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***Case No COMP/M.2621 -  
SEB/MOULINEX***

Only the French text is authentic.

**REGULATION (EEC) No 4064/89  
MERGER PROCEDURE**

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Article 8 (2)

Date: 11/11/2003



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.11.2003  
**C(2003) 4157 final**

**PUBLIC VERSION**

**COMMISSION DECISION**

**of 11 November 2003**

**declaring a concentration to be compatible with the common market and the EEA  
Agreement**

**(Case No COMP/M.2621 - SEB/Moulinex)**

(Only the French text is authentic)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement on the European Economic Area, and in particular Article 57 thereof,

Having regard to Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings<sup>1</sup>, and in particular Article 8(2) thereof,

Having regard to the Commission's decision of 23 May 2003 to initiate proceedings in this case,

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<sup>1</sup> OJ L 395, 30.12.1989, p. 1. Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p. 1).

Having regard to the opinion of the Advisory Committee on Concentrations<sup>2</sup>,

Having regard to the final report of the Hearing Officer in this case<sup>3</sup>,

Whereas:

- (1) On 13 November 2001 the Commission received notification, under Article 4 of Council Regulation No 4064/89 ("the Merger Regulation"), of the planned takeover of part of the assets of Moulinex, a French company, by SEB, another French company.
- (2) By decision of 8 January 2002, the Commission referred under Article 9 of the Merger Regulation the French aspects of the case to the French competition authorities ("the referral decision") and authorised under Article 6(1)(b) and (2) of the Merger Regulation the operation as regards its effects outside France, provided SEB honoured certain commitments ("the authorising decision"). Philips took legal action against these two Commission decisions in the Court of First Instance of the European Communities (CFI), while BaByliss filed in the same court against the Commission's authorising decision<sup>4</sup>. On 3 April 2003 the CFI dismissed Philips's action but upheld BaByliss's with regard to Finland, the United Kingdom and Ireland, Italy and Spain. Thus the CFI annulled the authorising decision as far as the markets of Italy, Spain, Finland, the United Kingdom and Ireland were concerned, but rejected the remainder of the application
- (3) Under Article 10(5) of the Merger Regulation, the notification and the resulting time limits start from the date of the judgment, i.e. 3 April 2003.

## **1. THE MERGING PARTIES AND THE OPERATION**

- (4) SEB is a French undertaking which designs, manufactures and markets small electrical household appliances worldwide. It markets its products in over 120 countries under two world brands ("Tefal" and "Rowenta") and four local brands ("Calor" and "SEB" in France and Belgium, "Arno" in Brazil and the Mercosur countries and "Samurai" in the Andean Pact countries). The families of products marketed by SEB under these different brands largely belong to the small electrical household appliance category and include cooking appliances (mini-ovens, deep fryers, toasters and appliances for informal meals), hot drinks appliances (filter coffee makers, espresso machines, kettles) food preparation appliances, irons and ironing stations, personal care appliances (hair removal, hair care, shaving, etc.), vacuum cleaners, domestic cooling and heating appliances, and kitchen utensils.
- (5) Moulinex is also a French undertaking which designs, manufactures and markets small electrical household appliances worldwide. It markets the same families of

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<sup>2</sup> OJ C ....., ....., p....

<sup>3</sup> OJ C ....., ....., p ...

<sup>4</sup> Cases T-119/02 *Royal Philips Electronics NV v Commission* and T-114/02 *BaByliss SA v Commission* respectively.

products as SEB under two international brands ("Moulinex" and "Krups") and one local brand ("Swan" in the United Kingdom<sup>5</sup>).

- (6) On 7 September 2001 the Nanterre Commercial Court initiated receivership proceedings against the Moulinex group. In accordance with French law, the receivers had to establish whether the undertaking in receivership could continue its activity, should be sold to third parties or should be wound up. In this case, since it proved impossible for Moulinex to continue to operate, the receivers tried to find a buyer for all or part of Moulinex's business.
- (7) In the course of the proceedings SEB applied to take over some of Moulinex's "small household electrical appliance" business, namely:
- all the rights associated with the exploitation of the Moulinex, Krups and Swan brands irrespective of the products concerned;
  - some of the production facilities (eight industrial sites out of a total of 18 and some of the equipment located at the sites not purchased) allowing the production of at least some models of all the products manufactured by Moulinex apart from vacuum cleaners and microwave ovens;
  - certain marketing companies - for Europe, only the German and Spanish companies.
- (8) In a judgment of 22 October 2001, the Nanterre Commercial Court accepted the recovery plan proposed by SEB.

## **2. CONCENTRATION**

- (9) The notified operation constitutes a concentration whereby SEB acquires, within the meaning of Article 3(1)(b) of the Merger Regulation, control of several parts of Moulinex by purchase of assets.

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<sup>5</sup> This brand was abandoned by SEB in 2002.

### 3. COMMUNITY DIMENSION

- (10) Whichever method is used to calculate Moulinex's turnover<sup>6</sup>, the undertakings concerned attained an aggregate worldwide turnover of more than EUR 2.5 billion<sup>7</sup> in 2001 (SEB: EUR [...] million; Moulinex: EUR [...] million (method 1) or EUR [...] million (method 2)). In Germany, France and the United Kingdom, the aggregate turnover attained by SEB and Moulinex was greater than EUR 100 million, and each of the parties achieved in each of these three Member States a turnover of at least EUR 25 million<sup>8</sup>. In addition, the two undertakings each achieved a turnover of at least EUR 100 million in the Community (SEB: EUR [...] million; Moulinex: EUR [...] million (method 1) or EUR [...] million (method 2)). Under Article 1(3) of the Merger Regulation, therefore, the operation has a Community dimension.

### 4. PROCEDURE

#### 4.1. Derogation from suspension

- (11) On an application from SEB, the Commission on 27 September 2001 granted a derogation from suspension, as provided for by Article 7(4) of the Merger Regulation. The basic reason for this decision was that the receivers had insisted that any offer to buy should be unconditional. The derogation granted by the Commission was limited to the management of the purchased assets and ran until the authorising decision was adopted. It did not, however, authorise SEB to carry out the operation immediately, since the business was to be transferred only after the Commission's authorisation had been given.

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<sup>6</sup> Turnover excluding only the activities not taken over (vacuum cleaners and microwave ovens) (method 1), or excluding the turnover of the commercial subsidiaries not taken over but including the transfer prices invoiced by Moulinex to the commercial subsidiaries not taken over (method 2).

<sup>7</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C 66, 2.3.2999, p. 25).

<sup>8</sup> SEB: EUR [...] million in Germany, EUR [...] million in France and EUR [...] million in the United Kingdom.

Moulinex: - Method 1: EUR [...] million in Germany, EUR [...] million in France and EUR [...] million in the United Kingdom.

- Method 2: EUR [...] million in Germany, EUR [...] million in France and EUR [...] million in the United Kingdom.

\* Parts of this text have been edited to ensure that confidential information is not disclosed; those parts are enclosed in square brackets and marked with an asterisk.

#### **4.2. Article 9 request by the French authorities**

- (12) On 7 December 2001, the French competition authorities made a request for a partial referral under Article 9(2)(a) of the Merger Regulation as regards the merger's effects on competition in France on certain sales markets for small electrical household appliances. The Commission granted this request by decision dated 8 January 2002. The CFI confirmed the validity of this referral decision in its judgment in Case T-119/02.

#### **4.3. Commitments made by SEB in the first proceedings**

- (13) On 7 January 2002, SEB gave a commitment to the Commission that, for five years, it would grant a licence for the Moulinex brand to independent third parties for all categories of product in nine Member States (Belgium, Luxembourg, Netherlands, Germany, Austria, Portugal, Sweden, Denmark and Greece). The five-year period will be followed by one of three years in which the Moulinex brand may not be exploited by SEB. The commitments were intended to allow the third-party licensee to migrate from the Moulinex brand to its own brand. The Commission's authorising decision was conditional upon these commitments being fulfilled. In its judgments in Cases T-114/02 and T-119/02, the CFI considered that these remedies were sufficient to remove the serious doubts raised by the operation in respect of these nine countries.
- (14) On 31 October 2002, one licence was awarded to Benrubi for Greece, and eight to Saeco for the other countries.

#### **4.4. Updating of the information in the first notification**

- (15) In response to a request from the Commission, on 14 April 2003 SEB provided further information on the markets for small electrical household appliances in Spain, Italy, the United Kingdom/Ireland and Finland.

#### **4.5. Suspension of the current proceedings**

- (16) To enable it to assess the merger in the light of the Merger Regulation, the Commission, under Article 11, sent two requests for information to SEB on 28 May and 4 June 2003 respectively. On expiry of the time limit for replying to the requests - 11 June 2003 - SEB had still not supplied all the information asked for. On 19 June, therefore, the Commission took a decision under Article 11(5) of the Merger Regulation suspending the time limit on the proceedings until it obtained the full, correct information requested. On 1 August the SEB group provided this information, thus enabling the Commission to lift the suspension, which had lasted for 37 working days.

#### **4.6. Submission of remedies in the course of the current proceedings**

- (17) On 30 April 2003, the merging parties proposed certain commitments to the Commission. The SEB group undertook to stop marketing, under the Moulinex or Krups brands, certain categories of product (current and/or new models) for a period of five years from the date when the Commission authorised the operation. SEB also undertook, in Italy and Spain, to keep the existing marketing divisions of Tefal/Rowenta (the SEB group's brands) and Moulinex/Krups separate for the same five-year period.

- (18) By decision of 23 May 2003 under Article 6(1)(c) of the Merger Regulation, the Commission found that these commitments were not such as to remove all serious doubts about the operation's compatibility with the common market as required by its 2001 notice on acceptable remedies<sup>9</sup>. They related only to certain markets where there were serious doubts, and the proposed withdrawal left a serious doubt about the restoration of pre-existing competitive conditions such as is to be expected of a commitment.

#### **4.7. Relevant product markets**

##### *4.7.1. Introduction*

- (19) The definitions contained in the authorising decision were not disputed in the CFI either by the merging parties or by third parties. The investigation carried out in the current proceedings does not call into question the definitions adopted but emphasises that some product markets could be subdivided. The discussion that follows is based on the analysis in that first decision.
- (20) The economic sector affected by the concentration is the sale of small electrical household appliances, which can be broken down into 13 product categories. The first 11 categories are commonly known as kitchenware:
- (a) deep fryers: these electrical appliances consist of a removable strainer/basket for cooking food in a bath of oil/fat, an integrated heating element and, usually, a lid;
  - (b) mini ovens: the vast majority of these are placed directly on a worktop and weigh about 20 kg. Their capacity can vary from 10 to 35 litres. These features distinguish them from built-in ovens;
  - (c) toasters: the basic function of this appliance is to toast bread using electrical heating elements attached to each of its walls. Certain complementary functions may be added, such as defrosting, or heating baguettes, rolls and buns;
  - (d) sandwich makers and waffle makers: this category includes all electrical appliances for cooking waffles and toasted sandwiches;
  - (e) appliances for informal meals (stonegrill, party-wok, raclette, fondue, etc.): this category covers a large number of very diverse electrical appliances designed for preparing friendly meals based on a recipe of a regional or exotic nature. It includes in particular stonegrills (where meat is cooked by contact with a hot stone), raclette machines, crêpe makers, fondue sets (cheese, meat, fish and shellfish), electric woks and various appliances inspired by international or exotic cooking (hamburger, mini pizzas, tex mex, tajine, paninis, brochettes, etc.). All these appliances have a common feature in that they are placed on the table and are used by the guests;

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<sup>9</sup> Notice on remedies acceptable under Council Regulation (EEC) No 4064/89 and under Commission Regulation (EC) No 447/98, OJ C 68, 2.3.2001, p. 3.

(f) electric barbecue and indoor grills: this segment comprises barbecues and indoor grills used for cooking meat, fish and brochettes, etc.;

(g) rice cookers and steam cookers: these appliances use slow steaming as their method of cooking, as opposed to pressurised steam in pressure cookers;

(h) electric filter coffee makers: this type of appliance is designed to heat the water, which then flows down through the ground coffee contained in a filter:

(i) kettles: containers fitted with an integrated heating element for heating water;

(j) espresso machines: these appliances are derived from professional machines for making strong coffee. They are sometimes fitted with a pump for providing pressure;

(k) blenders and food preparation appliances: this category comprises food processors and multifunctional appliances used for preparing food. Food processors incorporate several functions, such as mincing (meat, onions, herbs, etc.), blending (soup, potatoes, etc.), beating or whipping (cream, eggs, etc.), grating (vegetables, cheese, etc.), thin-slicing (vegetables, etc.), kneading (dough, etc.), squeezing fruit, juicing, blending and emulsifying (mayonnaise, vinaigrette, etc.). The various functions generally require a specific processing accessory which is placed on the spindle leading from the main or secondary motor. Multifunctional appliances are generally designed only for a few types of preparation in particular (one to three types of function). Most of them have the same functions as food processors. For instance, there are mini mincers, mixers (or blenders), stick blenders, beaters, juice extractors and citrus presses;

(l) irons/ironing stations: these electrical appliances incorporate a steam generation chamber in which heat transforms the water in the reservoir into steam for ironing the clothes;

(m) personal care appliances (health and beauty appliances): this category covers a large number of product families, which may be divided into health appliances and beauty appliances. Health appliances include all appliances for improving personal health, in particular weighing scales (traditional or electronic), body fat monitors, massage, relaxation and spa appliances, appliances for measuring physical parameters (blood pressure monitors), infant care appliances (bottle warmers, sterilisers, minirobots, sleep monitors) and dental hygiene appliances. Beauty appliances basically cover men's and women's razors, clippers, hair removers, hair care appliances, hairdryers and facial care appliances.

(21) In its notification SEB considers that each category of small electrical household appliance can constitute a separate product market. It bases this essentially on an analysis of demand-side substitutability, since each category corresponds to a specific function and is intended for a separate final use. This analysis, which was confirmed



by the market survey carried out in the first proceedings, has not been called into question since.

- (22) In the course of the proceedings, however, three types of appliance prompted comments from the merging parties or third parties: food preparation appliances and ironing appliances could be segmented into separate markets, while in the mini-oven category other products should be taken into account. The following discussion focuses on these three categories of product.

#### 4.7.2. *Lack of supply-side substitutability between categories*

- (23) Even if it is assumed that all producers are able to manufacture all small electrical household appliances<sup>10</sup>, the Commission's investigation showed that the cost and time required to enter a new product market may be considerable given the market's characteristics. As will be explained below, competition in the small electrical household appliance sector occurs mainly through brands. To enter a new product market, a competitor, whether it is present or not in other neighbouring markets or in the product market in question in another geographical area, must ensure that it will have sufficient outlets and, consequently, that it will have a sufficient volume of sales. To do this, it will have to be recommended by retailers, which have limited shelf space, and thus make its brand familiar to final consumers. This takes time and generates substantial marketing and advertising costs. Without a well-known brand it will be forced to confine itself to low-priced products, where this aspect counts for less. The argument of supply-side substitutability as originally put forward by the merging parties cannot therefore be accepted by the Commission. On the other hand, the investigation showed that entry is easier when it is effected from a neighbouring market.

#### 4.7.3. *Mini ovens*

- Introduction

- (24) The Commission's authorising decision defined a market for mini ovens. This definition was not queried by the CFI. During the phase II proceedings SEB challenged this market definition.
- (25) The vast majority of mini ovens are placed directly on a worktop and weigh about 20 kg. Their capacity can vary from 10 to 35 litres. These features distinguish them from built-in ovens or ones that are part of a cooker combining baking with cooking on hotplates/burners. They use an electrical heating element, to which fan-assistance has recently been added, this permits better heat distribution inside the oven and in particular does away with preheating. Other features have been added to these appliances, including self-cleaning of the oven walls. The main functions of a mini oven are: defrosting; roasting; baking; grilling; browning; cake- and pastry-making and reheating.

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<sup>10</sup> The market survey showed that there were hardly any constraints on the manufacture of the products: in South-East Asia in particular there are manufacturers, such as Tsann Kuen, which can produce an extended range of small electrical household appliances for operators present in Europe. The relocation of production is a very common practice in the small electrical household appliance sector.

(26) Quite different is the technology used by the microwave oven. The basic equipment in this appliance is a magnetron, which emits high-frequency waves. The first appliances on the market contained only this basic equipment and for a long time accounted for most, if not virtually all sales. The basic microwave oven has since been overtaken and now accounts for an (albeit still sizeable) minority of sales<sup>11</sup>. It is a loss leader for distributors, who advertise it prominently in their promotional catalogues at increasingly low prices. A second-generation appliance was brought out, which consisted of magnetron plus an electrical heating element for browning. Grill microwaves, as they are known, have proved very popular with consumers: their sales now account for the bulk of the market<sup>12</sup>. When it came out, the product acquired a relatively upmarket image on account of the added grill - an innovative feature. Now it too is starting to become commonplace: prices are falling and in its turn it may become a loss leader. Lastly, there is the latest generation of microwave oven, which has kept its upmarket, innovative image: combined ovens. As their name implies, these combine the magnetron technology of the microwave with the traditional cooking of mini ovens. Their sales are increasing all the time but are still relatively marginal<sup>13</sup>.

(27) SEB considers that mini ovens are not a category of appliance that can constitute a relevant market. They are part of a bigger market, namely tabletop ovens, which as well as traditional cooking appliances covers the whole range of microwave ovens, i.e. simple microwaves, grill microwaves and combined or triple-function microwaves (which combine microwave, grill and fan-assistance). SEB bases its analysis on the following factors: sales of microwave ovens are increasing at the expense of tabletop ovens using traditional cooking methods; the latter's technical characteristics (in terms of output, capacity and presence of certain functions such as spit roasting and fan assistance) and performance are the same as those of traditional ovens (recipes can be cooked in the same fashion in both types of appliance); the prices of both types of appliance are similar; and, lastly, SEB's main rivals and its distributors offer complete ranges of tabletop ovens.

- Lack of demand-side substitutability between mini ovens and microwave ovens

(28) Microwave ovens and mini ovens offer two very different cooking technologies. As indicated above, microwave ovens use a magnetron, which generates high-frequency electromagnetic waves, whereas traditional mini ovens use a conventional electrical heating element, to which other functions such as fan-assistance in particular may be added. The difference in the technology employed is not neutral as regards the use to which the consumer puts his appliance. It also gives rise to other differences concerning the possible uses of the oven, the results obtained and the types of use. With microwave ovens, it will be noted, kitchen

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<sup>11</sup> In value terms, in February 2002, the monofunctional microwave oven accounted for only [30-40%]\* of total Spanish sales of microwaves and [20-30%]\* of Italian sales.

<sup>12</sup> In value terms, grill microwave ovens account in 2002 for [55-65%]\* of Spanish sales of microwaves and [60-70%]\* of Italian sales

<sup>13</sup> In value terms, combined ovens accounted in 2003 for [0-10%]\* of Spanish sales of ovens and [10-20%]\* of Italian sales.

utensils can be used that would not resist the heat produced in a mini oven, e.g. glass plates or plastic containers. This allows the consumer to save on having to use a special cooking dish. Far from being insignificant, this feature has enabled the agri-food industry to build up a large business in ready-made meals that can be prepared only in an oven using microwave technology and not traditional cooking. Conversely, the microwave oven will not accept certain kitchenware that may be suitable for a mini oven, such as steel dishes. Microwaves also conserve the vitamin content of food better and consume less energy than the conventional oven.

(29) The Commission's investigation shows that microwave ovens are not very good, if at all, for roasting, grilling, browning or making cakes and pastry - applications which the mini oven can handle perfectly well. Conversely, reheating and defrosting are done better with microwaves (less time-consuming).

