Guidelines](#), paragraph 5.9.1.

## Third party views

167. The CMA contacted customers, both vendors and buyers, and competitors of the Parties. A number of customers who responded to the CMA's questionnaire raised concerns regarding the effect of the Merger nationally and more specifically, raised concerns regarding the effect of the Merger in Scotland and the north east of England. No other third parties raised concerns about the Merger.
168. Third party comments have been taken into account where appropriate in the competitive assessment above.

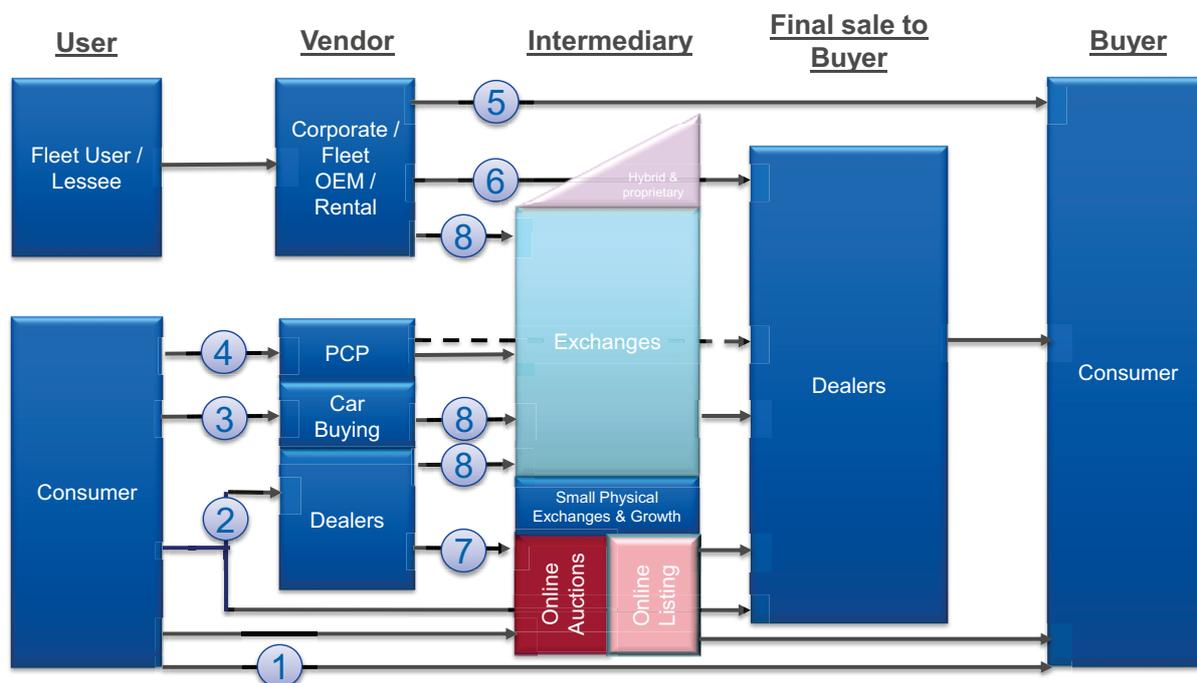
## Decision

169. Consequently, the CMA believes that it is or may be the case that the Merger has resulted, or may be expected to result, in a substantial lessening of competition within a market or markets in the United Kingdom.
170. The CMA therefore considers that it is under a duty to refer under section 22(1) of the Act. However, the duty to refer is not exercised pursuant to section 22(3)(b) whilst the CMA is considering whether to accept undertakings under section 73 of the Act in lieu of a reference. Pursuant to section 73A(1) of the Act, BCA has until **Tuesday 24 November** to offer an undertaking to the CMA that might be accepted by the CMA under section 73(2) of the Act. If BCA does not offer an undertaking by this date, if BCA indicates before this date that it does not wish to offer an undertaking, or if pursuant to section 73A(2) of the Act the CMA decides by **Tuesday 1 December** that there are no reasonable grounds for believing that it might accept the undertaking offered by BCA, or a modified version of it, then the CMA will refer the Merger pursuant to sections 22(1) and 34ZA(2) of the Act.

**Sheldon Mills**  
**Senior Director, Mergers**  
**Competition and Markets Authority**  
**17 November 2015**

## Main disposal routes for used vehicles in the UK

Figure 1: Main disposal Routes for used vehicles in the UK



Source: BCA/OC&C.

In 2013 approximately 7.6 million used cars changed ownership in the UK. The main disposal routes identified in Figure 1 are as follows.<sup>42</sup>

<sup>42</sup> The market for Vehicle Exchanges in the UK, France and Germany, OC&C Industry Report, August 2014.

**Table 1: Main disposal routes for used vehicles in the UK**

<i>Route number</i>	<i>Description</i>	<i>Number of vehicles sold through this channel (Millions)</i>
Route 1	Consumers who own their own vehicle and sell it to another consumer.	2.9
Route 2	Consumers who own their own vehicle and sell it to a dealer, often in part-exchange for another vehicle.	3.1 <sup>43</sup>
Route 3	Consumers who own their own vehicle and sell it to a vehicle purchasing company. <sup>44</sup>	0.1
Route 4	Consumers who return their vehicle to the finance company at the end of a finance package such as a Personal Contract purchase (PCP).	0.2
Route 5	A business owner <sup>45</sup> sells a vehicle directly to a consumer, usually by way of a proprietary platform.	0.1
Route 6	A business owner <sup>46</sup> sells a vehicle to a dealer, usually by way of a proprietary platform.	0.8
Route 7	Dealer and dealer groups sell a vehicle from their inventory to another dealer.	0.7
Route 8	Vehicle auctions acting as intermediaries to facilitate the sale of vehicles between vendors and buyers	1.4 <sup>47</sup>
Export	Not shown on chart	0.1

Source: BCA/OC&C.

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<sup>i</sup> BCA has pointed out that this Report was not prepared for BCA by PcW.

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<sup>43</sup> Of these 1.5 million were then sold by the dealer to another dealer using a vehicle remarketing route (Routes 7 and 8), 1.6 million were sold by the dealer to another consumer.

<sup>44</sup> Such as We Buy Any Car, or We Want Any Car.

<sup>45</sup> Such as a fleet owner, vehicle rental company, vehicle leasing company or OEM.

<sup>46</sup> Such as a fleet owner, vehicle rental company, vehicle leasing company or OEM.

<sup>47</sup> Of these 0.8 million were sourced from dealers, 0.1 million were sourced from car buying companies, 0.5 million were sourced from corporate/fleet/OEM/rental companies and 0.04 million from PCP vendors.