- Substitutability still limited between mini ovens and grill microwaves

(30) The question arises, therefore, whether the arrival of the second generation of microwave ovens - grill microwaves - has brought microwave performance up to the level of the traditional mini oven. It would seem that such ovens do in fact improve the results obtained, but only to a certain extent. By definition, they enable the consumer to grill food and obtain a better general appearance for it and a different taste. However, the answers to the market survey showed that manufacturers are more mixed about the results obtained where roasting and cake- or pastry-making are concerned. The consumer can always put a joint or a cake in the microwave oven, but the quality obtained is not the same as in a mini oven<sup>14</sup>. The problem of the incompatibility of certain types of kitchenware is not resolved with this type of appliance, since metal receptacles (steel, aluminium foil, etc.) cannot be used. On the other hand, it appears that manufacturers of microwave ovens are trying to improve the grill function in order to offset more successfully the traditional shortcomings of the conventional microwave and upgrade the image of the products which they are developing. Furthermore, their prices, which on average are still slightly higher than those of mini ovens, are starting to fall, and price ranges are now virtually comparable<sup>15</sup>. It cannot be ruled out, therefore, that for some consumers, who are less demanding about the quality of the cooking and less attentive to the results obtained, that this type of microwave oven can be substituted for mini ovens to a certain extent. It is still the case, however, that the options with this type of appliance are not the same as with traditional cooking. In the current state of the market, the competitive constraint exerted by grill microwaves on mini ovens is still too diffuse for it to be concluded that there is sufficient substitutability for both products to be included in the same market. On the other hand, it is confirmed that grill microwaves do exert a significant competitive constraint on mini ovens.

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<sup>14</sup> It is also interesting to note that even SEB acknowledges that the results differ where pizzas are concerned, their centres being colder in microwaves with an integrated grill.

<sup>15</sup> In 2001, according to the merging parties, the price of a grill microwave was EUR 210 in the United Kingdom (range: EUR 80-250), EUR 171 in Italy (2002) (range: EUR 80-250) and EUR 124 in Spain (2002) (range: EUR 60-250), compared with that of a mini oven in the same countries, which was respectively EUR 97 (range: EUR 40-160), EUR 87 (range: EUR 40-300) and EUR 96 (range: EUR 40-200).

(31) On the supply side, microwave manufacturers consider they would have no difficulty in entering the market for mini ovens, since the technology is even less difficult to handle than that of the magnetron. Many have said, however, that they have little interest in penetrating this market, which they describe as limited and declining.

(32) Since the same results cannot be obtained with the microwave as with a conventional oven, microwave manufacturers have brought out models that combine the functions of the conventional oven with those of the microwave. By definition therefore, such models have the advantages of both types of cooking. Nevertheless, they cannot be regarded as sufficiently close substitutes for mini ovens, since they differ too much in price from them<sup>16</sup>. In the current state of the market, combined ovens are still upmarket products which do not compete directly with mini ovens.

- Conclusion

(33) Consequently, the Commission does not have enough information for the moment to corroborate the merging parties' thesis that there is a market for tabletop ovens, comprising both mini ovens and microwaves, despite the fact that certain microwaves have applications and prices similar to those of mini ovens. Thus, a degree of competitive pressure from grill microwaves cannot be ruled out. These are potentially competitive products, both on the demand side (where it is possible that some of the demand for mini ovens will shift to them) and on the supply side (where there is no major obstacle to a manufacturer of microwaves producing mini ovens).

#### 4.7.4. *Food preparation appliances*

- Introduction

(34) In the kitchen, food preparers cover a number of appliances whose functions are mincing (meat, onions, herbs, etc.), mixing, (soup, potatoes, etc.), beating or whisking (cream, eggs, etc.), grating (vegetables, cheese, etc.), kneading (dough, etc.), squeezing fruit, juice extracting, blending or emulsifying (mayonnaise, vinaigrette). There is a wide variety of models that can fulfil these functions. They are generally divided into multi-function appliances, mainly food processors or "kitchen machines", which can accomplish all or virtually all of these tasks, and other appliances whose use is limited to one or a few functions. The main ones here are beaters, jug blenders, stick blenders, juice extractors/citrus presses and mincers.

(35) SEB considers that all these food preparers should be included in the same market, since it is not possible to draw clear boundaries either between one category of appliance (monofunctional) and the other (multifunctional), or between monofunctional appliances themselves. Even if it acknowledges that the market can be conventionally subdivided into blenders, beaters, etc., SEB points out that it is increasingly difficult to distinguish one appliance from another, since consumers can add accessories to their monofunctional appliances. Thus a consumer can change a stick mixer into a beater by adding multibladed whisks, or into a mini mincer, or even

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<sup>16</sup> According to the merging parties, the price ranges for combined ovens and mini ovens were EUR 250-300 in the United Kingdom and EUR 250-400 in Italy and Spain, whereas those for mini ovens in the same countries were: (EUR 40-160), (EUR 40-300) and (EUR 40-200).

a food-processor if adding accessories is taken to an extreme. This has resulted, moreover, in two appliances which have exactly the same functions being classified differently by organisations specialising in the study of these markets. Thus, because appliances are very adaptable as a result of technological evolution on the market, the consumer can choose from many different categories of appliance to satisfy his needs and does not have to focus on one particular type. SEB also considers that this lack of a clear preference is reinforced by the fact that the consumer can find these appliances side by side on the food preparation shelves. On the supply side, manufacturers all offer complete ranges of food preparation appliances. SEB emphasises in this respect that it assembles these appliances on the same production lines without any special adaptations being required, as do its main competitors.

(36) Lastly, in its definition of the relevant markets, SEB includes all equivalent mechanical appliances such as graters, whisks and manual citrus presses.

(37) SEB's arguments have been partly confirmed by the Commission's investigation: there is a single market covering the main food preparation appliances. However, the inclusion in this market of certain small food preparation appliances is more doubtful, while mechanical appliances should not be included at all.

- Main food preparation appliances

(38) Among the electrical appliances designed for food preparation, multifunctional appliances, i.e. food processors and "kitchen machines", do have specific characteristics which distinguish them from monofunctional ones. They are generally fitted with a bowl, unlike the other appliances, which generally do not have one, except for certain blenders. Consumers regard them as being part of how their kitchen looks and generally leave them out on the worktop, hence the considerable attention paid to their aesthetic appearance<sup>17</sup>. Conversely, many monofunctional appliances, such as beaters and mixers, are not meant to be left out on the worktop and have to be put away after being used. Monofunctional appliances can be distinguished from each other, if only because they are generally presented for sale under a specific generic name, such as beater, mixer, mincer, juice extractor/citrus press, indicating their main function.

(39) Nevertheless, it is extremely difficult to make out clear boundaries either within the various categories of multifunctional appliance or between monofunctional and multifunctional appliances.

(40) First of all it is true to say that monofunctional appliances tend to evolve and acquire extra functions. Thus the main brands, such as Bosch, Braun, Kenwood, Taurus, Sunbeam and Moulinex, offer mixers for sale which also double as a blender, mincer and even kneading machine (or vice versa). Similarly, the functions of a juice extractor can also be offered to the consumer in a blender. As an example chosen from among the biggest sales of food preparers in the countries in question<sup>18</sup>, benchmark products from the Braun Multiquick range, presented as containing

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<sup>17</sup> A study provided by SEB shows that less than a third of users of one food processor put it away after using it.

<sup>18</sup> According to the data from the GFK research consultancy.

blenders, also offer the functions of a mixer and a mincer if accessories are added. Conversely, a consumer buying a mixer in the same operator's Multimix range can transform the appliance into a blender and a mincer. Multifunctionality is often one of the features in manufacturers' advertising, even if generally these appliances are still sold, or classified by research consultancies, under the name "mixer" or "blender". One of the consequences of this accessorisation is to blur the boundaries between the different categories of "monofunctional" appliance, which were originally supposed to offer a single, specific function.

- (41) This situation also makes the distinction between "monofunctional" and "multifunctional" appliances irrelevant, since multifunctionality is becoming an increasingly widespread attribute in the food preparation sector and is therefore no longer exclusive to food processors or "kitchen machines". For instance, if he wants to have the basic functions of a food processor, a consumer may also choose a mixer that can be adapted to different needs by adding components.
- (42) The traditional difference in power between the two types of appliance is also becoming less marked. While monofunctional appliances used not as a general rule to exceed 300-400 W, they now attain 600/650 W, i.e. the same power level as an ordinary food processor (the most powerful processors may nevertheless attain 1000 W). This increase in the output of monofunctional appliances makes them faster and allows them to prepare more food at one time or tougher food.
- (43) That the various types of appliance differ in price does not emerge clearly from the Commission's investigation: a blender, mixer, mincer or juice extractor can be sold to the consumer for up to EUR 150, or even EUR 200, i.e. at the same price as a mid range or top of the range food processor. At the bottom end, food processors are marketed at EUR 45-50, which is the same level as for mid-range monofunctional appliances.
- (44) The Commission's investigation also shows that SEB's competitors or its distributors think that the consumer is very undecided as to the model or even the applications, linked to that model, he wants to buy when in the shop. Even if he is certain before he enters the shop, he may choose a different appliance on account of an attractive design or a reduced price. One of the explanations for this lack of a clear preference in the consumer could be that the purchaser of the product is not always the final consumer: gifts play an important part in the small electrical household appliances sector. For instance, the abovementioned SEB study shows that [25-35%]\* of purchases are gifts.
- (45) For all these reasons, the main food preparation appliances<sup>19</sup> may be placed in the same market.

- Coffee grinders, slicers and electric knives

- (46) However, coffee grinders, slicers and electric knives belong to categories of appliance which each offer a very specific application that is not incorporated in other food preparation appliances. In order to obtain these functions, therefore, the

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<sup>19</sup> The main food preparation appliances are mixers, blenders, mincers, citrus presses/juice extractors, graters, food processors and "kitchen machines".

final consumer has no choice but to buy these appliances in the category of other small electrical household appliances. The question whether they belong to the food preparation market can nevertheless be left open, since the merger poses no competition concerns whichever alternative is considered.

- Mechanical appliances

(47) Lastly, the mechanical appliances cited by SEB, which are supposed to fulfil the same functions as the corresponding electrical appliances, cannot be included in the same relevant market. The fact that they fulfil the same functions is not in itself enough for them to be regarded as food preparation appliances for the purposes of this Decision. Because they have electric motors, the appliances examined above all offer consumers high performance and are very quick to use, compared with mechanical appliances. The latter are limited by human capability as far as these two criteria are concerned. Consumers are prepared to pay large sums in order to benefit from this gain in power and time, which explains the considerable price differences between mechanical and electrical appliances. Their distribution, which is organised separately, reflects the lack of similarity between the requirements thus met. Mechanical appliances are not found in the network of large specialised stores or are at any rate displayed on different shelves in those shops which have both types of product in their listing, such as supermarkets and hypermarkets or department stores

- Conclusion

(48) This product market comprises the main electrical appliances intended for food preparation. Whether or not three appliances of lesser importance in terms of market share, namely coffee grinders, slicers and electric knives, should be included in this market is debatable. The question may be left open, however, since the result of the competitive analysis is the same in either eventuality.

#### 4.7.5. *Ironing appliances*

(49) This product category comprises four subcategories: dry irons, travel irons, steam irons and ironing stations. The Commission found when it initiated the proceedings that in the case of irons and ironing stations it was possible to separate the two on account in particular of the price differences between them.

(50) These products can be distinguished by:

(a) their power, which ranges from 700 W (for a travel iron) to 2 400 W for the most powerful ironing stations and steam irons (travel irons do not usually have more than 1000 W);

(b) their use: travel irons are designed to be very easy to handle for ironing away from home, as opposed to ironing stations, which have a fixed reservoir not attached to the iron and can thus be used only in the home. Between these two, the conventional iron, whether it uses steam or not, is designed as a single block, but because its weight does not make for ease of handling it is more suitable for domestic use;

(c) the presence or absence of steam: steam is an available function in almost all models except, by definition, for dry irons, which are tending to disappear from the market in the five countries concerned. The flow

varies, however, depending on the model, from 15 g/min for travel irons to 100-130 g/min for the most powerful steam irons and ironing stations;

(d) price: their price may range from EUR 10 to EUR 20 for irons to EUR 250 to EUR 300 for the most powerful ironing stations.

The characteristics of the four categories are shown in the following table<sup>20</sup>:

	Power	Flow of steam	Price
Dry iron	1000 W		EUR 10-20
Travel iron	700 to 1060 W	15-100 g/min	EUR 20-30
Steam iron	1400 to 2400 W	15-100 g/min	EUR 15-120
Ironing station	2000 to 2400 W	60-130 g/min	EUR 70-300

(51) SEB considers that the four product categories belong to a single market, since:

(a) they all meet the same requirement and fulfil the same function in order to do so, namely ironing;

(b) distributors offer the four types of product;

(c) the spectrum of their selling prices shows that there is substantial overlapping between these different product families;

(d) the main manufacturers offer the four categories of product.

SEB emphasises that the existence of the various types of ironing appliance corresponds to the different stages of market evolution and product improvement: originally, irons did not offer steam ironing, then steam irons appeared, which have in turn been exposed to competition from ironing stations. It would be impossible, therefore, to distinguish markets among products whose differentiation simply reflects technological change and which remain perfectly substitutable in the eyes of consumers.

(52) The Commission's investigation confirmed that it was not possible to distinguish separate markets among products designed for ironing. However, the various products do have images and particular positions in the national markets: a low-end dry or a steam iron will generally have a lower price (up to 30 times less expensive) and less power, and hence be less efficient, than an ironing station.

(53) However, both in terms of capacity and price, there are overlaps between the four categories of appliance. Their existence would seem to be due to market evolution, which consists in marketing increasingly powerful and efficient ironing appliances. To do this, manufacturers highlight in particular factors associated with steam-generating capacity. Given the state of the market, ironing stations represent as it

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<sup>20</sup> Source: SEB, but confirmed by the market survey and the GFK data.



were the culmination of this evolution, since they are the most powerful appliances. To some extent they are tending to replace the steam iron in households' ironing equipment<sup>21</sup>. It is not expected, however, that the steam iron will disappear in the same way as dry irons, which have been virtually eliminated by steam irons since the 1960s and 1970s. Steam irons have also benefited from the improvement in appliances' steam release. Some models of steam iron are now absolutely comparable in performance to ironing stations for an equivalent price, so that a continuum in terms of price and performance is being established between the different types of appliance. A consumer who has high requirements as regards the steam generated may now choose either an iron or an ironing station. Other factors will also affect his choice, such as the power of the appliance, its coating (properties of the iron's sole plate), its ability to stop the build-up of limescale, the way it adapts to the material being ironed (whether or not automatic) and its ease of handling. It is thus as a function of each appliance's features with regard to each of these criteria that the consumer will make his choice, without it being possible to determine in advance and with certainty which of these appliances will best satisfy a given consumer.

- (54) Appliance for appliance, this chain of substitution can clearly be substantiated.
- (55) Although generally situated at the upper end of the market, some ironing stations, albeit manufactured by reputed operators such as SEB, Philips, Saeco, Polti or Termozeta, are positioned in terms of price at the same level as, or even lower than, certain irons. Their power and steam capacity are then the same as, or less than, those of the most powerful steam irons. The latter are sold to the consumer, moreover, on their steam-generating potential and their capacity to make ironing easier, like ironing stations. They now have capacities of up to 90-100 grams per minute and offer additional functions such as a vertical jet of steam.
- (56) At the other end of the market, dry irons are positioned in price in a similar way to low-end steam irons, which they are in competition with. Consequently, both the number of models and the total sales of the main manufacturers are very low in the five countries concerned<sup>22</sup>.
- (57) Lastly, travel irons are sold in the same price ranges as conventional steam irons and, like the latter, generally have the ability to generate steam. Ergonomically they are intended more for use when travelling, but this does not prevent consumers from being able to use them for their daily needs at home.
- (58) To sum up, there is a single market for ironing appliances.

#### 4.7.6. Conclusion

- (59) The Commission will carry out an analysis of the effects of the notified merger in the following relevant product markets:

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<sup>21</sup> From June 2002 to May 2003 sales of steam irons fell in the United Kingdom ([...%]\*), Spain ([...%]\*) and Italy ([...%]\*), while sales of ironing stations increased by [...%]\*, [...%]\* and [...%]\* respectively.

<sup>22</sup> For instance, the number of dry irons sold by Tefal in Italy is [... %]\* of the number of steam irons sold by SEB.

- (a) deep fryers;
- (b) mini ovens
- (c) toasters;
- (d) sandwich and waffle makers;
- (e) appliances for informal meals;
- (f) electric barbecues and indoor grills;
- (g) rice cookers and steam cookers;
- (h) electric filter coffee makers;
- (i) kettles;
- (j) espresso machines;
- (k) electric food preparation appliances (leaving open the question of whether or not coffee grinders, slicers and electric knives can be included in the same relevant market);
- (l) irons/ironing stations;
- (m) personal care appliances (health and beauty appliances).

#### *4.8. The relevant geographic markets*

- (60) In its authorising decision, the Commission defined national geographic markets for small electrical household appliances. The definitions were not disputed in the CFI either by the merging parties or by third parties. Nor were they called into question by any factual or legal element in the course of the investigation carried out as part of the present proceedings.
- (61) However, during the proceedings SEB supplied information to support its contention that the Commission should consider the United Kingdom and Ireland as forming a single market. SEB states in this respect that, like it, its competitors have a similar organisation and sales conditions in the two countries, serving similar distribution networks. Consumers have a comparable assortment in the shops, indicating that demand is homogeneous as a result of "cultural identity, culinary tradition and shared eating habits". The prices of the items sold to consumers are also the same.
- (62) The market survey showed that market conditions in this sector were very uniform in the United Kingdom and Ireland.
- (63) Firstly, consumers find the same brands in the two countries, especially those which are well represented locally, such as Morphy Richards, Russell Hobbs and Breville. Further, the structure of supply is virtually the same: Braun, SEB, Philips, Kenwood, Morphy Richards and Breville all occupy the same overall position in the

small electrical household appliance sector. Only Russell Hobbs differs appreciably<sup>23</sup>.

- (64) It should be noted next that SEB and some of its competitors have set up a joint sales structure for their products in the two countries. In any event, even where operators in the small electrical household appliance sector have opted for an independent distributor in Ireland, it is not possible for the latter to have a policy that disregards the market conditions obtaining in the United Kingdom. The great majority of SEB's competitors state that, if a supplier located in Ireland were independently to increase its prices to its customers, orders would be switched to suppliers located in the United Kingdom.
- (65) The market survey also confirmed that the level of prices to distributors is the same in the United Kingdom and Ireland. SEB emphasised during the proceedings that its pricing policy was the same for both countries. This is reflected in the sale price to the consumer. For instance, the Argos catalogue contains similar prices for both countries. The parties' main competitors also stressed that prices were comparable between the two countries.
- (66) It should also be noted that some distributors are present only in the two countries<sup>24</sup>, while others, traditionally present in southern Europe, are completely absent from the United Kingdom and Ireland.
- (67) The United Kingdom and Ireland thus form a single geographic market, separate from the other markets of continental western Europe.

## **5. Operation of competition in the markets in question**

- (68) SEB's competitive position following the merger will therefore be examined in regard to the following countries or areas: Spain, Finland, Italy and the United Kingdom/Ireland.
- (69) These four geographic markets will be examined separately in the sections that follow. Within each of these geographic areas, and for each product market, the Commission will assess whether the combination of activities in terms of sales and brands is likely to lead to the creation or strengthening of a dominant position. The assessment will be carried out first with regard to the horizontal effects and then with regard to the non-horizontal effects.
- (70) The assessment of the horizontal effects consists of three stages. First of all, the Commission will examine whether the market shares of SEB and Moulinex in the

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<sup>23</sup> According to SEB, the market shares of the various operators are as follows: Braun (UK: [10-15%]\*, Ireland: [10-15%]\*), SEB (UK: [10-15%]\*, Ireland: [10-15%]\*), Philips [10-15%]\* in the UK and Ireland), De'Longhi ([5-10%]\* in the UK and Ireland), Morphy Richards (UK: [5-10%]\*, Ireland: [5-10%]\*), Breville ([0-5%]\* in the UK and Ireland). Only Russell Hobbs has different positions in the two countries (UK: [5-10%]\*, Ireland: [0-5%]\*).

<sup>24</sup> Tesco, Argos, Dixons and Currys are present in both Ireland and the United Kingdom. By contrast, distributors such as Auchan or Carrefour, which have a strong presence in France and southern Europe, are not present in the United Kingdom and Ireland.

relevant markets indicate that the merger is likely to hinder effective competition and exceed 25% in accordance with the fifteenth recital to the Merger Regulation. If so, it will examine whether the overlap between the parties' market shares is manifestly non-significant<sup>25</sup>. If not, it will carry out a detailed multi-factor analysis.

- (71) Next, the Commission will examine whether the combination of SEB's and Moulinex's powerful positions in certain small electrical household appliance markets is likely to give rise to non-horizontal effects which might lead to the creation or strengthening of a dominant position. This method is in keeping with that described by the CFI in the above-mentioned *BaByliss* judgment. The CFI insists on the need to examine the portfolio effect resulting from the present operation, to which, in its view, there are two aspects: the portfolio of brands controlled by the new entity, and the holding by that entity of substantial market shares in numerous relevant product markets.

### **5.1. Spanish markets**

- (72) In its judgment of 3 April 2003<sup>26</sup>, the CFI held that the Commission could not dismiss the existence of serious doubts about the markets for kettles and tabletop ovens in Spain. An in-depth analysis of all the markets concerned has shown that the merger does not risk creating or strengthening a dominant position for SEB on any of these markets.

#### *5.1.1. Structure of supply and demand*

##### **5.1.1.1. Supply**

- (73) In Spain, supply in the small electrical appliance markets comprises three types of player: first, the major international producers with a worldwide presence, such as Philips, Braun (Gillette), Bosch-Siemens, De'Longhi and SEB. Next, national producers such as Taurus, Solac, Fagor and Jata, which are concentrated on Spanish territory and enjoy a strong reputation for their brands there. Lastly, the big distributors like Carrefour and Alcampo, which have their own brands.

#### **International groups**

- (74) The SEB group is present in all 13 product markets concerned in Spain, where it accounted for an overall share of [10-20%]\* of sales in the small electrical appliance markets in 2002. The group currently uses four small electrical household appliance brands there: Moulinex, Krups, Tefal and Rowenta. There are overlaps between the Tefal and Rowenta brands and the Moulinex and Krups brands on all the markets except informal meal appliances and steam cookers. The Spanish distributors

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<sup>25</sup> In the authorising decision, the Commission considered a 40% market share threshold to be a first indicator for the presence of serious doubts as to the compatibility of the merger with the common market. In specific circumstances, however, a dominant position may be inferred with market shares of less than 40%. In view of the specific features of the case and the features of the relevant markets, in particular the importance of brand and possible non-horizontal effects, this Decision will examine in detail all those markets in which the parties hold a combined market share in excess of 25% and in which the overlap is not manifestly non-significant.

<sup>26</sup> Case T-114/02 *BaByliss*, paragraph 380.

surveyed consider each of the Tefal and Moulinex brands to be must-have brands in three markets<sup>27</sup>, while Rowenta is considered to be a must-have brand in two markets<sup>28</sup> and Krups only in the market for espresso machines<sup>29</sup>.

- (75) The Philips group is active in ten of the thirteen markets for small electrical household appliances concerned (all except mini ovens, informal meal appliances, and steam cookers); it has a single brand, "Philips", which accounted for an overall share of [15-20%] of sales in the small electrical appliance markets in Spain in 2002. The Spanish distributors surveyed consider the Philips brand to be a particularly must-have brand in five markets<sup>30</sup>. Philips is also active in other electronic markets (televisions, hi-fi, etc.).
- (76) Braun is part of the US group Gillette and is active under just the one brand, "Braun", on six of the thirteen product markets concerned in Spain (irons, kettles, filter coffee makers, steam cookers, food preparation appliances and personal care appliances). Braun accounted for an overall share of [15-20%] of sales in the small electrical appliance markets in Spain in 2002. The Spanish distributors surveyed consider the Braun brand to be a must-have brand in four markets<sup>31</sup>.
- (77) The Bosch-Siemens Hausgeräte (BSH) group is active on eleven of the thirteen product markets concerned in Spain (all except informal meal appliances and steam cookers). Its three brands - Bosch, Siemens and Ufesa (a brand reserved for the Spanish market) - accounted for an overall share of [5-10%] of sales in the small electrical appliance markets in Spain in 2002. BSH's parent companies - Bosch and Siemens - are both active in a wide range of various electrical products, including large electrical household products such as dishwashers, washing machines, cookers and built-in ovens. The Spanish distributors surveyed consider the Ufesa brand to be a particularly must-have brand in ten markets (all except steam cookers, informal meal appliances and personal care appliances)<sup>32</sup>.

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<sup>27</sup> Tefal: informal meal appliances (cited in 5 out of 7 replies); tabletop ovens (cited in 2 out of 5 replies); kettles (cited in 3 out of 8 replies).

Moulinex: filter coffee makers (cited in 5 out of 9 replies); toasters (cited in 7 out of 9 replies), food preparation appliances (cited in 3 out of 5 replies).

<sup>28</sup> Irons (cited in 5 out of 9 replies); personal care appliances (cited in 4 out of 9 replies).

<sup>29</sup> Being cited in 3 out of 9 replies.

<sup>30</sup> Kettles (cited in 5 out of 8 replies); filter coffee makers (cited in 4 out of 0 replies); espresso machines (cited in 3 out of 9 replies); irons (cited in 7 out of 9 replies); personal care appliances (cited in 8 out of 9 replies).

<sup>31</sup> Kettles (cited in 5 out of 8 replies); food preparation appliances (cited in 3 out of 5 replies); irons (cited in 6 out of 9 replies) and personal care appliances (cited in 7 out of 9 replies).

<sup>32</sup> Filter coffee makers (cited in 6 out of 9 replies); espresso machines (cited in 4 out of 9 replies); kettles (cited in 3 out of 8 replies); irons (cited in 6 out of 9 replies); tabletop ovens (cited in 1 out of 5 replies); sandwich and waffle makers (cited in 4 out of 6 replies); barbecues and grills (cited in 5 out of 8 replies); food preparation appliances (cited in 3 out of 5 replies); deep fryers (cited in 7 out of 9 replies); toasters (cited in 6 out of 9 replies).

(78) The De'Longhi group is active in nine of the thirteen product markets concerned in Spain (all except sandwich and waffle makers, informal meal appliances, steam cookers and personal care appliances). "De'Longhi" and "Ariete", its two brands used in Spain, accounted for an overall share of [0-5%] of sales in the small electrical household appliance markets in 2002. The Spanish distributors surveyed consider the De'Longhi brand to be a particularly must-have brand in one market<sup>33</sup>. The De'Longhi group is also active in other electrical products, in particular air conditioners and radiators.

#### National producers

(79) The Spanish small electrical household appliance market is characterised by the presence of several Spanish producers with a strong national reputation, the most important of which are Taurus, Fagor, Jata and Solac.

(80) Taurus accounted for an overall share of [5-10%] of sales in the small electrical appliance markets in 2002. Its single brand, "Taurus", is present in 10 of the 13 markets concerned (deep fryers, toasters, filter coffee makers, espresso machines, kettles, barbecues and grills, sandwich and waffle makers, food preparation appliances, irons and personal care appliances). The Spanish distributors consider the Taurus brand to be a must-have brand in the deep fryer and kettle markets<sup>34</sup>.

(81) Jata, with its brand of that name, held [0-5%] of the Spanish small electrical household appliance market in 2002. It is present in eleven of the thirteen markets concerned (all except kettles and steam cookers), but the brand is cited as a must-have brand only in the market for tabletop ovens<sup>35</sup>.

(82) Fagor, with its brand of that name, held overall [0-5%] of the Spanish small electrical household appliance market in 2002. It is present in eight of the thirteen markets concerned (deep fryers, toasters, sandwich and waffle makers, barbecues and grills, filter coffee makers, espresso machines, irons and personal care appliances). The Spanish distributors consider Fagor to be a must-have brand for the two markets of barbecues and grills and sandwich and waffle makers<sup>36</sup>.

(83) Solac, with its brand of that name, held overall [0-5%] of the Spanish small electrical household appliance market in 2002. It is present in eight of the thirteen markets concerned (deep fryers, toasters, sandwich and waffle makers, food preparation appliances, filter coffee makers, espresso machines, irons and personal care appliances), but the brand is regarded as a must-have brand only in the case of filter coffee makers<sup>37</sup>.

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<sup>33</sup> Tabletop ovens (cited in 1 out of 5 replies).

<sup>34</sup> On the deep fryer market, Taurus is cited in 9 out of 9 replies. On the kettle market, Taurus is cited in 3 out of 8 replies, exceeded only by Braun and Philips, each cited 5 times.

<sup>35</sup> Being cited in 1 out of 5 replies.

<sup>36</sup> Barbecues and grills: cited in 5 out of 9 replies; sandwich and waffle makers (cited in 4 out of 7 replies).

<sup>37</sup> Being cited in 5 out of 9 replies.

(84) In addition, several distributors, especially hyper- and supermarkets, have developed their own brands (e.g. "First line" and "Bluesky" for Carrefour and "Ecron" for Eroski). According to SEB, these distributors' own brands account for up to 15-20% of the appliances sold by certain distributors.

#### 5.1.1.2.

#### Demand

(85) On the demand side there are four categories of customer: department stores (in particular El Corte Inglés), hypermarkets and supermarkets (in particular Carrefour, Eroski, Alcampo (Auchan group) and Hipercor (El Corte Inglés group)), specialist stores (in particular Media Markt) and traditional small traders. Most independent specialist distributors, however, have organised themselves into purchasing groups (in particular Densa, Gestesa, Segesa and Fadesia Expert).

(86) According to the GFK panels for 2000, the distribution of small electrical household appliances was shared as follows: [30-40%]\* for food distributors, [40-50%]\* for specialist chains and central purchasing groups, [0-10%]\* for department stores and [10-20%]\* for traditional traders.

(87) According to estimates provided by SEB, the various distributors hold the following market shares:

Main distributors	Estimated market share
CARREFOUR	[10-20%]*
EL CORTE INGLES	[10-20%]*
ALCAMPO	[0-10%]*
DENSA	[0-10%]*
GESTESA	[0-10%]*
FADESA EXPERT	[0-10%]*
CONDIGESA-IDEA	[0-10%]*
SEGESA REDDER	[0-10%]*
MARKETING MILAR	[0-10%]*
HIPERCOR	[0-10%]*
OTHER	[30-40%]*
TOTAL	100%

(88) Since the demand side is not fragmented, distributors have a degree of negotiating power. It is clear from the market survey that this negotiating power acts as a constraint on the prices charged by producers of small electrical household appliances. According to their replies, Spanish distributors agree only to moderate price increases, which they then try to pass on to the final consumer. Any relative increase in the selling price makes consumers turn towards products whose price has not gone up. If distributors notice a fall in sales, their likely reaction is to seek to renegotiate the terms of sale or to limit their purchases. Thus, the foreseeable reaction of distributors and consumers considerably restricts the scope for producers to increase prices.

### 5.1.2. *Relevant market shares*

#### 5.1.2.1. Moulinex's sales

(89) Moulinex's sales fell substantially between 2000 and 2002, by at least 20% in all markets<sup>38</sup>. This was due to a combination of factors: the withdrawal of product lines, the interruption of supplies to distributors and the protracted lack of innovation. In the iron, kettle, deep fryer, oven, steam cooker and personal care appliance markets, Moulinex's sales fell sharply, most often because the items were not listed by distributors. Thus, since the end of 2001 SEB has no longer marketed informal meal appliances under the Moulinex brand.

#### 5.1.2.2. The competitive potential represented by Moulinex

(90) Although the competition analysis is based on the current market situation, i.e. the situation prevailing at the time of this Decision<sup>39</sup>, it nevertheless takes account of the exceptional fact that, since Moulinex went bankrupt in September 2001, its market shares have fallen sharply in all markets for small electrical household appliances. This Decision must accordingly take into consideration the recovery potential of the Moulinex group's brands. Indeed, the market survey has shown that the image of the Krups and, to a lesser extent, Moulinex brands has hardly suffered in the eyes of the final consumer as a result of the Moulinex group's bankruptcy and that these brands still enjoy a good reputation.

(91) The taking into account of the potential for recovery is, however, subject to two cumulative and interdependent conditions: first, the recovery of market shares by Krups and Moulinex must be sufficiently probable and, second, such a recovery must be a direct result of the merger. In those markets where these two conditions are not met, the losses of market share observed between 2000 and 2002 must be considered structural.

(92) The Commission's investigation has also shown that a recovery of the Moulinex and Krups brands will depend on a number of factors. In addition to a strong brand in a particular market, there will be an absolute need for innovative, good quality products and for substantial in-house investment in advertising and promotion. The results of the investigation show, therefore, that the recovery of the Moulinex and Krups brands depends not only on their increased worth stemming from the merger but also on the innovative, commercial (in terms of advertising and promotional back-up) and financial capacity of the new owner. The recovery potential to be taken into account in the competition analysis is therefore reduced by the impact of these other factors, which have no direct causal link with the present merger.

(93) This recovery potential must also be assessed over a reasonable period. This may be taken as being the lifetime of the products, which is approximately three years. In 2004/2005, almost the entire range of Moulinex and Krups products will be renewed. The brand's image will be determined more by recent and future investments than by the way it was perceived before the bankruptcy. In this connection, the Commission

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<sup>38</sup> With the exception of barbecues/grills and sandwich/waffle makers.

<sup>39</sup> See Commission decision of 9 July 1998, IV/M. 308 – Kali & Salz/MDK/Treuhand (III), point 10.



has already noted that, in most markets, sales of Moulinex products did not increase substantially in the first half of 2003 compared with 2002.

- (94) Moreover, the likelihood of a total recovery of market shares is considerably reduced in the following four eventualities:
- (a) the cessation of marketing of Moulinex/Krups products;
  - (b) their withdrawal from certain market segments;
  - (c) the occupation of lost positions by strong competitors;
  - (d) the poor notoriety of the Moulinex and Krups brands in certain markets.
- (95) Once the marketing of products under the Moulinex and Krups brands ceased, a reconquest of their 2000 market shares became unlikely. This is due to the fact that the brands would have to re-enter the markets they had exited and would therefore have to regain the trust of consumers and distributors in order to be listed. The longer the absence, the harder it will be to regain that trust.
- (96) A similar situation arises where the brands have abandoned market segments or quartiles where they were particularly strong in 2000. The likelihood of a successful return to these segments is small in those instances where Moulinex's presence was economically unviable owing to a selling price that was below cost. In the event of a migration of these products to more expensive segments, it will no longer be a question of reconquering earlier positions but instead of a strategy of repositioning in segments where the acquired brand did not necessarily have any significant value prior to the merger.
- (97) The reconquest of a large part of the lost market shares is also unlikely where these lost positions have been occupied by strong competitors who hold all the keys to success in the small electrical household appliance market, namely well-known brands, innovative and promotional strength and access to distributors. It is therefore unlikely that these competitors are going to abandon their positions to Moulinex.
- (98) Lastly, a reconquest of lost positions is unlikely in those markets where the Moulinex and Krups brands are not considered must-have brands by the distributors surveyed. In these cases, brand image does not embody a particular competence or quality and therefore does not confer any comparative advantage over competing brands. There is therefore no incentive for distributors to list Moulinex and Krups for the products in question.

#### 5.1.2.3. Market shares

- (99) Below are set out, for reasons of transparency, the estimates produced by SEB<sup>40</sup> and the market shares worked out on the basis of the results of the market survey conducted by the Commission. The competition analysis is based exclusively on the results of the survey.

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<sup>40</sup> With regard to market shares in 2000, SEB's estimates differ, in some product and geographic markets, from the estimates given in the 2001 notification as reproduced in the CFI's judgments of 3 April 2003.

(100) According to data supplied by SEB, the new entity's market shares were as follows<sup>41</sup>:

Products		SIZE (EUR '000)	SEB	Moulinex	Combined	Main competitor
Toasters	2000	[...]*	[0-5%]*	[25-30%]*	[30-40%]*	BSH/Ufesa [15-20%]*
	2002	[...]*	[0-5%]*	[15-20%]*	[20-30%]*	BSH/Ufesa [15-20%]*
Espresso machines	2000	[...]*	[0-5%]*	[10-15%]*	[10-20%]*	Saeco/Gaggia [25-30%]*
	2002	[...]*	[0-5%]*	[5-10%]*	[10-20%]*	Saeco/Gaggia [25-30%]*
Kettles	2000	[...]*	[15-20%]*	[5-10%]*	[20-30%]*	Braun [15-20%]*
	2002	[...]*	[15-20%]*	[0-5%]*	[10-20%]*	Braun [20-25%]*
Ovens	2000	[...]*	[5-10%]*	[55-60%]*	[60-70%]*	BSH/Ufesa [10-15%]*
	2002	[...]*	[30-35%]*	[0-5%]*	[30-40%]*	De' Longhi [20-25%]*
Barbecues/grills	2000	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	BSH/Ufesa [5-10%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Princess [55-60%]*
Food preparation appliances	2000	[...]*	[0-5%]*	[25-30%]*	[20-30%]*	Braun [20-25%]*
	2002	[...]*	[0-5%]*	[20-25%]*	[20-30%]*	Braun [40-45%]*
Irons	2000	[...]*	[15-20%]*	[5-10%]*	[20-30%]*	BSH/Ufesa [15-20%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	BSH/Ufesa [10-15%]*
Deep fryers	2000	[...]*	[5-10%]*	[5-10%]*	[10-20%]*	Taurus [35-40%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Taurus [30-35%]*
Filter coffee makers	2000	[...]*	[5-10%]*	[20-25%]*	[20-30%]*	BSH/Ufesa [15-20%]*
	2002	[...]*	[0-5%]*	[10-15%]*	[10-20%]*	BSH/Ufesa [25-30%]*
Sandwich/waffle makers	2000	[...]*	[0-5%]*	[5-10%]*	[10-20%]*	Taurus [15-20%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Taurus [15-20%]*
Informal meal appliances	2000	[...]*	[35-40%]*	[0-5%]*	[30-40%]*	Solac [10-15%]*
	2002	[...]*	[35-40%]*	[0-5%]*	[30-40%]*	Princess [20-25%]*
Steam cookers	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Braun [5-10%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Braun [20-25%]*
Personal care appliances	2000	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Braun [25-30%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Philips [35-40%]*

(101) The market survey conducted by the Commission established the sales of the main players in the small electrical household appliance markets in Spain; the market shares these figures give are as follows<sup>42</sup>:

<sup>41</sup> For the purposes of this analysis, "SEB" comprises the brands of the SEB group, that is to say, Tefal, SEB, Calor and Rowenta, while "Moulinex" comprises those brands of the Moulinex group which were taken over by SEB in 2001, that is to say, Moulinex and Krups.

<sup>42</sup> The following companies took part in the survey: Philips, Braun, De' Longhi, Severin, BSH-Ufesa, Jata, Taurus, Solac, Fagor and Clatronic. The figures relating to the other competitors have been taken from SEB's estimates.

Products		SEB	Moulinex	Combined	Main competitor
Toasters	2000	0-5 %	25-30 %	25-35 %	BSH/Ufesa [15-20 %]
	2002	0-5 %	15-20 %	15-25 %	BSH/Ufesa [15-20 %]
Espresso machines	2000	0-5 %	10-15 %	10-20 %	Saeco/Gaggia [10-15 %]
	2002	0-5 %	10-15 %	10-20 %	Saeco/Gaggia [20-25 %]
Kettles	2000	15-20 %	5-10 %	20-30 %	Braun [15-20 %]
	2002	20-25 %	0-5 %	20-30 %	BSH/Ufesa [15-20 %]
Ovens	2000	5-10 %	65-70 %	70-80 %	Severin [5-10 %]
	2002	30-35 %	0-5 %	30-40 %	De' Longhi [20-25 %]
Barbecues/grills	2000	10-15 %	0-5 %	10-20 %	Fagor [10-15 %]
	2002	5-10 %	0-5 %	5-15 %	Princess [40-45]
Food preparation appliances	2000	0-5 %	25-30 %	25-35 %	Braun [15-20 %]
	2002	0-5 %	25-30 %	25-35 %	Braun [25-30 %]
Irons	2000	20-25 %	5-10 %	25-35 %	BSH/Ufesa [10-15 %]
	2002	10-15 %	0-5 %	10-20 %	BSH/Ufesa [30-35 %]
Deep fryers	2000	5-10 %	10-15 %	15-25 %	Taurus [30-35 %]
	2002	0-5 %	0-5 %	0-10 %	Taurus [30-35 %]
Filter coffee makers	2000	0-5 %	10-15 %	10-20 %	Fagor [20-25 %]
	2002	0-5 %	10-15 %	10-20 %	BSH/Ufesa [20-25 %]
Sandwich/waffle makers	2000	0-5 %	0-5 %	0-10 %	BSH/Ufesa [15-20 %]
	2002	0-5 %	0-5 %	0-10 %	BSH/Ufesa [20-25 %]
Informal meal appliances	2000	25-30 %	0-5 %	25-35 %	Princess [40-45 %]
	2002	15-20 %	0,0 %	15-20 %	Princess [60-65 %]
Steam cookers	2000	0-5 %	10-15 %	10-20 %	Princess [10-15 %]
	2002	0,0 %	0-5 %	0-5 %	Princess [40-45 %]
Personal care appliances	2000	5-10 %	0-5 %	5-15 %	Braun [25-30 %]
	2002	10-15 %	0-5 %	10-20 %	Philips [30-35 %]

### 5.1.3. Horizontal effects

#### 5.1.3.1. Markets where the merging parties have a combined share of less than 25%

(102) In each of the Spanish markets for espresso machines, filter coffee makers, deep fryers, barbecues and grills, steam cookers, sandwich/waffle makers and personal care appliances, the parties held a combined market share in 2000 and 2002 of less than 25%. There is therefore no risk of a dominant position being created on those markets.

(103) Espresso machines: The parties' combined market share came to [10-20%] in 2000 (SEB: [0-5%]; Moulinex: [10-15%]) and [10-20%] in 2002 (SEB: [0-5%]; Moulinex: [10-15%]). The main competitors are Saeco/Gaggia and BSH/Ufesa, with market shares in 2002 of [20-25%] and [5-10%] respectively.

(104) Filter coffee makers: The parties' combined market share came to [10-20%] in 2000 (SEB: [0-5%]; Moulinex: [10-15%]) and [10-20%] in 2002 (SEB: [0-5%]; Moulinex: [10-15%]). The new entity's main competitors are BSH/Ufesa with a

market share in 2002 of [20-25%], Fagor [10-15%], Taurus [5-10%], Braun [5-10%] and Philips [5-10%].

- (105) Deep fryers: The parties' combined market share came to [15-25%] in 2000 (SEB: [5-10%]; Moulinex: [10-15%]) and [0-10%] in 2002 (SEB: [0-5%]; Moulinex: [0-5%]). The main competitors are Taurus and BSH/Ufesa, with market shares in 2002 of [30-35%] and [20-25%] respectively.
- (106) Barbecues/grills: The parties' combined market share in 2000 came to [10-20%] ([10-15%] for SEB and [0-5%] for Moulinex). In 2002, their combined market share fell to [5-15%] ([5-10%] for SEB and [0-5%] for Moulinex). There are large competitors such as Princess, with [40-45%] in 2002, Fagor [15-20%] and BSH/Ufesa [10-15%]. Moreover, the overlap in the parties' positions, at less than 2%, is manifestly non-significant.
- (107) Steam cookers: The parties' combined market share came to [10-20%] in 2000 (SEB: [0-5%]; Moulinex: [10-15%]) and [0-5%] in 2002 (SEB: 0.0%; Moulinex: [0-5%]). The main competitors are Princess, with a market share in 2002 of [40-45%], and Philips [5-10%].
- (108) Sandwich/waffle makers: The parties' combined market share came to [0-10%] in 2000 (SEB: [0-5%]; Moulinex: [0-5%]). and [0-10%] in 2002 (SEB: [0-5%]; Moulinex: [0-5%]). The main competitors are BSH/Ufesa, Fagor and Solac, with market shares in 2002 of [20-25%], [20-25%] and [5-10%] respectively.
- (109) Personal care appliances: The parties' combined market share came to [5-15%] in 2000 (SEB: [5-10%]; Moulinex: [0-5%]) and [10-20%] in 2002 (SEB: [10-15%]; Moulinex: [0-5%]). The main competitors are Philips and Braun, with market shares in 2002 of [35-40%] and [20-25%] respectively. Moreover, the overlap in the parties' positions, at less than 1%, is not significant.
- (110) Irons and steam generators: In the market for irons and steam generators, the parties held a combined market share in excess of 25% in 2000. However, owing to a subsequent weakening of the position of the Tefal and Rowenta brands, the parties' combined market share did not exceed 25% in 2002, even having regard to the maximum recovery potential of the Krups and Moulinex brands, that is to say, the complete reconquest of their 2000 positions.

	IRONS/STEAM GENERATORS	
	2000	2002
<b>SEB</b>	<b>20-25%</b>	<b>10-15%</b>
<b>MOULINEX</b>	<b>5-10%</b>	<b>0-5%</b>
<b>COMBINED</b>	25-35%	<b>10-20%</b>

- (111) The parties' combined market share in 2000 came to [25-35%] ([20-25%] for SEB and [5-10%] for Moulinex). In 2002, their combined market share fell to [10-20%]. Even if the maximum potential of the Moulinex and Krups brands (as reflected by their market shares in 2000) were added to SEB's positions in 2002, this would give a notional combined share of only [15-25%] for the new entity, i.e. [10-15%] for SEB plus [5-10%] for Moulinex. Moreover, the Spanish market for irons and steam generators is characterised by the presence of several large competitors, including

BSH/Ufesa with a market share in 2002 of [30-35%], Polti [5-10%], Philips [5-10%] and Braun [5-10%].

(112) To conclude, for the reasons given, there is therefore no risk of a dominant position being created in the eight markets referred to above.

#### 5.1.3.2. Markets with manifestly non-significant overlaps

(113) While the parties' combined shares in the markets for food preparation appliances and informal meal appliances exceeded 25% in 2000, any overlap was limited to less than 1%. This is manifestly not significant.

(114) Food preparation appliances: The parties' combined market share fell by 4% from [25-35%] in 2000 (Moulinex: [25-30%]; Seb: [0-5%]) to [25-30%] in 2002 (Moulinex: [25-30%]; SEB: [0-5%]). SEB's market share was less than 1% in 2000 and 2002 and its sales came to only EUR [...] in 2002. In addition, the new entity has in Braun a competitor of comparable strength (market share in 2002 of [25-30%]), and has to face other large competitors such as Taurus with [15-20%] and BSH/Ufesa with [10-15%]<sup>43</sup>.

Producers	2000	2002
Tefal (SEB)	< 1 %	< 1 %
Krups +Moulinex	25-30 %	25-30 %
Parties (combined)	25-35 %	25-35 %
Braun	20-25 %	25-30 %
Taurus	0,0 %	15-20 %
BSH/Ufesa	0-5 %	10-15 %

(115) The Commission's investigation has shown that SEB's brands play only a marginal role in the Spanish market for food preparation appliances. In none of the segments of the market for food preparation appliances do their market shares exceed 2%<sup>44</sup>. Whereas Spanish distributors consider Moulinex, Braun, Ufesa, Philips and Fagor to be must-have brands, none of them cites the brands of the SEB group<sup>45</sup>. Owing to their weak position and poor notoriety in the food preparation appliance market, the Rowenta and Tefal brands cannot add any significant market strength to the Moulinex and Krups brands, which are already well established. What is more, the merger will not have any non-horizontal effects (see below).

<sup>43</sup> According to the authorising decision, the parties' combined market share came to [55-65%]\* ([0-5%]\* for the SEB group and [55-65%]\* for the Krups and Moulinex brands). The survey carried out as part of this new proceeding has shown, however, that the data furnished by SEB at the time of the first notification greatly underestimated the positions of its competitors, notably Braun.

<sup>44</sup> At best they attain [...] for "jug blenders" and [...] for "juice extractors/citrus presses". In both these segments, Moulinex and Krups achieve a combined share of only [20-25%]\* (jug blenders) and [25-30%]\* (juice extractors/citrus presses). In the "mills/mincers/graters segment, where Moulinex achieves [40-45%]\*, SEB's share comes to only [<1%]\*. SEB is absent, moreover, from other segments such as coffee grinders, slicers and electric knives.

<sup>45</sup> Out of the six replies to this question, Moulinex is cited four times, Braun three times and Philips, Ufesa and Fagor twice each.

- (116) Informal meal appliances: The parties' combined market share came to [25-35%] in 2000 (SEB: [25-30%]; Moulinex: [0-5%]) and [15-20%] in 2002 (SEB: [15-20%]; Moulinex: [0.0%]). Currently, the SEB group does not market any informal meal appliances in Spain under the Moulinex and Krups brands, which, moreover, are not considered must-have brands<sup>46</sup>. Furthermore, these brands had only a *de minimis* presence on this market before 2001 and hence have a very limited recovery potential. SEB's main competitors are Princess with [60-65%] in 2002 and Jata [5-10%]. What is more, the merger will not have any non-horizontal effects (see below).
- (117) To conclude, owing to the manifestly non-significant overlap between the parties' activities, the merger is not likely to create or strengthen a dominant position in the market for food preparation appliances or in that for informal meal appliances.

#### 5.1.3.3. Markets with a significant overlap and a combined share of more than 25%

##### Toaster and kettle markets

- (118) In the toaster and kettle markets, the addition of the parties' market shares is significant and resulted in combined shares in excess of 25% in 2000 and close to that level in 2002 if account is taken of the maximum recovery potential of the Krups and Moulinex brands. However, the risk that a dominant position might be created can be dismissed as the parties face several strong competitors with recognised brands.

Producers	Toasters		Kettles	
	2000	2002	2000	2002
SEB	0-5 %	0-5 %	15-20 %	20-25 %
Krups + Moulinex	25-30 %	15-20 %	5-10 %	0-5 %
Parties (combined)	25-35 %	15-25 %	20-30 %	20-30 %
Braun	0,0 %	0,0 %	15-20 %	15-20 %
BSH/Ufesa	15-20 %	15-20 %	0-5 %	15-20 %
Philips	5-10 %	5-10 %	10-15 %	10-15 %
Fagor	0,0 %	10-15 %	0,0 %	0,0 %
Taurus	5-10 %	5-10 %	0-5 %	5-10 %

- (119) Toasters: The parties' combined market share came to [25-35%] in 2000 (Moulinex: [25-30%]; SEB: [0-5%]) and [15-25%] in 2002 (Moulinex: [15-20%] SEB: [0-5%]). The merger thus adds the seventh largest producer (Tefal and Rowenta combined) to the second largest (Moulinex and Krups combined). On the basis of the 2002 figures, the acquisition of the Moulinex and Krups brands by SEB accordingly does not pose any competition problems.
- (120) If Moulinex and Krups were to recover their full competitive potential, namely the 10% market share lost between 2000 and 2002, the parties might be able to

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<sup>46</sup> Tefal is cited 5 times in 7 replies and Ufesa 3 times. Other brands are cited twice or once: Fagor, Princess, Jata, Severin, Solac and Taurus.

achieve a combined market share of [25-35%]. However, a full recovery by Moulinex and Krups of their former positions is highly unlikely as these market shares have been conquered by strong competitors which are well established in the Spanish small electrical household appliance markets. The first competitor to benefit from Moulinex's weakened state was Fagor, a brand with a good reputation in Spain which has succeeded in gaining a market share of [10-15%]. Other beneficiaries were Taurus [5-10% in 2002] and Ufesa (BSH) [15-20% in 2002], both of which are likewise highly regarded in Spain.

- (121) At all events, with a combined market share of [25-35%], in the absence of non-horizontal effects and faced as the merging parties are with well established competitors (including Philips with a market share of [5-10%] in 2002) the possibility that the merger might result in the creation or strengthening of a dominant position can be ruled out.
- (122) While Moulinex is considered most often by Spanish distributors (seven times out of the nine replies to the question) to be the must-have brand for toasters, Ufesa and Fagor are cited six times and three times respectively. Philips and Taurus are cited twice each, while Tefal is cited only once. The merger therefore does not result in a combination of two must-have brands.
- (123) Owing to this competitive situation, the risk that a dominant position might be created or strengthened in the toaster market can be dismissed.
- (124) Kettles: The parties' combined market share came to [20-30%] in 2000 (SEB: [15-20%]; Moulinex: [5-10%]) and [20-30%] in 2002 (SEB: [20-25%]; Moulinex: [0-5%]). The acquisition of Moulinex by the market leader, SEB, thus eliminates the eighth largest competitor in the Spanish market for kettles. If Moulinex<sup>47</sup> were to recover its full competitive potential, namely the [5-10%] lost between 2000 and 2002, the parties might be able to achieve a combined market share of [25-30%]. However, a full recovery by Moulinex and Krups of their former positions is highly unlikely as they face strong competitors which are well established in the market, notably BSH/Ufesa with a market share of [15-20%] in 2002, Braun [15-20%] and Philips [10-15%].
- (125) At all events, with a combined market share of [20-30%], in the absence of non-horizontal effects and faced as the merging parties are with well established competitors the possibility that the merger might result in the creation or strengthening of a dominant position in the market for kettles can be ruled out.
- (126) As far as must-have brands are concerned, Tefal is mentioned three times (out of the eight replies to this question) and Moulinex only once, whereas the Braun and Philips brands are cited five times each, Taurus three times and the BSH/Ufesa brands likewise three times. The merger therefore does not result in a combination of two must-have brands.
- (127) To conclude, owing to the presence of a large number of strong, sizeable competitors, the risk that a dominant position might be created or strengthened in the market for toasters or in that for kettles can be dismissed.

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<sup>47</sup> Krups was present in the Spanish market for kettles neither in 2000 nor in 2002.

### Tabletop ovens

(128) In the market for tabletop ovens, Moulinex held a very strong position in 2000, with a share of [65-70%], whereas SEB, with its Tefal brand, had a share of only [5-10%]. The combined market share came therefore to [70-80%] in 2000. Following the takeover of the Moulinex brand<sup>48</sup> in 2001, the SEB group completely stopped production of Moulinex tabletop ovens before relaunching a few listed products in 2002 in an upper price quartile. According to statements by the SEB group, this repositioning of the Moulinex listed products was essential as the Moulinex group's earlier strategy, which was geared towards the sale of large quantities at low prices, was strongly loss-making. SEB states, for example, that three listed products<sup>49</sup> accounting for 40% of sales were sold with negative gross margins prior to Moulinex's bankruptcy.

(129) Consequently, the structure of the market changed radically between 2000 and 2002, SEB being the new leader with [30-35%], ahead of De'Longhi with [20-25%]. Moulinex's market share fell to [0-5%], behind Severin with [5-10%] and BSH/Ufesa and Jata with [5-10%] and [5-10%] respectively.

Brand	Market share	
	2000	2002
SEB	5-10 %	30-35 %
Moulinex	65-70 %	0-5 %
Parties	70-80 %	30-40 %
De' Longhi	0-5 %	20-25 %
Jata	0,0 %	5-10 %
Ufesa	0-5 %	5-10 %
Severin	5-10 %	5-10 %
Other	10-20 %	20-30 %

Source: Market survey

(130) For the second half of 2002 and the first half of 2003, a market study carried out by AC Nielsen indicates the market shares set out in the table below. According to SEB, AC Nielsen's panels do not entirely reflect the reality of the market as they cover only part of the distribution channels<sup>50</sup>. Nevertheless, the Commission considers that these figures, which do not differ greatly from the findings of its investigation, reflect at least trends and developments in this market.

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<sup>48</sup> The Krups brand was not present on the Spanish market for tabletop ovens.

<sup>49</sup> ABH 252, ABH 152, ACH 252.

<sup>50</sup> When asked by the Commission to specify the rate of coverage of AC Nielsen's panels on the small electrical household appliance markets in Spain, SEB replied that, "according to AC Nielsen, this panel covers more than half of the market".



BRAND	MARKET SHARE (%)	
	07-12/2002	01-06/2003
<b>TEFAL</b>	<b>32.0%</b>	26.0%
<b>MOULINEX</b>	<b>7.7%</b>	12.5%
<b>PARTIES COMBINED</b>	<b>39.7%</b>	38.5%
<b>DE'LONGHI</b>	<b>25.8%</b>	23.9%
<b>JATA</b>	<b>3.4%</b>	3.3%
<b>UFESA</b>	<b>4.2%</b>	2.9%
<b>SOLAC</b>	<b>0.7%</b>	0.6%
<b>OTHER</b>	<b>26.2%</b>	30.8%

Source: AC Nielsen

Competitive constraints rendering the holding of a dominant position unlikely

- (131) The structure of the Spanish market for tabletop ovens, which is worth approximately EUR [...] - [...] million, is currently characterised by the presence of five large producers, namely SEB (Tefal), with a market share of about 30%, and De'Longhi, which has a share in excess of 20%; these are followed by Moulinex, Jata and BSH/Ufesa. The merger will therefore bring together the largest and third largest (according to AC Nielsen's 2003 figures; the fifth largest according to the survey's figures for 2002 ) producers.
- (132) The new entity, whose market share according to all sources currently does not exceed 40%, will be faced with well-known competitors, in particular De'Longhi, which markets its mini ovens in Spain under two brand names (De'Longhi and Ariete), but also BSH, which has three small electrical household appliance brands in the Spanish market (Ufesa, Bosch and Siemens), and Jata, a strong domestic brand. In terms of must-have brands, Tefal is cited twice, while De'Longhi, Ufesa and Jata are cited once each.
- (133) Most of these competing major brands are present across the mini-oven market, i.e. in the three segments of 10/12 litres, 18/20 litres and 26/28 litres. In the 26/28 litre segment, where BSH-Ufesa is not active, there is no overlap as Moulinex is not active there either<sup>51</sup>. As far as the number of models is concerned, the De'Longhi group, with its 11 models, produces almost as many as the parties combined (13). In the 10/12 and 26/28 litre segments, the parties do not have more listed products or models than De'Longhi. In the 18/20 litre segment, the parties have fewer models and listed products than De'Longhi and Jata together. Moreover, the Commission's investigation has shown that, in the case of some large competitors, the number of models exceeds by a considerable margin the figures given in the table below. According to information furnished by SEB<sup>52</sup>, more than 17 brands are present in the Spanish market for mini ovens.

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<sup>51</sup> The launch of a new Moulinex model in this segment is nevertheless planned for 2005.

<sup>52</sup> SEB gives as its source "Publi Info Iberica", a body which lists by category of product all catalogues or promotional literature brought out by distributors.

BRAND	10/12 LITRES		18/20 LITRES		26/28 LITRES	
	LISTED PRODUCTS	MODELS	LISTED PRODUCTS	MODELS	LISTED PRODUCTS	MODELS
TEFAL	1	2	1	4	1	2
MOULINEX	1	2	1	3	(1 IN 2005)	0
DE'LONGHI	2	4	1	4	1	4
ARIETE (DE'LONGHI)	0	0	1	1	1	1
UFESA (BSH)	2	2	1	1	0	0
JATA	1	1	3	3	1	1
SEVERIN	0	0	1	2	0	0
CLATRONIC	1	2	0	0	0	
TEGRAN	0	0	1	2	0	0
BJM	0	0	1	1	0	0
COMELEC	0	0	1	2	1	1
TEAM	0	0	1	1	0	0
ORBEGOZO	0	0	1	1	0	0

Source: SEB

(134) The Commission's investigation has shown, moreover, that the tabletop oven market is characterised by effective competition. According to one competitor, prices have fallen by about 15% over the past five years. There are constant innovations, such as self-cleaning, hot-air cooking, several cooking levels, etc. There are no entry barriers, as illustrated by Jata and the large number of producers present in the market. Similarly, a significant expansion of market positions is possible, as the examples of Ufesa, De'Longhi and Tefal show.

(135) What is more, the prices of tabletop ovens are constrained by the prices of microwave ovens with grills. As explained above in connection with the definition of the product markets, microwave ovens with grills cost about the same as tabletop ovens. The prices of microwave ovens with grills are showing an even stronger annual downward trend than those of tabletop ovens. Although in the case of some dishes (approximately 20% of all recipes) microwave ovens with grills do not produce the same results as tabletop ovens, the two types of appliance overlap substantially in terms of field of use. In the event of a sizeable increase in the prices of Tefal and Moulinex ovens, many consumers might buy, apart from competitors' tabletop ovens, a microwave oven with grill performing the desired functions. This is also borne out by the development of both markets: whereas the tabletop oven market has been stagnant for a number of years, the market for microwave ovens with grills is showing considerable growth (around 10% a year). In 2002, the number of tabletop ovens sold in Spain was only one sixth that of microwave ovens with grills.

(136) Consumers might tend to lean all the more towards a microwave oven with grill rather than a tabletop oven as both types of appliance are displayed side by side in shops. Moreover, several of SEB's competitors in the tabletop oven market also propose microwave ovens with grills (e.g. De'Longhi, BSH-Ufesa, Severin and Clatronic). Furthermore, the Commission's market survey has shown that several competitors consider that a microwave oven producer can easily enter the tabletop oven market.

#### The Moulinex brand's potential for recovery

(137) Since Moulinex was the market leader in 2000 with a share of at least [55-60%]\*, its recovery potential must be assessed. The Commission's investigation has shown

that, for a number of reasons, Moulinex will not be able to return to such a level. First of all, the withdrawal in 2001 of Moulinex's listed products enabled other well-known brands, in particular Tefal and De'Longhi, to gain a firm foothold in this market with the help of outstanding products. The Commission has found no sign of any weakening in the position acquired by De'Longhi. On the contrary, whereas De'Longhi, Ufesa, Tefal and Jata are cited by Spanish distributors as listed products, the Moulinex brand is not cited under this head<sup>53</sup>.

- (138) Secondly, Moulinex will be unable to recover the market shares it held thanks to models sold with negative gross margins. According to SEB, it was this policy that brought about the Moulinex group's financial difficulties. At all events, it is certain from an economic point of view that SEB would not be able to continue this policy.
- (139) The most recent figures available, i.e. those contained in the AC Nielsen market analysis, reveal two important trends concerning the development of the Spanish market for tabletop ovens, and in particular the future potential of the Moulinex brand.
- (140) First, the Moulinex brand is recovering market shares only to a small extent. Although it stabilised at a level of 7.7% during the second half of 2002 (fluctuating by  $\pm 0.2\%$  on a bimonthly basis), the Moulinex brand improved its position with an average share of 12.5% during the first half of 2003. However, Moulinex's growth, which is due, moreover, to the launch of several new models at the end of 2002, is proceeding at a modest pace and seems even to have levelled off. After peaking at 14.4% in March and April 2003, Moulinex's share fell back to 9.7% in May/June of that year. These developments suggest that it is highly unlikely that Moulinex will approach, let alone attain, its previous position of strength.
- (141) Secondly, Moulinex's gains have been made mostly at Tefal's expense. Thus, between the second half of 2002 and the first half of 2003, Moulinex's market share increased by 4.8% whereas Tefal's decreased by 6.0% over the same period. By contrast, other competitors' shares shrank by a lesser amount: 1.9% for De'Longhi, 1.1% for Ufesa, and 0.1% for Jata and Solac. Consequently, the parties' combined share has even fallen slightly (by 1.2%) to 38.5%, despite the fact that several new Moulinex listed products have been launched since the autumn of 2002.
- (142) All these factors show, therefore, that the potential for recovery of the Moulinex brand in the mini oven market is limited.
- (143) All of the factors discussed, namely:
- (a) the competitive constraints, i.e. the presence of a very strong competitor (De'Longhi) and several other major competitors (notably BSH-Ufesa, Jata and Severin);
  - (b) the constraints caused by the prices of microwave ovens with grills;

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<sup>53</sup> Tefal is cited three times out of six replies to this question, whereas De'Longhi, Ufesa and Jata are cited twice each. Other, less well-known brands, such as HJM, Corbrero, Timshel and Fulcor, are cited once, which reflects the importance of "other" brands, which accounted for 25-30% of the market in 2002/2003 (well up on 2000).

- (c) Moulinex's limited recovery potential; and
- (d) the absence of entry barriers

lead to the conclusion that the merger will not lead to the creation or strengthening of a dominant position of the parties in the market for tabletop ovens in Spain.

#### 5.1.4. Absence of non-horizontal effects

- (144) The analysis of the competitive position of the new entity must take account, not only of the strictly horizontal effects, but also of the portfolio of brands held by it and of the fact that it holds substantial market shares in many of the product markets concerned.

##### Portfolio of brands

- (145) The operators present in the small electrical household appliance market seem to have two development strategies in relation to brands. Some, like the parties, have a multibrand strategy. The operators in question are BSH, with Bosch, Siemens and Ufesa, and De'Longhi, with Ariete and De'Longhi. Others, by contrast, have opted for single-brand development, e.g. Philips and Braun or the domestic producers (Taurus, Fagor, Jata and Solac).
- (146) A broad portfolio is generally perceived as enabling producers to cater better for consumers' needs. However, such a strategy is more costly as it means having several advertising and promotion budgets and risks diluting the value of certain brands.
- (147) The review of the Spanish situation has not made it possible to determine whether the strategy of holding a portfolio of brands confers a decisive competitive advantage. Despite having only one brand, Philips and, even more so, Braun occupy significant positions in the small electrical household appliance sector in Spain.
- (148) Even supposing that the holding of a portfolio of brands constitutes a decisive advantage, the situation of the new entity must be put in perspective. Although it is in a favourable position, that position is not exceptional.
- (149) SEB will henceforth hold a portfolio of four brands: Tefal and Rowenta, to which must be added Moulinex and Krups. In most markets, however, the new entity is present with only two brands, and there are even markets where it has ceased marketing under certain brands (e.g. Rowenta in the case of mini ovens and Krups in that of irons). This portfolio is up against substantial portfolios held by competitors such as De'Longhi or BSH, which have two or even three brands.

##### Strong positions in several markets

- (150) As regards the cumulative effect of strong positions in several markets, the Commission's investigation has shown that the new entity is not of strategic importance when it comes to distributors' purchasing decisions and that its strong positions do not differ markedly in number and size from those of its main competitors.

- SEB's position in distributors' purchases

(151) SEB/Moulinex is not of strategic importance when it comes to the purchases effected by distributors, as was confirmed by the latter at the time of the market survey. Distributors and consumers can turn to a number of competitors such as Philips, BSH, Braun and Taurus, who propose a wide range of alternatives and well-known brands.

(152) Two groups, Braun and Philips, achieve a turnover comparable to, if not higher than, that of SEB in Spain (equivalent to an overall share for each of them of [15-20%] in the small electrical household appliance sector). Of these two groups, Philips has the broader range inasmuch as it is present in 10 of the 13 markets concerned (being absent only from the markets for mini ovens, informal meal appliances and steam cookers, which together account for only [0-5%]\* of the small electrical household appliance market in Spain). Braun's strategy, on the other hand, is to concentrate on a small number of markets in which as a rule it holds relatively strong positions. Thus, the Braun group is present in six of the 13 product markets concerned in Spain (irons, kettles, filter coffee makers, steam cookers, food preparation appliances and personal care appliances), which together account for [70-75%]\* of the Spanish small electrical household appliance market. Braun is one of the foremost operators in the markets for food preparation appliances and personal care appliances.

(153) BSH is another competitor with a strong, broad presence in the Spanish small electrical household appliance market. The group holds [5-10%] of the small electrical household appliance market and is active in 11 of the 13 markets concerned (accounting for [90-100%]\* of the market). It holds market shares of more than 15% in six markets (and of more than 20% in four markets) which account for [40-50%]\* of the Spanish small electrical household appliance market.

- Possible positions of strength

(154) The adding together of SEB and the Moulinex assets it has acquired could produce non-horizontal effects that damaged competition if the combined entity had positions of strength in some markets that it could extend to a situation of dominance in other markets. In order for these two cumulative conditions to be met, the parties would therefore have to hold a position of strength, either resulting from the merger or pre-existing, in a sufficiently important market for them to be able to extend that position to other markets.

(155) In 2000, the new entity was the leading operator with a combined share of more than 25% in five product categories (toasters, kettles, mini ovens, food preparation appliances and irons) which accounted for [40-45%]\* of the small electrical household appliance market.

(156) The new entity's competitors were the leading operators in other important markets, as follows: Braun and Philips for personal care appliances (accounting for [30-35%]\* of the small electrical household appliance market), Taurus for deep fryers ([0-10%]\* of the small electrical household appliance market), Fagor for filter coffee makers ([0-10%]\* of the small electrical household appliance market), and

BSH for sandwich/waffle makers ([0-5%]\* of the small electrical household appliance market).

- (157) In 2002, the new entity's situation worsened substantially. It is the leading operator in three markets (toasters, ovens and kettles), but it is only in the market for ovens that its combined share exceeds 25% (having fallen by half in two years). The ovens market accounted for only [0-5%]\* of the small electrical household appliance market in 2002 and cannot therefore serve as a basis for an extension of the new entity's position of strength into other markets. In the markets for toasters and kettles, the gap between the new entity and the second-largest operator is less than 5%. In the market for irons, where it was the leading operator in 2000, the new entity fell to second position with a share which did not even reach half that of the leading operator, BSH. In the market for food preparation appliances, Braun's market share is bigger than that of the new entity.
- (158) Even in the event of Moulinex fully reoccupying its earlier positions, the competitive situation would not be noticeably changed. In that event, the new entity would be the leading operator with a combined market share in excess of 25% in the three markets for toasters, kettles and mini ovens. In the market for food preparation appliances, the parties' combined share would come closer to but still be lower than that of Braun.
- (159) In the markets for toasters and kettles, the parties' combined share would not reach twice that of the second-largest operator (or of the third-largest operator in the kettles market). Even if such positions were to be considered pre-eminent, they would not enable the new entity to extend its situation of dominance to other markets as the three markets for mini ovens, kettles and toasters together account for less than [0-10%]\* of the Spanish small electrical household appliance market.
- (160) To conclude, there is therefore no risk of the creation or strengthening of a dominant position through non-horizontal effects.

#### *5.1.5. Conclusion concerning the Spanish markets*

- (161) In the light of the above, the notified operation is not likely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the various markets for small electrical household appliances in Spain.

## **5.2. Finnish markets**

- (162) In its authorising decision, the Commission found that, in 2000, the notified operation resulted in large market shares in four product markets in Finland (toasters, espresso machines, mini ovens and barbecues/grills). In one of these four markets (toasters), the overlap was significant. According to the judgment of the CFI (paragraph 387), the Commission's reasoning did not overcome the serious doubts regarding the markets for toasters, espresso machines, mini ovens and barbecues/grills.

### 5.2.1. *Structure of supply and demand*

#### 5.2.1.1. Supply

- (163) In Finland, the SEB/Moulinex group, which holds [5-10%]\* of the small electrical household appliance market, faces competition from major international competitors, namely Philips, Braun, AEG, Severin and, to a lesser extent, De'Longhi and BSH. SEB has at its disposal the Tefal and Rowenta brands and also markets products under the Moulinex and Krups brand names. These brands are very rarely cited as must-have brands by distributors or by SEB's competitors in the small electrical household appliance market. The Krups brand seems a little stronger in certain limited markets, such as that for espresso machines. Moulinex, on the other hand, comes across as a most unassuming brand, especially in comparison with Philips and Braun.
- (164) The Philips group is present in Finland with its "Philips" brand alone and is the leader in the small electrical household appliance market with a share of about [25-30%]\*. It is present in all small electrical household appliance markets apart from mini ovens, barbecues/grills, steam cookers and informal meal appliances. It holds significant positions in the markets for toasters, kettles, food preparation appliances, irons, filter coffee makers, sandwich/waffle makers and personal care appliances. In each of these markets, Philips is almost systematically cited by distributors as a must-have brand.
- (165) The Braun group is present in Finland with its "Braun" brand alone and accounts for approximately [10-15%]\* of small electrical household appliance sales. It is present in the markets for kettles, food preparation appliances, irons, filter coffee makers, steam cookers and personal care appliances, where it holds significant positions. In each of these markets, Braun is almost systematically cited by distributors as a must-have brand.
- (166) The AEG group is present in Finland with its "AEG" brand, which accounts for approximately [5-10%]\* of small electrical household appliance sales. AEG holds significant positions in the markets for toasters, espresso machines and filter coffee makers, without, however, being cited as a must-have brand.
- (167) The Severin group is present in Finland with its "Severin" brand and accounts for approximately [0-5%]\* of small electrical household appliance sales. Severin holds significant positions in the markets for ovens and informal meal appliances. In each of these markets, Severin is often cited by distributors as a must-have brand.
- (168) The De'Longhi group is present in Finland with its "De'Longhi" and "Kenwood" brands, which account for approximately [0-5%]\* of small electrical household appliance sales. De'Longhi holds significant positions in the market for espresso machines, where it is cited by distributors as a must-have brand.
- (169) The BSH group is present in Finland with its "Bosch" brand, which accounts for approximately [0-5%]\* of small electrical household appliance sales. BSH is present in the markets for toasters, espresso machines, kettles, food preparation appliances, deep fryers and filter coffee makers. Although it holds marginal positions on most of these markets (mostly around 5%), it holds a significant position in the market for

filter coffee makers. BHS's brands are never cited by distributors as must-have brands.

- (170) Mention must also be made of Princess Household, which is present in numerous small electrical household appliance markets in Finland, albeit with marginal positions (less than 5%), and whose "Princess" brand is never cited by distributors as a must-have brand.
- (171) Besides the pan-European brands, the SEB/Moulinex group faces such Nordic brands as OBH/Nordica, Ideline and Wilfa, imported brands such as Rommelsbacher and Petra, and distributor brands such as Chef (Kesko) and HUG (Tradeka).
- (172) The OBH/Nordica group is present with its "Nordica" brand in the markets for toasters, kettles, barbecues/grills, food preparation appliances, steam irons, deep fryers, filter coffee makers, informal meal appliances and steam cookers. It accounts for [0-5%]\* of small electrical household appliance sales and holds significant positions in the markets for barbecues/grills, deep fryers, informal meal appliances and food preparation appliances. In these markets, Nordica is very often cited by distributors as a must-have brand.
- (173) The other operators in the Finnish market are concentrated on specific markets. This is the case with Rommelsbacher, which holds [15-20]% of the markets for deep fryers and mini ovens; the same applies to Wilfa, which accounts for [20-25]% of the market for informal meal appliances, and to Chef, which holds [10-15]% of the market for barbecues/grills.

#### 5.2.1.2.

#### Demand

- (174) In Finland, the demand side in the small electrical household appliance markets is composed of groups of companies present in a number of distribution channels.
- (175) Thus, the Kesko group (market share of approximately [20-25%]\*) controls a department store chain, Anttila Oy, a chain of specialised stores, Musta Porssi, and a chain of hypermarkets, City Market. Kesko also owns the distributor brand, Chef, which is active in the small electrical household appliance sector.
- (176) The Stockman group (market share of approximately [15-20%]\*) owns the Hobby Hall mail-order company and the Oy Stockmann department stores.
- (177) Partners (market share of approximately [20-25%]\*) owns the specialised chains Expert and Tekniset.
- (178) Intrade (market share of approximately [0-10%]\*) owns the Prisma hypermarket chain and the Sokos department stores.
- (179) Lastly, Tradeka (market share of approximately [0-5%]\*) owns the Euromarket and Maxi hypermarket chains.
- (180) Of the 10 main sales outlets in Finland, all sectors combined, there are, in terms of turnover, five hypermarkets (four Prisma and one City Market) and five department stores (one Sokos, three Stockmann and one Veljekset Keskinen). The Kesko, Stockman and Intrade groups therefore seem to be unavoidable actors in distribution in Finland.



(181) The Finnish distribution industry is one of the most highly concentrated in Europe. Together, the five leading purchasers account for approximately [70-80%]\* of small electrical household appliance sales in Finland, with the top three alone accounting for [60-70%]\* of sales.

(182) The main distribution organisations are public limited companies owned by cooperatives, with the exception of Stockman, whose shares are held mainly by the public sector. Most distribution companies are both importers and wholesalers. This is especially true of Kesko, Intrade, Stockman and Tradeka.

#### 5.2.2. Relevant market shares

##### 5.2.2.1. Moulinex's sales

(183) Moulinex's sales fell substantially between 2000 and 2002, by at least 50 % in all markets. This was due to a combination of factors: the withdrawal of product lines (barbecues/grills and mini ovens), the interruption of supplies to distributors and the protracted lack of innovation. In the toaster, iron, deep fryer, oven, barbecue/grill, steam cooker and personal care appliance markets, Moulinex's sales were virtually nil in 2002, most often because the items were not listed by distributors. In 2001 SEB stopped marketing barbecues/grills and mini ovens under the Moulinex brand.

##### 5.2.2.2. Competitive potential represented by Moulinex

(184) Although the competition analysis is based on the current market situation, i.e. the situation prevailing at the time of this Decision<sup>54</sup>, it nevertheless takes account of the exceptional fact that, since Moulinex went bankrupt in September 2001, its market shares have fallen sharply in all markets for small electrical household appliances. This Decision accordingly takes into consideration the recovery potential of the Moulinex group's brands. Indeed, the market survey has shown that the image of the Krups and, to a lesser extent, Moulinex brands has hardly suffered in the eyes of the final consumer as a result of the Moulinex group's bankruptcy and that these brands still enjoy a good reputation.

(185) The taking into account of the potential for recovery is, however, subject to two cumulative and interdependent conditions: first, the recovery of market shares by Krups and Moulinex must be sufficiently probable and, second, such a recovery must be a direct result of the merger. In those markets where these two conditions are not met, the losses of market share observed between 2000 and 2002 must be considered structural.

(186) The Commission's investigation has also shown that a recovery of the Moulinex and Krups brands will depend on a number of factors. In addition to a strong brand in a particular market, there will be an absolute need for innovative, good quality products and for substantial in-house investment in advertising and promotion. The results of the investigation show, therefore, that the recovery of the Moulinex and Krups brands depends not only on their increased worth stemming from the merger but also on the innovative, commercial (in terms of advertising and promotional back-up) and financial capacity of the new owner. The recovery potential to be taken

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<sup>54</sup> See footnote 39.

into account is therefore reduced by the impact of these other factors, which have no direct causal link with the present merger.

- (187) This recovery potential must also be assessed over a reasonable period. This may be taken as being the lifetime of the products, which is approximately three years. In 2004/2005, almost the entire range of Moulinex and Krups products will be renewed. The brand's image will be determined more by recent and future investments than by the way it was perceived before the bankruptcy. In this connection, the Commission has already noted that, in most markets, sales of Moulinex products did not increase substantially in the first half of 2003 compared with 2002.
- (188) Moreover, the likelihood of a total recovery of market shares is considerably reduced in the following four eventualities: (a) the cessation of marketing of Moulinex/Krups products; (b) their withdrawal from certain market segments; (c) the occupation of lost positions by strong competitors; and (d) the poor notoriety of the Moulinex and Krups brands in certain markets
- (189) Once the marketing of products under the Moulinex and Krups brands ceased, a reconquest of their 2000 market shares became unlikely. This is due to the fact that the brands would have to re-enter the markets they had exited and would therefore have to regain the trust of consumers and distributors in order to be listed. The longer the absence, the harder it will be to regain that trust.
- (190) A similar situation arises where the brands have abandoned market segments or quartiles where they were particularly strong in 2000. The likelihood of a successful return to these segments is small in those instances where Moulinex's presence was economically unviable owing to a selling price that was below cost. In the event of a migration of these products to more expensive segments, it will no longer be a question of reconquering earlier positions but instead of a strategy of repositioning in segments where the acquired brand did not necessarily have any significant value prior to the merger.
- (191) The reconquest of a large part of the lost market shares is also unlikely where these lost positions have been occupied by strong competitors who hold all the keys to success in the small electrical household appliance market, namely well-known brands, innovative and promotional strength and access to distributors. It is therefore unlikely that these competitors are going to abandon their positions to Moulinex.
- (192) Lastly, a reconquest of lost positions is unlikely in those markets where the Moulinex and Krups brands are not considered must-have brands by the distributors surveyed. In these cases, brand image does not embody a particular competence or quality and therefore does not confer any comparative advantage over competing brands. There is therefore no incentive for distributors to list Moulinex and Krups for the products in question.

#### 5.2.2.3. Market shares

- (193) According to data furnished by SEB, the new entity's market shares were as follows in 2000 and 2002:

Products		SIZE	SEB	Moulinex	Combined	Main competitor
Toaster	2000	[...]*	[20-25%]*	[30-35%]*	[50-60%]*	Philips [25-30%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Philips [25-30%]*
Espresso machines	2000	[...]*	[0-5%]*	[45-50%]*	[40-50%]*	De' Longhi [5-10%]*
	2002	[...]*	[0-5%]*	[15-20%]*	[10-20%]*	De' Longhi [10-15%]*
Kettles	2000	[...]*	[15-20%]*	[15-20%]*	[30-40%]*	Philips [20-25%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[10-20%]*	Philips [25-30%]*
Mini ovens	2000	[...]*	[0-5%]*	[40-45%]*	[40-50%]*	Philips [5-10%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Rommelsbacher [20-25%]*
Barbecues/grills	2000	[...]*	[40-45%]*	[0-5%]*	[40-50%]*	Philips [5-10%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Nordica [10-15%]*
Food preparation appliances	2000	[...]*	[0-5%]*	[35-40%]*	[30-40%]*	Philips [15-20%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Philips [15-20%]*
Irons	2000	[...]*	[15-20%]*	[10-15%]*	[30-40%]*	Philips [30-35%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Philips [40-45%]*
Deep fryers	2000	[...]*	[5-10%]*	[10-15%]*	[20-30%]*	De' Longhi [0-5%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Nordica [15-20%]*
Filter coffee makers	2000	[...]*	[5-10%]*	[20-25%]*	[20-30%]*	Braun [15-20%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Braun [15-20%]*
Sandwich makers	2000	[...]*	[5-10%]*	[20-25%]*	[20-30%]*	Philips [10-15%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Severin [25-30%]*
Informal meal appliances	2000	[...]*	[10-15%]*	[5-10%]*	[20-30%]*	Philips [5-10%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Wilfa [25-30%]*
Steam cookers	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Philips [20-25%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Philips [20-25%]*
Personal care appliances	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Philips [35-40%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Philips [35-40%]*

(194) The market survey conducted by the Commission established the sales of the main players in the small electrical household appliance markets in Finland; the market shares these figures give are set out below<sup>55</sup>. The remainder of this Decision is based exclusively on the market shares derived from the Commission's survey.

Products		SEB	Moulinex	Combined	Competitor
Toasters	2000	[15-20%]	[20-25%]	[35-40%]	Philips [35-40%]
	2002	[5-10%]	[0-5%]	[5-10%]	Philips [25-30%]
Espresso machines	2000	[0-5%]	[45-50%]	[45-50%]	Philips [5-10%]
	2002	[0-5%]	[20-25%]	[20-25%]	De' Longhi [15-20%]
Kettles	2000	[15-20%]	[15-20%]	[30-35%]	Philips [15-20%]
	2002	[25-30%]	[5-10%]	[30-35%]	Philips [20-25%]
Ovens	2000	[0-5%]	[30-35%]	[35-40%]	Severin [30-35%]
	2002	[5-10%]	[5-10%]	[5-10%]	Severin [50-55%]

<sup>55</sup> The respondents to the survey were Philips, Braun, De'Longhi, AEG, Severin and Bosch. The figures relating to the other competitors have been taken from SEB's estimates.

Products		SEB	Moulinex	Combined	Competitor
Barbecues/grills	2000	[35-40]%	[0-5]%	[40-45]%	Severin [15-20]%
	2002	[15-20]%	[0-5]%	[15-20]%	Severin [15-20]%
Food preparation appliances	2000	[0-5]%	[35-40]%	[35-40]%	Philips [20-25]%
	2002	[0-5]%	[10-15]%	[10-15]%	Philips [20-25]%
Irons	2000	[10-15]%	[10-15]%	[25-30]%	Philips [25-30]%
	2002	[15-20]%	[0-5]%	[15-20]%	Braun [25-30]%
Deep fryers	2000	[0-5]%	[15-20]%	[20-25]%	Philips [0-5]%
	2002	[10-15]%	[0-5]%	[15-20]%	OBH-Nordica [20-25]%
Filter coffee makers	2000	[0-5]%	[15-20]%	[20-25]%	AEG [35-40]%
	2002	[0-5]%	[0-5]%	[5-10]%	AEG [45-50]%
Sandwich makers	2000	[5-10]%	[20-25]%	[25-30]%	Philips [10-15]%
	2002	[0-5]%	[0-5]%	[5-10]%	Philips [10-15]%
Informal meal appliances	2000	[5-10]%	[5-10]%	[15-20]%	Severin [25-30]%
	2002	[5-10]%	[0-5]%	[5-10]%	Severin [25-30]
Steam cookers	2000	[0-5]%	[0-5]%	[0-5]%	Braun [15-20]%
	2002	[0-5]%	[0-5]%	[0-5]%	Braun [15-20]%
Personal care appliances	2000	[0-5]%	[0-5]%	[0-5]%	Philips [30-35]%
	2002	[0-5]%	[0-5]%	[0-5]%	Philips [35-40]%

### 5.2.3. Absence of horizontal effects

5.2.3.1. Markets in which the new entity was market leader neither in 2000 nor in 2002 or held market shares of less than 25% (irons, steam cookers, toasters, filter coffee makers, informal meal appliances and personal care appliances)

(195) According to information furnished by SEB and its competitors, in 2000 and 2002 the new entity held lower market shares than at least one of its competitors in the iron, steam cooker, toaster, filter coffee maker, informal meal appliance and personal care appliance markets, which rules out any creation of a dominant position for SEB.

(196) In the iron market, in 2000 and 2002 the new entity held market shares of [25-30]% and [15-20]% respectively. The market leader in 2000 was Philips, which held market shares of [25-30]% in 2000 and [20-25]% in 2002. Braun, for its part, was market leader in 2002 and held market shares of [20-25]% in 2000 and [25-30]% in 2002.

(197) In the steam cooker market, in 2000 and 2002 the new entity held market shares of [0-5]% and [0-5]% respectively. The market leader was Braun, which in 2000 and 2002 held market shares of [15-20]%.

(198) In the personal care appliance market, in 2000 and 2002 the new entity held market shares of [0-5]% and [0-5]% respectively. The market leader was Philips, which held market shares of [30-35]% in 2000 and [35-40]% in 2002.

(199) In the light of information furnished by competitors, it would appear that SEB has miscalculated the value of its competitors' sales and that in 2000 and 2002 the new

entity actually achieved fewer sales than at least one of them in the toaster, filter coffee maker and informal meal appliance markets. Any creation by the new entity of a dominant position is therefore ruled out in these three markets.

- (200) In the toaster market, SEB estimates that in 2000 the new entity was market leader with a market share of [50-55%]\*, ahead of Philips ([20-30%]\* of sales). Information furnished by Philips during Phase II of the investigation shows, however, that, both in 2000 and in 2002, Philips achieved higher sales than the new entity. According to information furnished by competitors, it would appear that in 2000 and 2002 the new entity held market shares of [35-40]% and [5-10]% respectively. The market leader was Philips, which held market shares of [35-40]% in 2000 and [25-30]% in 2002.
- (201) In the filter coffee maker market, SEB estimates that in 2000 the new entity was market leader with a market share of [25-30%]\*, ahead of Braun ([15-25%]\* of sales). Information furnished by AEG during Phase II of the investigation shows, however, that, both in 2000 and in 2002, AEG achieved higher sales than the new entity. According to information furnished by competitors, it would appear that in 2000 and 2002 the new entity held market shares of [20-25]% and [5-10]% respectively. The market leader was AEG, which held market shares of [30-35]% in 2000 and [45-50]% in 2002.
- (202) In the informal meal appliance market, SEB estimates that in 2000 the new entity was market leader with a market share of [20-25%]\*, ahead of Philips ([15-15%]\* of sales). Information furnished by Severin during Phase II of the investigation shows, however, that, both in 2000 and in 2002, Severin achieved higher sales than the new entity. According to information furnished by competitors, it would appear that in 2000 and 2002 the new entity held market shares of [15-20]% and [5-10]% respectively. The market leader was Severin, which in 2000 and 2002 held market shares of [25-30]%.
- (203) Any creation or strengthening of a dominant position is therefore ruled out on the iron, steam cooker, toaster, filter coffee maker, informal meal appliance and personal care appliance markets in Finland.
- (204) In the deep fryer market, the new entity was the leading operator in 2000, but with a market share of only [20-25]%. Its position worsened in 2002 and its market shares did not exceed [15-20]%. This resulted in its losing its status of leading operator, which henceforth devolved upon the OBH/Nordica group, immediately followed by Rommelsbacher with [15-20]%.
- (205) In contrast to Nordica, Moulinex is not cited by any distributor as being a must-have brand. The Commission considers, therefore, that the fall in Moulinex's sales is structural and that it is highly unlikely that it will be able to recover its lost market shares.
- (206) It is therefore out of the question that the merger will lead to the creation of a dominant position in any of the six markets discussed above.

5.2.3.2. Markets where the operation will not produce a significant addition of market shares (espresso)

machines, barbecues/grills and food preparation appliances)

- (207) In each of these markets, the addition of market shares has always been lower than 2% - a level beneath the *de minimis* threshold - which, in view of the lack of any non-horizontal effects, rules out any creation or strengthening of a dominant position.
- (208) In the espresso machine market, SEB's sales have always been lower than 1%, and Moulinex's came to [45-50]% in 2000 and [20-25]% in 2002. De'Longhi and AEG saw their market shares increase significantly between 2000 and 2002 (De'Longhi: [0-5]% in 2000 and [15-25]% in 2002; AEG: [0-5]% in 2000 and [10-15]% in 2002).
- (209) In the barbecue/grill market, Moulinex's sales have always been lower than 2%, and SEB lost market shares between 2000 and 2002 (down from [35-40]% in 2000 to [15-20]% in 2002). Severin, Nordica and Chef have been the main beneficiaries of these losses. In 2002 Severin accounted for [15-20]% of sales and Nordica and Chef each accounted for [10-15]%. Moulinex has discontinued its activities in the mini oven market, where the leader is now Severin, and in the market for barbecues and grills, where the leader is again Severin. The Commission considers, therefore, that the fall in Moulinex's sales is structural and that it is highly unlikely that it will be able to recover its lost market shares.
- (210) In the food preparation appliance market, SEB's sales have always been lower than 1% and those of Moulinex came to [35-40]% in 2000 and [10-15]% in 2002. Philips and Braun have significant market shares (Philips: [20-25]% in 2000 and 2002; AEG: [15-20]% in 2000 and [20-25]% in 2002). If this market were to be segmented according to type of food preparation appliance, the new entity would hold market shares of less than 25% whatever the segment.
- (211) Only the Braun and Philips brands are cited by distributors as being must-haves. The Commission considers, therefore, that the fall in Moulinex's sales is structural and that it is unlikely that it will be able to recover its lost market shares.
- (212) The combination of SEB and Moulinex will therefore not substantially modify the structure of competition in the espresso machine, barbecue/grill and food preparation appliance markets in Finland. The merger does not therefore lead to the creation or strengthening of a dominant position in these markets.

5.2.3.3. Markets where the transaction will produce a significant addition of activities (mini ovens, kettles, sandwich/waffle makers)

#### Mini ovens

- (213) The market shares are shown in the following table:

Market shares	Mini ovens	
	2000	2002
<b>SEB</b>	[0-5]%	[5-10]%
<b>MOULINEX</b>	[30-35]%	0%
<b>TOTAL PARTIES</b>	<b>[35-40]%</b>	<b>[5-10]%</b>

<b>Severin</b>	[30-35]%	[50-55]%
<b>De' Longhi</b>	[0-5]%	[0-5]%

- (214) In the mini-oven market, before the merger Moulinex was the market leader, followed by Severin and De'Longhi.
- (215) After the merger, the new entity was the market leader with a market share very close to that of its nearest competitor, Severin, even though the market share additions were not significant (less than 1% for SEB).
- (216) In 2002, Moulinex suffered substantial losses of market share. SEB (up from [0-5]% to [5-10]%) and especially Severin (up from [30-35]% to [50-55]%) were the main beneficiaries from Moulinex's difficulties. The new entity was therefore no longer the market leader in 2002 and Moulinex no longer has a presence in the mini oven market. Moulinex was cited as a must-have brand by one of its competitors but by no distributors, who generally consider that there are no must-have brands in this market and that there is therefore considerable substitutability between brands. Severin, for its part, is cited as a must-have brand by one distributor.
- (217) In view of Moulinex's exit from the market, the fact that there is no must-have brand in this market and the fact that the market share losses have essentially benefited the second-largest operator in the market, it is highly unlikely that the new entity will be able to recover its 2000 market share. If that were to happen, such a return to a position of strength would be largely dependent on the merits of the new products and on SEB's marketing policy and therefore cannot be attributable to the notified merger operation. Such a scenario can, moreover, be ruled out inasmuch as, between 2000 and 2002, SEB did not succeed in recovering all of the market shares of Moulinex essentially won by Severin, the only brand cited as being a must-have by distributors.
- (218) The notified merger operation is therefore not likely to create or strengthen a dominant position in the mini oven market in Finland.

#### Kettles

- (219) The market shares are shown in the following table:

Market shares	Kettles	
	2000	2002
<b>SEB</b>	[15-20]%	[25-30]%
<b>MOULINEX</b>	[15-20]%	[5-10]%
<b>TOTAL PARTIES</b>	<b>[30-35]%</b>	<b>[30-35]%</b>
<b>Philips</b>	[15-20]%	[20-25]%
<b>Braun</b>	[5-10]%	[5-10]%
<b>Severin</b>	[5-10]	[5-10]%
<b>Bosch</b>	[0-5]%	[0-5]%
<b>De' Longhi</b>	[0-5]%	[0-5]%

- (220) In the kettle market, before the merger Philips was the market leader, closely followed by Moulinex and SEB.
- (221) After the merger, the new entity was the market leader with a market share less than twice the size of that of its closest competitor. On the basis of the sales figures for 2002, the competitive pressure from Philips rules out any creation or strengthening of a dominant position in this market.
- (222) It remains to be determined whether Moulinex can recover all or part of its lost sales. In 2002, Moulinex incurred large losses of market share which benefited SEB (up from [15-20]% to [25-30]%) and Philips (up from [15-20]% to [20-25]%). Moulinex was cited as a must-have brand by one of its competitors (not present in this market), but by no distributors, who, on the contrary, cited Philips, SEB, Severin and Braun as must-have brands, Philips being the brand most often cited. The competitive situation therefore did not change substantially in 2002. The new entity remains the market leader with a share of [30-35]%, followed by Philips ([20-25]%), which remains the brand most often cited as a must-have brand in this market. In view of the fact that the market shares lost by Moulinex have been recovered by two highly reputable international brands, the possibility that Moulinex might be able to recover its market shares seems to be ruled out. At all events, even if the opposite were true, the effects of such a recovery would be limited by the fact that it would be partly to the detriment of the Tefal brand and hence of the new entity as a whole. The notified merger operation is therefore not likely to create or strengthen a dominant position in the kettle market in Finland.

#### Sandwich/waffle makers

- (223) The market shares are shown in the following table:

Market shares	Sandwich/waffle makers	
	2000	2002
<b>SEB</b>	[5-10]%	[0-5]%
<b>MOULINEX</b>	[20-25]%	[0-5]%
<b>TOTAL PARTIES</b>	<b>[25-30]%</b>	<b>[5-10]%</b>
<b>Philips</b>	[10-15]%	[10-15]%
<b>Bosch</b>	[0-5]	[0-5]%
<b>Severin</b>	[0-5]	[0-5]%
<b>Chef (Kesko)</b>		[5-10]%

- (224) In the sandwich/waffle maker market, before the merger Moulinex was the market leader, followed by Philips.
- (225) After the merger, the new entity was the market leader in 2000 with a market share twice as large as that of its closest competitor.
- (226) In 2002, SEB and Moulinex incurred large losses of sales which benefited, among others, the distributor brand, Chef.



(227) The possibility of a recovery by Moulinex of all its market shares is remote inasmuch as international brands, must-haves to boot<sup>56</sup>, are present in this market and hence constitute a sufficient counterweight. At all events, even if Moulinex were to recover positions close to those of 2000, the new entity would not be in a dominant position owing to the considerable weakening of SEB's brands and an overall position in that case of less than 25%.

#### 5.2.4. *Absence of non-horizontal effects*

(228) The analysis of the competitive position of the new entity must take account, not only of the strictly horizontal effects, but also of the portfolio of brands held by it and of the fact that it holds substantial market shares in many of the product markets concerned.

#### Portfolio of brands

(229) The operators present in the small electrical household appliance market seem to have two development strategies in relation to brands. Some, like the parties, have a multibrand strategy. The operators in question are BSH, with Bosch and Siemens, and De'Longhi, with Kenwood and De'Longhi. Others, by contrast, have opted for single-brand development, e.g. Philips and Braun or AEG.

(230) A broad portfolio is generally perceived as enabling producers to cater better for consumers' needs. However, such a strategy is more costly as it means having several advertising and promotion budgets and risks diluting the value of certain brands.

(231) The review of the Finnish situation has not made it possible to determine whether the strategy of holding a portfolio of brands confers a decisive competitive advantage. After all, despite having only one brand, Philips and Braun are the leading operators in the Finnish market. The AEG group, for its part, holds positions equivalent to those of the new entity. Clearly, the holding of a single brand is not a decisive handicap to an operator's development.

(232) Even supposing that the holding of a portfolio of brands constitutes a decisive advantage in the small electrical household appliance sector, which has not been proven by the market survey, the situation of the new entity must be put in perspective. Although the new entity is in a favourable position, that position is not exceptional.

(233) SEB will henceforth hold a portfolio of four brands: Tefal and Rowenta, to which must be added Moulinex and Krups. This portfolio faces competition from those of De'Longhi (Kenwood and De'Longhi) and BSH (Bosch, Siemens). The addition of the Moulinex and Krups brands will not in itself place the entity in an appreciably more favourable position: Moulinex is very rarely cited as being a must-have brand and the notoriety of the Krups brand seems to be limited to the espresso machine market. These brands seem to be altogether unremarkable compared with those of the leading operators in this sector, Philips and Braun.

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<sup>56</sup> Distributors cite Krups twice as a must-have brand. The same applies to Philips. Moulinex, Severin and Nordica are, for their part, cited once. Moulinex is cited as a must-have brand by none of its competitors.

### Strong positions in several markets

(234) As regards the cumulative effect of strong positions in several markets, the Commission's investigation has shown that the new entity is not of strategic importance when it comes to distributors' purchasing decisions and that its strong positions do not differ in number and size from those of its main competitors.

- SEB's position in distributors' purchases

(235) SEB/Moulinex is not of strategic importance when it comes to the purchases effected by distributors, as was confirmed by the latter at the time of the market survey. Distributors and consumers can turn to a number of competitors such as Philips, Braun and AEG, who propose a wide range of alternatives and well-known brands.

(236) Two groups, Braun and Philips, achieve a comparable, or even larger, turnover than SEB in Finland. Of these two groups, Philips has the broader range inasmuch as it is present in nine of the 13 markets concerned (being absent only from the markets for mini ovens, informal meal appliances and steam cookers, which together account for only a small proportion of the Finnish market). Braun's strategy, on the other hand, is to concentrate on a small number of markets in which as a rule it holds relatively strong positions. Braun is thus present in six of the 13 markets concerned in Finland (irons, kettles, filter coffee makers, steam cookers, food preparation appliances and personal care appliances). Braun is one of the foremost operators in the markets for food preparation appliances and personal care appliances.

(237) AEG is another competitor with a strong presence in the Finnish small electrical household appliance market. The group holds less than 10% of the small electrical household appliance market and is active in five of the 13 markets concerned.

- Possible positions of strength

(238) The adding together of SEB and the Moulinex assets it has acquired could produce non-horizontal effects that damaged competition if the combined entity had positions of strength in some markets that it could extend to a situation of dominance in other markets. In order for these two cumulative conditions to be met, the parties would therefore have to hold a position of strength, either resulting from the merger or pre-existing, in a sufficiently important market for them to be able to extend that position to other markets.

(239) SEB was in a position of pre-eminence in no small electrical household appliance market in Finland in 2002. But even if the opposite were the case, there is no product category in which SEB might use its position to promote its sales in other product categories. The size of the markets where SEB does hold strong positions is marginal, and in each market of significant size distributors can obtain alternatives to the new entity's products from its main competitors, Philips, Braun and AEG, as well as from Severin and De'Longhi.

(240) In 2000, the new entity was the leading operator in a number of small electrical household appliance product categories (espresso machines, kettles, ovens, barbecues/grills, food preparation appliances, deep fryers and sandwich/waffle makers).

(241) In 2002, SEB and Moulinex were the leading operators in two product categories (espresso machines and kettles) accounting for [5-15%]\* of the small electrical household appliance market. Philips was the leading operator in four product markets (toasters, food preparation appliances, sandwich/waffle makers and personal care appliances) accounting for [60-65%]\* of the small electrical household appliance market. Severin was leader in three product markets (ovens, barbecues/grills and informal meal appliances), accounting for [0-5%]\* of the small electrical household appliance market. Braun was leader in two product markets (irons and steam cookers) accounting for [5-10%]\* of the small electrical household appliance market. A further two operators were leaders in one product market: AEG with filter coffee makers ([15-20%]\* of the small electrical household appliance market) and OBH/Nordica with deep fryers ([0-5%]\* of the small electrical household appliance market). It can therefore be concluded that in Finland the supply side of the small electrical household appliance market is fragmented, with no one operator holding strong positions in more than four product markets.

(242) If Moulinex were to recover its competitive potential in certain markets, which seems unlikely, the new entity would hypothetically be leader in three categories of product (espresso machines and kettles, where it was still leader in 2002, and, possibly, sandwich/waffle makers if Moulinex were to recover its lost market shares). These three product categories account for [10-15%]\* of the small electrical household appliance market. Philips would remain leader (with market shares in excess of [15-25%]\*) in three product markets (toasters, food preparation appliances and personal care appliances) accounting for [55-60%]\* of the small electrical household appliance market. The importance of the markets where Philips is in the position of leader is therefore much greater than that of the markets where the new entity is, or is even potentially, the leader.

(243) The ranges of Philips, Braun or even AEG and Severin are such that they systematically offer distributors alternatives to the products of SEB and Moulinex. In particular, in each of the markets which account for more than 5% of the small electrical household appliance market (kettles, food preparation appliances, irons, filter coffee makers and personal care appliances), SEB and Moulinex are leaders (or potential leaders) in only one market (kettles, with [30-35]%), and their closest competitor holds a market share in excess of 20%. These competitors have, moreover, must-have brands.

(244) To conclude, there is therefore no risk of the creation or strengthening of a dominant position through non-horizontal effects.

#### 5.2.5. *Conclusion concerning the Finnish markets*

(245) In the light of the above, the notified operation is not likely to create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the various markets for small electrical household appliances in Finland.

### **5.3. Italy**

(246) In the authorising decision, it was stated that in 2000 the notified transaction resulted in large shares of three product markets in Italy: kettles, food preparation appliances and informal meal appliances. According to the judgment of the CFI

(paragraph 401), the Commission's reasoning did not overcome the serious doubts regarding the markets for kettles and informal meal appliances.

### 5.3.1. *Structure of supply and demand*

#### 5.3.1.1. Supply

- (247) The SEB group does business in Italy under the Rowenta and Tefal brands; it has an overall share of more than [5-15%]\* of the markets for small electrical household appliances. It has a presence in all of these markets, although it is not strong in the markets for food preparation appliances and espresso machines. Rowenta tends to be positioned more towards the top of the range than Tefal is. With the exception of espresso machines, food preparation appliances and personal care appliances, SEB's brands are cited by distributors as must-have brands very often<sup>57</sup>.
- (248) Moulinex does business in Italy essentially under the Moulinex brand, and holds an overall share of close to [5-15%]\* of the markets for small electrical household appliances. Moulinex is present in all markets for small electrical household appliances, and in particular the market for food preparation appliances, which accounts for more than half of its sales<sup>58</sup>. Its presence in the markets for irons, barbecues/grills and personal care appliances is limited. Moulinex is a generalist brand often positioned at the bottom or middle of the range, whereas Krups is a top-of-the-range brand.
- (249) In Italy the SEB/Moulinex group faces competition from three major international groups, De'Longhi, Braun and Philips, and to a lesser extent from BSH.
- (250) The De'Longhi group, which holds the brand names De'Longhi, Kenwood, Ariete, Simac and Supercalor, is the biggest supplier of kitchenware, with about a quarter of all sales in Italy. Although De'Longhi does not operate in the market for personal care appliances, it has a strong presence in the market for microwave ovens and in that, related to the market for small electrical household appliances, for air conditioners. The Kenwood and De'Longhi brands are present in the middle and top of the range in the majority of product categories. The other brands are used only in certain categories of product. Ariete is positioned at entry level, unlike Simac, which is positioned in the middle or even at the top of the range. Supercalor follows a niche strategy. For most of the product categories in which it is present De'Longhi is named

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<sup>57</sup> For deep fryers, Tefal is cited 9 times out of 16; for tabletop ovens, Tefal is cited 5 times out of 16; for toasters, Tefal is cited 3 times and Rowenta likewise 3 times out of 11; for sandwich and waffle makers, Tefal is cited 4 times and Rowenta 6 out of 9; for informal meal appliances, Tefal is cited 9 times out of 10; for barbecues and grills, Tefal is cited 11 times and Rowenta twice out of 12; for steam cookers, Tefal is cited 4 times out of 6; for filter coffee makers, Tefal is cited twice and Rowenta 4 times out of 10; for kettles, Tefal is cited 8 times and Rowenta 3 out of 10; and for irons, Tefal is cited 6 times and Rowenta 16 times out of 16.

<sup>58</sup> For food preparation appliances, Moulinex is cited as a must-have brand 12 times out of 15. For deep fryers it is cited 5 times out of 15, and for electric filter coffee makers 5 times out of 10.

by distributors as a must-have brand very often<sup>59</sup>. The group's other brands are cited far less frequently.

- (251) Braun operates in Italy only under the Braun brand name, which is positioned mid-range to top-of-the-range, and holds a share of about [5-15%]\* of the Italian markets for small electrical household appliances. It has significant positions in the markets for steam cookers, food preparation appliances, filter coffee makers and personal care appliances. In each of these markets Braun is cited as a must-have brand very often<sup>60</sup>.
- (252) Philips is also present in Italy, under the sole brand name Philips, which is generally positioned around the middle of the range and accounts for about [5-15%]\* of the Italian market for small electrical household appliances. It has significant positions in the markets for kettles, food preparation appliances, irons, toasters and personal care appliances. It is present to a lesser extent in the markets for sandwich and waffle makers, deep fryers, filter coffee makers, espresso machines, mini ovens and barbecues /grills. In each of these markets Philips is cited as a must-have brand very often<sup>61</sup>.
- (253) BSH uses the brand names Bosch and Siemens in Italy, where it sells deep fryers, toasters, filter coffee makers, espresso machines, kettles, food preparation appliances, irons and personal care appliances. But its positions on all of these markets are only marginal, usually below 5%, and its brands are never cited as must-haves. BSH is therefore a minor competitor in the Italian markets for small electrical household appliances.
- (254) The SEB/Moulinex group also has one main domestic competitor, Imetec, and a large number of smaller domestic competitors who sometimes hold substantial shares of a particular market.
- (255) Under its own Imetec brand, Imetec is present in the markets for toasters, sandwich and waffle makers, electric barbecues, food preparation appliances, irons, personal care appliances and kettles. It is generally positioned at entry level and in the middle of the range. Imetec has about 5% of the market for food preparation appliances, and between 10 and 20% of the markets for sandwich and waffle makers, toasters and irons. In these three markets Imetec is cited as a must-have brand very often<sup>62</sup>.

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<sup>59</sup> For deep fryers, De'Longhi is cited 15 times out of 16, for mini ovens 17 times out of 17, for toasters 6 times out of 10, and for electric barbecues and grills 11 out of 12.

<sup>60</sup> For steam cookers Braun is cited 4 times out of 4, for food preparation appliances 12 times out of 15, for coffee makers 7 times out of 9, and for personal care appliances 16 times out of 18.

<sup>61</sup> For kettles Philips is cited 4 times out of 8, for food preparation appliances 10 times out of 15, for irons 11 times out of 16, for toasters 8 times out of 10, and for personal care appliances 17 times out of 18.

<sup>62</sup> For sandwich and waffle makers Imetec is cited 5 times out of 16, for toasters 7 times out of 10, and for irons 12 times out of 16.

- (256) There are several domestic competitors that concentrate on one main market: Polti has between 15 and 20% of the market for irons, and Saeco has more than 70% of the market for espresso machines.
- (257) There are a large number of other domestic brands, such as Termozeta and Girmi, which sometimes hold significant positions of between 5 and 10% of particular markets.
- (258) Distributors such as Carrefour, Finiper, Coop and Metro are developing their own brands, which they intend to use for the whole range of small electrical household appliances in the next few years.
- (259) Lastly, it should be noted that several significant new entrants have appeared in the Italian market in recent years: Kenwood with the help of De'Longhi, Princess and Severin with the help of their parent companies, and Girmi and Termozeta without outside assistance.

#### 5.3.1.2. Demand

- (260) Almost two thirds of the distribution of small electrical household appliances in Italy takes place via large chains, purchasing groups, and specialised dealers. SEB's 10 biggest customers account for [65-70%]\* of its sales, and its five biggest customers account for [40-45%]\*. These figures have been confirmed by the market survey carried out by the Commission among the parties' main competitors, whose customer breakdown is similar.
- (261) The concentration of distribution is illustrated by the market share held by the main distributors of small electrical household appliances in Italy: Expert holds about [5-15%]\* of the market, Elite [5-10%]\*, and Auchan, Carrefour, Ires, Unieuro, Mediamarket, Mercatone Uno, Metro, Finiper and Conforama hold between 2 and 5% each. Thus the structure of demand is comparable to that of supply, though the degree of concentration is lower.
- (262) For most of these distributors small electrical household appliances account for between 1 and 10% of sales. They state that the contracts governing the general terms of purchase are negotiated on an annual basis. But product listings are negotiated much more often, in order to launch new products or to take underperforming products off the shelves.
- (263) Overall, demand in the Italian markets for small electrical household appliances is comparable to that of supply, but it is less concentrated. It is constrained by the existence of must-have brands. But the dependence of the demand side on manufacturers is low, there has been substantial market entry by new brands over the last few years, and distributors are gradually developing their own brands; all of which means that negotiating power is not significantly to the disadvantage of demand.
- (264) Since the demand side is not fragmented, distributors have a degree of negotiating power. It is clear from the market survey that this negotiating power acts as a constraint on the prices charged by producers of small electrical household appliances. According to their replies, Italian distributors agree only to moderate price increases, which they then try to pass on to the final consumer. Any relative

increase in the selling price makes consumers turn towards products whose price has not gone up. If distributors notice a fall in sales, their likely reaction is to seek to renegotiate the terms of sale or to limit their purchases. Thus, the foreseeable reaction of distributors and consumers considerably restricts the scope for producers to increase prices.

### 5.3.2. *Relevant market shares*

#### 5.3.2.1. Moulinex's sales

(265) Moulinex's sales fell substantially between 2000 and 2002, by at least 30% in all markets. In most markets the fall was over 50%. This was due to a combination of factors: the withdrawal of product lines, the interruption of supplies to distributors and the protracted lack of innovation. In the markets for steam cookers, barbecues and grills, tabletop ovens and deep fryers, sales were close to zero in 2002, most often because the items were not listed by distributors.

#### 5.3.2.2. Competitive potential represented by Moulinex

(266) Although the competition analysis is based on the current market situation, i.e. the situation prevailing at the time of this Decision<sup>63</sup>, it nevertheless takes account of the exceptional fact that, since Moulinex went bankrupt in September 2001, its market shares have fallen sharply in all markets for small electrical household appliances. This Decision accordingly takes into consideration the recovery potential of the Moulinex group's brands. Indeed, the market survey has shown that the image of the Krups and, to a lesser extent, Moulinex brands has hardly suffered in the eyes of the final consumer as a result of the Moulinex group's bankruptcy and that these brands still enjoy a good reputation.

(267) The taking into account of the potential for recovery is, however, subject to two cumulative and interdependent conditions: first, the recovery of market shares by Krups and Moulinex must be sufficiently probable and, second, such a recovery must be a direct result of the merger. In those markets where these two conditions are not met, the losses of market share observed between 2000 and 2002 must be considered structural.

(268) The Commission's investigation has also shown that a recovery of the Moulinex and Krups brands will depend on a number of factors. In addition to a strong brand in a particular market, there will be an absolute need for innovative, good quality products and for substantial in-house investment in advertising and promotion. The results of the investigation show, therefore, that the recovery of the Moulinex and Krups brands depends not only on their increased worth stemming from the merger but also on the innovative, commercial (in terms of advertising and promotional back-up) and financial capacity of the new owner. The recovery potential to be taken into account is therefore reduced by the impact of these other factors, which have no direct causal link with the present merger.

(269) This recovery potential must also be assessed over a reasonable period. This may be taken as being the lifetime of the products, which is approximately three years. In

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<sup>63</sup> See footnote 39.

2004/2005, almost the entire range of Moulinex and Krups products will be renewed. The brand's image will be determined more by recent and future investments than by the way it was perceived before the bankruptcy. In this connection, the Commission has already noted that, in most markets, sales of Moulinex products did not increase substantially in the first half of 2003 compared with 2002.

(270) Moreover, the likelihood of a total recovery of market shares is considerably reduced in the following four eventualities: (a) the cessation of marketing of Moulinex/Krups products; (b) their withdrawal from certain market segments; (c) the occupation of lost positions by strong competitors; (d) the poor notoriety of the Moulinex and Krups brands in certain markets.

(271) Once the marketing of products under the Moulinex and Krups brands ceased, a reconquest of their 2000 market shares became unlikely. This is due to the fact that the brands would have to re-enter the markets they had exited and would therefore have to regain the trust of consumers and distributors in order to be listed. The longer the absence, the harder it will be to regain that trust.

(272) A similar situation arises where the brands have abandoned market segments or quartiles where they were particularly strong in 2000. The likelihood of a successful return to these segments is small in those instances where Moulinex's presence was economically unviable owing to a selling price that was below cost. In the event of a migration of these products to more expensive segments, it will no longer be a question of reconquering earlier positions but instead of a strategy of repositioning in segments where the acquired brand did not necessarily have any significant value prior to the merger.

(273) The reconquest of a large part of the lost market shares is also unlikely where these lost positions have been occupied by strong competitors who hold all the keys to success in the small electrical household appliance market, namely well-known brands, innovative and promotional strength and access to distributors. It is therefore unlikely that these competitors are going to abandon their positions to Moulinex.

(274) Lastly, a reconquest of lost positions is unlikely in those markets where the Moulinex and Krups brands are not considered must-have brands by the distributors surveyed. In these cases, brand image does not embody a particular competence or quality and therefore does not confer any comparative advantage over competing brands. There is therefore no incentive for distributors to list Moulinex and Krups for the products in question.

#### 5.3.2.3. Market shares

(275) Below are set out, for reasons of transparency, the estimates produced by SEB and the market shares worked out on the basis of the results of the market survey. The competition analysis is based exclusively on the results of the survey.

(276) According to data supplied by SEB, the new entity's market shares were as follows:

Products		SIZE	SEB	Moulinex	Combined	Main competitor
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Products		SIZE	SEB	Moulinex	Combined	Main competitor
Toasters	2000	[...]*	[5-10%]*	[5-10%]*	[10-20%]*	De' Longhi [20-25%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	De' Longhi [20-25%]*
Espresso machines	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Saeco [65-70%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Saeco [70-75%]*
Kettles	2000	[...]*	[45-50%]*	[20-25%]*	[70-80%]*	De' Longhi [5-10%]*
	2002	[...]*	[20-25%]*	[5-10%]*	[30-40%]*	Braun [15-20%]*
Ovens	2000	[...]*	[5-10%]*	[5-10%]*	[10-20%]*	De' Longhi [60-65%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	De' Longhi [60-65%]*
Barbecues/grills	2000	[...]*	[15-20%]*	[0-5%]*	[20-30%]*	De' Longhi [20-25%]*
	2002	[...]*	[15-20%]*	[0-5%]*	[10-20%]*	De' Longhi [35-40%]*
Food preparation appliances	2000	[...]*	[0-5%]*	[40-45%]*	[40-50%]*	Braun [15-20%]*
	2002	[...]*	[5-10%]*	[20-25%]*	[20-30%]*	Braun [20-25%]*
Irons	2000	[...]*	[20-25%]*	[5-10%]*	[20-30%]*	Polti [10-15%]*
	2002	[...]*	[20-25%]*	[0-5%]*	[20-30%]*	De' Longhi [15-20%]*
Deep fryers	2000	[...]*	[5-10%]*	[10-15%]*	[20-30%]*	De' Longhi [55-60%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	De' Longhi [55-60%]*
Filter coffee makers	2000	[...]*	[5-10%]*	[20-25%]*	[20-30%]*	De' Longhi [20-25%]*
	2002	[...]*	[5-10%]*	[5-10%]*	[10-20%]*	Braun [20-25%]*
Sandwich makers	2000	[...]*	[15-20%]*	[10-15%]*	[30-40%]*	Imetec [25-30%]*
	2002	[...]*	[15-20%]*	[5-10%]*	[20-30%]*	Imetec [20-25%]*
Informal meal appliances	2000	[...]*	[35-40%]*	[5-10%]*	[40-50%]*	Imetec [15-20%]*
	2002	[...]*	[15-20%]*	[0-5%]*	[20-30%]*	Imetec [15-20%]*
Personal care appliances	2000	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Braun [20-25%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Imetec [15-20%]*
Steam cookers	2000	[...]*	[0-5%]*	[10-15%]* <sub>x</sub>	[10-20%]*	De' Longhi [10-15%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	De' Longhi [10-15%]*

(277) The market survey conducted by the Commission established the sales of the main players in the small electrical household appliance markets in Italy; the market shares these figures give are as follows<sup>64</sup>:

Products		SEB	Moulinex	Combined	Main competitor
Toasters	2000	[5-10%]	[5-10%]	[10-20%]	De' Longhi [15-20] %
	2002	[5-10%]	[0-5%]	[5-15%]	De' Longhi [20-25%]
Espresso machines	2000	[0-5%]	[5-10%]	[5-15%]	Saeco [65-70%]
	2002	[0-5%]	[0-5%]	[0-10%]	Saeco [70-75] %
Kettles	2000	[35-40%]	[15-20%]	[50-60%]	Braun [10-15] %
	2002	[20-25] %	[5-10%]	[25-35%]	Braun [15-20%]
Ovens	2000	[5-10%]	[10-15%]	[15-25%]	De' Longhi [55-60] %
	2002	[5-10%]	[0-5%]	[5-15%]	De' Longhi [60-65] %
Barbecues/grills	2000	[20-25%]	[0-5%]	[20-30%]	De' Longhi [15-20] %

<sup>64</sup> The respondents to the survey were De'Longhi, Braun, Philips, Saeco, Polti, Imetec, BSH, CAT, Black & Decker, Girmi, Severin, Clatronic and Termozeta. For those firms that did not respond, the estimates used were supplied by the parties.

Products		SEB	Moulinex	Combined	Main competitor
	2002	[25-30]%	0,0%	[25-30]%	De' Longhi [20-25]%
Food preparation appliances	2000	[0-5]%	[40-45]%	[40-50] %	De' Longhi [10-15] %
	2002	[5-10]%	[20-25]%	[25-35]%	De' Longhi [15-20] %
Irons	2000	[15-20]%	[5-10]%	[20-30]%	De' Longhi [15-20] %
	2002	[15-20]%	[0-5]%	[15-25]%	De' Longhi [15-20]%
Deep fryers	2000	[5-10]%	[15-20]%	[20-30]	De' Longhi [45-50] %
	2002	[10-15]%	[0-5]%	[10-20]	De' Longhi [50-55] %
Filter coffee makers	2000	[10-15]%	[30-35]%	[40-50]%	Braun [10-15] %
	2002	[15-20]%	[15-20]%	[30-40]%	Braun [10-15] %
Sandwich makers	2000	[20-25]%	[35-40]%	[55-65]%	Philips [5-10] %
	2002	[20-25]%	[5-10]%	[25-35]%	Imetec [10-15]%
Informal meal appliances	2000	[40-45]%	[10-15]%	[50-60]%	De' Longhi [5-10]%
	2002	[20-25]%	[5-10]%	[25-35]%	Severin [30-35]%
Personal care appliances	2000	[10-15]%	[0-5]%	[10-15]%	Braun [20-25] %
	2002	[10-15]%	[0-5]%	[10-15]%	Imetec [15-20] %
Steam cookers	2000	[0-5]%	[15-20]%	[15-25]%	Braun [10-15] %
	2002	[35-40]%	[0-5]%	[35-45]%	Girmi [5-10] %

(278) It should be noted that the parties argue that, in the markets for kettles, steam cookers, filter coffee makers, informal meal appliances, irons, and barbecues and grills, their turnover should not include sales through the system of distributors' fidelity cards. Some supermarkets reward customers for fidelity by allowing them to choose certain products from a catalogue. For its 2002 catalogue the Italian distributor Esselunga selected a number of SEB and Moulinex products. But the market survey showed that other manufacturers also sell through these fidelity cards. It cannot be ruled out, therefore, that the process of selection for fidelity catalogues forms part of the ordinary relationship between suppliers and distributors, just as the regular promotion campaigns run by distributors do.

(279) The competition analysis is in fact the same whether or not fidelity catalogue sales are included, and the market shares considered in this Decision are accordingly calculated on the basis of all sales by the manufacturer, including sales for distributors' fidelity catalogues.

### 5.3.3. Absence of horizontal effects

5.3.3.1. Markets where the new entity was not the market leader in 2000 or in 2002, or held market shares of less than 25%: espresso machines, deep fryers, ovens, toasters and personal care appliances

(280) In each of these markets the combined shares of SEB and Moulinex were always below 25%, which means that the transaction would not confer a dominant position on SEB.

(281) In the market for espresso machines, SEB's sales have always been below 1%. SEB is a marginal player in this market, and the combination of SEB and Moulinex will therefore leave the structure of the market for espresso machines unchanged.

- (282) In the market for deep fryers, De'Longhi had sales about twice as big as those of SEB and Moulinex combined in 2000. In 2002 De'Longhi's sales were about four times as big as those of SEB and Moulinex combined.
- (283) In the market for mini ovens, De'Longhi holds [60-65%] of the market. In 2002 Moulinex's sales accounted for less than 1% of the market and those of SEB for [5-10%]. In 2000 Moulinex's sales accounted for [10-15%] of the market. Even if Moulinex were to recover its full competitive capacity, SEB and Moulinex combined would account for less than 25% of sales.
- (284) In the market for toasters, De'Longhi held [20-25]% of the market in 2002, SEB [5-10]%, Philips [5-10]%, Imetec [5-10]%, Termozeta [5-10]% and Moulinex [0-5]%. In 2000 Moulinex held a share of [5-10]%.
- (285) In the market for personal care appliances, Moulinex has always been a marginal player, with less than 1% of the market, and its acquisition by SEB will not alter the structure of competition. SEB was not the market leader in either 2000 or 2002.
- (286) The present merger is not likely to create or strengthen a dominant position in any of these markets.

5.3.3.2. Markets where the operation will produce a significant addition of activities: kettles, informal meal appliances, sandwich and waffle makers, steam cookers, food preparation appliances, irons and ironing stations, filter coffee makers, and barbecues and grills

#### Kettles

(287) The market shares are shown in the following table:

Market shares	Kettles	
	2000	2002
<b>SEB</b>	[35-40]%	[20-25]%
<b>Moulinex</b>	[15-20]%	[5-10]%
<b>TOTAL</b>	<b>[50-60]%</b>	<b>[25-35]%</b>
<b>Braun</b>	[10-15]%	[15-20]%
<b>Philips</b>	[10-15]%	[10-15]%
<b>Severin</b>	[5-10]%	[10-15]%
<b>De' Longhi</b>	[0-5]%	[5-10]%
<b>BSH</b>	[0-5]%	[0-5]%

(288) Before the merger, SEB was the market leader, and was in competition with Moulinex, Philips and Braun, whose shares were about one third of its own. Matters have changed considerably since then: SEB's and Moulinex's sales fell by half between 2000 and 2002, with gains for competitors such as Braun, Severin, De'Longhi and Bosch, who strengthened their positions, but also for several small competitors such as Bomann, Clatronic and Velox<sup>65</sup>, who all entered the market at

<sup>65</sup> Bomann, Clatronic and Velox all had shares of less than 5% in 2002, and were absent in 2000.

this time. As a must-have brand Tefal is cited eight times, well ahead of Philips at four, Braun and Rowenta at three, and Moulinex, Princess and Velox all at one. Combining SEB and Moulinex will therefore not substantially affect the competition faced by SEB, the market leader.

(289) On the basis of the 2002 figures, the acquisition does not pose any competition problems: Braun and Philips are established in the market, and provide a real alternative to SEB. Moulinex is only the fifth player in the market, and holds market shares comparable to those of De'Longhi.

(290) In kettles as a whole, the position held by SEB alone in 2000 was better than its position in 2002 even if that is combined with a Moulinex that has recovered its full competitive potential. Moreover, between 2000 and 2002, SEB's main competitors grew stronger, and there were several significant new entrants. Lastly, the brand Moulinex is bringing to SEB does not enjoy any special recognition.

(291) Nevertheless, the combination of SEB and a Moulinex which has recovered its full potential would give rise to a market share in excess of 40%. It is therefore necessary to analyse in detail the structure of this market and the impact of the merger. In particular, it has to be considered whether there might be a sufficient probability that Moulinex might more or less automatically recover the market shares it lost between 2000 and 2002.

(292) It should be pointed out that in Italy the prices of kettles are grouped around two points, EUR 33 and EUR 41: sales at these prices accounted for over three quarters of sales in 2000 and 2002. At each point, SEB will face competition from an operator with well-known brands holding positions at least equal to its own, namely Philips at EUR 33 and Braun at EUR 41.

(293) According to the figures supplied by the parties<sup>66</sup>, Philips and Rowenta do most of their sales at the first point, while Braun and Moulinex do most of their business at the second. Tefal is present at both. The following table shows the percentage of the sales of each of the main brands at both points in 2000 and 2002:

	2000			2002		
	EUR 33	EUR 41	Other	EUR 33	EUR 41	Other
Tefal	[30-35%]*	[65-70%]*	[0-5%]*	[55-60%]*	[35-40%]*	[0-5%]*
Rowenta	[65-70%]*	[0-5%]*	[30-35%]*	[50-55%]*	[0-5%]*	[45-60%]*
Moulinex	[10-15%]*	[80-85%]*	[0-5%]*	[25-30%]*	[65-70%]*	[0-5%]*
Philips	[80-85%]*	[0-5%]*	[15-20%]*	[85-90%]*	[5-10%]*	[5-10%]*

<sup>66</sup> GFK "Hit List".

Braun	[0-5%]*	[95-100%]*	[0-5%]*	[0-5%]*	[95-100%]*	[0-5%]*
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(294) At each of the price points SEB faces a major competitor whose level of sales at that point were at least equal to its own in 2002. At the EUR 33 price point Moulinex's contribution is marginal. In the EUR 41 price area Moulinex's sales in 2002 added to those of SEB are below those of Braun. Supposing that Moulinex were to recover its level of sales of 2000, the combination of SEB and Moulinex at this point of concentration would at most be on a level with the sales achieved by Braun. It may be noted that SEB intends to replace the two Moulinex models sold at this price by new models with prices in the neighbourhood of EUR [...]\*, and to introduce a new model, "Acquacontrol", under the Krups label, at a price between EUR [...]\* and EUR [...]\*, which is outside the two points of concentration and in the highest price quartile.

(295) Thus the acquisition of Moulinex by SEB will not give SEB a dominant position in the market for kettles in Italy.

#### Informal meal appliances

(296) The market shares are shown in the following table:

Market shares	Informal meal appliances	
	2000	2002
<b>SEB</b>	[40-45]%	[20-25]%
<b>Moulinex</b>	[10-15]%	[5-10]%
<b>TOTAL</b>	<b>[50-60]%</b>	<b>[25-35]%</b>
<b>Severin</b>	[5-10] %	[30-35]%
<b>Girmi</b>	[0-5]%	[10-15]%
<b>De' Longhi</b>	[5-10]%	[5-10]%
<b>Princess</b>		

(297) Tefal is named seven times as a must-have brand. Princess, Imetec and Girmi are cited once or twice. Moulinex, Krups, Ariete (De'Longhi) and Severin, who account for more than half of sales in the market, are not cited.

(298) On the basis of the figures for 2002, Severin is the market leader, in front of SEB, De'Longhi and Moulinex. Sales by SEB and Moulinex together are below those of Severin.

(299) It should be noted, moreover, that, taken together, SEB's sales in 2002 and those of Moulinex in 2000 are below the sales of SEB alone before the merger (in 2000). Even combined with a Moulinex which has recovered its full potential, SEB would be in a more unfavourable position than before the merger. Such a scenario is in any event unlikely in the short term because only one model by Krups, which has never been cited as a must-have brand, is currently on sale and no further development is planned.

(300) Lastly, Severin strengthened its presence considerably between 2000 and 2002: in 2000 it was a competitor of SEB of a size comparable to Moulinex and it trebled its sales in the space of two years. In the unlikely event of Moulinex recovering in full

the competitive position it held in 2000 at the expense of Severin alone, Severin would still achieve sales which would be three times greater than those of 2000 and above 30%, whereas SEB and Moulinex would hold a position which would be below 35% and less favourable than that of SEB in 2000.

(301) Thus the acquisition of Moulinex by SEB will not give SEB a dominant position in the market for informal meal appliances in Italy.

#### Sandwich/waffle makers

(302) The market shares are shown in the following table:

Market shares	Sandwich/waffle makers	
	2000	2002
<b>SEB</b>	[20-25]%	[20-25]%
<b>Moulinex</b>	[15-20]%	[5-10]%
<b>TOTAL</b>	<b>[35-45]%</b>	<b>[25-35]%</b>
<b>Termozeta</b>	[0-5]%	[10-15]%
<b>Imetec</b>	[5-10]%	[5-10]%
<b>Philips</b>	[5-10]%	[5-10]%
<b>De' Longhi + Ariete</b>	[0-5]%	[0-5]%
<b>Severin</b>	[0-5]%	[0-5]%
<b>Girmi</b>	[0-5]%	[0-5]%

(303) These figures differ considerably if one takes the view that two appliances marketed by Imetec which act both as barbecues or grills and as sandwich makers should be classified in their entirety as “sandwich and waffle makers”. If sales of these appliances are included here in their entirety, Imetec holds a market share of [25-30%], which is then higher than the shares of SEB and Moulinex together in both 2000 and 2002. In these circumstances, the acquisition of Moulinex would not give SEB a dominant position.

(304) However, if these appliances are excluded from Imetec's sales, SEB becomes the market leader, in front of Termozeta, Philips, Imetec and Moulinex. In terms of must-have brands, Rowenta is cited six times, Imetec five, Tefal and De'Longhi three, Philips two, and Girmi and Ariete one.

(305) Combining Moulinex and SEB does not cause any substantial change in the conditions of competition. Moulinex is the fourth competitor of SEB, but of the four main competitors of SEB it is also the brand with the smallest brand recognition. This absence of brand recognition makes it unlikely that Moulinex will return to its level of sales of 2000 any way rapidly, especially as SEB has no plans to launch a new product in this category.

(306) Thus the acquisition of Moulinex is not likely to give SEB a dominant position in the market for sandwich and waffle makers.

Steam cookers

(307) The market shares are shown in the following table:

Market shares	Steam cookers	
	2000	2002
<b>SEB</b>	[0-5]%	[35-40]%
<b>Moulinex</b>	[15-20]%	[0-5]%
<b>TOTAL</b>	<b>[15-25]%</b>	<b>[35-45]%</b>
<b>Braun</b>	[10-15]%	[5-10]%
<b>Girmi</b>	[0-5]%	[5-10]%
<b>De' Longhi</b>	[0-5]%	[0-5]%

(308) Moulinex was the market leader in 2000, in front of Braun, with SEB and Girmi as smaller competitors. In 2002, SEB became market leader, followed by Braun and Girmi, with similar levels of sales, whereas Moulinex accounted for less than 1% of sales, and that was entirely due to the disposal of stocks, with no active selling, because SEB withdrew Moulinex steam cookers from the Italian market. More than three quarters of SEB's sales were through the Esselunga fidelity catalogue. If we discount Esselunga, on which SEB was very dependent in 2002, SEB's sales would be at the same level as Braun's and Girmi's. Braun was cited five times as a must-have brand, Tefal twice, and Black & Decker once.

(309) On the basis of the figures for 2002, Moulinex's sales are marginal, and the acquisition of Moulinex by SEB would not modify the competitive pressure exerted by SEB's main competitors, Braun and Girmi. The acquisition does not bring SEB a recognised brand or a significant volume of business.

(310) At most SEB might be strengthened by the potential that Moulinex represents. But SEB has no plans to revive the Moulinex brand for this product category. No Moulinex products can therefore be expected to be sold here in the next few years. It should also be noted that the fall in Moulinex's sales has benefited mainly SEB and Girmi. Any gain in Moulinex's market share would thus probably take away from SEB's share, and Moulinex's potential to strengthen SEB is thereby reduced. In any event, in two years Girmi has trebled its sales of steam cookers and has established itself in the market. It will therefore be a competitor for SEB/Moulinex in the future, whereas it was absent at the time the merger took place.

(311) Thus the acquisition of Moulinex is not likely to give SEB a dominant position in the market for steam cookers.

### Food preparation appliances

(312) The market shares are shown in the following table:

Market shares	Food preparation appliances	
	2000	2002
<b>SEB</b>	[0-5]%	[5-10]%
<b>Moulinex</b>	[40-45]%	[20-25]%
<b>TOTAL</b>	<b>[40-50]%</b>	<b>[25-35]%</b>
<b>De' Longhi</b>	[10-15]%	[15-20]%
<b>Philips</b>	[5-10]%	[10-15]%
<b>Braun</b>	[5-10]%	[5-10]%
<b>Imetec</b>	[5-10]%	[5-10]%
<b>Girmi</b>	[0-5]%	[5-10]%
<b>Termozeta</b>	[0-5]%	[0-5]%

(313) Before the merger Moulinex was the market leader, and was in competition principally with De'Longhi, Philips, Braun and SEB, each of whom had a level of sales less than one third of that of Moulinex. Matters have changed considerably since then: Moulinex's sales fell by a third between 2000 and 2002, which resulted in gains for its main competitors Braun, De'Longhi and Philips. These competitors' sales increased by between 50 and 100% in two years. SEB's sales for their part increased by a lesser amount. Local competitors such as Girmi and Termozeta grew very rapidly.

(314) On the basis of the 2002 figures, the acquisition by SEB of Moulinex does not pose any competition problems: Braun, Philips and De'Longhi are established in the market, and provide a real alternative to SEB and Moulinex. SEB was only the sixth player in the market, and held market shares comparable to those of Imetec and Girmi. The combining of SEB and Moulinex will therefore not substantially affect the competition that was previously faced by Moulinex as the market leader.

(315) For the acquisition to change the market structure, Moulinex would have to recover all of its market share, and SEB would have to be a major force in the market.

(316) In terms of must-have brands, Moulinex is cited 12 times, Philips 10 and Braun 10, which puts them well ahead of Imetec at five, Simag (De'Longhi) at three, Ariete (De'Longhi) and Tefal at two, and Rowenta and Girmi at one. Thus SEB's brands have no special recognition in this market, and combining them with the Moulinex brand will not be a major change.

(317) It should be pointed out, lastly, that it is unlikely that Moulinex will recover all of its lost market shares without difficulty. In food processors and kitchen machines, Moulinex's losses in the two lowest quartiles benefited mainly Girmi and Philips. In blenders the main competitors to gain were Braun and Philips. In jug blenders Moulinex's fall benefited mainly Termozeta, Girmi and Ariete. Braun and Philips enjoy recognition at least equal to that of Moulinex. Braun, Philips, Girmi, Termozeta and Ariete are strong and well established in this market. SEB intends to reposition those of Moulinex's products which used to be sold in the two lowest quartiles in the two higher-priced quartiles. New products will be introduced only in those two quartiles. Moulinex is thus incapable of winning back in the short term the



market shares lost in the two lowest quartiles. In the other product segments Moulinex's market shares in 2000 were not such as to raise competition problems.

(318) Nor would combining the brands create or strengthen a powerful position in any of the segments of this category. Data assembled from the Commission's market survey and the figures supplied by Philips and the parties<sup>67</sup> can be tabulated as follows:

	<b>Food processors and kitchen machines</b>	<b>Mixers</b>	<b>Blenders</b>	<b>Jug blenders</b>	<b>Juice extractors and citrus presses</b>
SEB	[5-10] %	[5-10]%	[0-5]%	[0-5]%	[0-5]%
Moulinex	[25-30]%	[25-30]%	[10-15]%	[25-30]%	[10-15]%
<b>Total</b>	<b>[30-40]%</b>	<b>[30-40]%</b>	<b>[10-20]%</b>	<b>[30-40]%</b>	<b>[10-20]%</b>
De' Longhi	[10-15]%	[10-15]%	[0-5]%	[10-15]%	[20-25]%
Philips	[10-15]%	[20-25]%	[5-10]%	[10-15]%	[15-20]%
Braun	[15-20]%	[10-15]%	[65-70]%	[5-10]%	[5-10]%
Imetec	[10-15]%	[5-10]%	[5-10]%	[5-10]%	[0-5]%
Girmi	[0-5]%	[5-10]%	[5-10]%	[10-15]%	[0-5]%
Other	[10-15]%	[5-10]%	[5-10]%	[10-15]%	[25-30]%

(319) In the blenders segment Braun is easily the market leader, and SEB is only a marginal player, with less than 2% of the market. Combining SEB and Moulinex will marginally strengthen Moulinex's capacity to compete with Braun.

(320) In the juice extractors and citrus presses segment, SEB holds less than 2% of the market, so that it will add only a marginal volume to Moulinex's sales. Moulinex is in any event only the third player in the market, behind De'Longhi and Philips.

(321) In food processors and kitchen machines, mixers and jug blenders, Moulinex is the market leader. Nevertheless, SEB is only a marginal player in these segments: it ranks only sixth in kitchen machines, fifth in mixers and sixth in jug blenders. The main competition with Moulinex is provided by De'Longhi, Braun, Philips, Imetec and Girmi. Combining SEB with Moulinex will reduce competition in these segments only marginally.

(322) The same applies to mills/mincers/graters, coffee grinders, slicers and electric knives, where SEB is only a marginal player. It is absent from the slicers segment; in coffee grinders the share held by SEB and Moulinex combined is smaller than Braun's; in electric knives it is smaller than Girmi's; and in mills, mincers and graters Braun, Girmi, De'Longhi and Imetec all have sales bigger than those of SEB.

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<sup>67</sup> Philips supplied GFK figures for the period June 2002-May 2003, and the parties supplied GFK Hit Lists.

(323) Thus combining SEB and Moulinex will not substantially affect the competition faced by Moulinex, the market leader. The operation will not lead to the creation or strengthening of a dominant position in this market.

#### Irons and ironing stations

(324) The market shares are shown in the following table:

Market shares	Irons and ironing stations	
	2000	2002
<b>SEB</b>	[15-20]%	[15-20]%
<b>Moulinex</b>	[5-10]%	[0-5]%
<b>TOTAL</b>	<b>[20-30]%</b>	<b>[15-25]%</b>
<b>De' Longhi</b>	[15-20]%	[15-20]%
<b>Philips</b>	[10-15]%	[10-15]%
<b>Imetec</b>	[5-10]%	[10-15]%
<b>Polti</b>	[10-15]%	[10-15]%

(325) The Italian market is divided about half and half in terms of value between irons and ironing stations. SEB, Moulinex, Philips and other players such as Braun and Termozeta are concentrated mainly in the market for irons, while De'Longhi and Polti have a greater presence in ironing stations. Imetec's sales are spread over the two types of product.

(326) Before the merger the two market leaders were SEB and De'Longhi, who were in competition with Philips and Polti. Imetec, which was previously a second-rank player, has now reached a level of sales comparable to that of Philips and Polti. Moulinex has always achieved fewer sales than these leading operators, accounting for less than 2% of the market in 2002. Moulinex is never cited as a must-have brand, unlike Rowenta, cited six times, Philips five, Imetec five, Polti four, Tefal three and De'Longhi one.

(327) According to a document supplied by the parties<sup>68</sup>, [50-55%]\* of Moulinex's sales of irons in 2000 were in the lowest quartile, [20-25%]\* in the second, and [20-25%]\* in the two highest. In 2002 [30-35%]\* were in the lowest quartile, another [30-35%]\* in the second, and [35-40%]\* in the two highest. Moulinex's ironing stations business is marginal, at less than [...%]\* of its sales of irons. According to papers supplied by the parties<sup>69</sup> the appliances positioned in the two lowest quartiles are to be replaced between July 2003 and January 2004 by new products positioned in the upper quartiles.

(328) The same documents state that the decline of Moulinex, which accounted for [5-15%]\* of the two lowest quartiles in 2000 and only [0-5%]\* in 2002, benefited mainly Imetec and Termozeta, who rose from [10-15%]\* to [15-20%]\* and from [10-15%]\* to [15-20%]\* of this segment. Imetec and Termozeta are both local brands generally positioned at entry level and in the middle of the range, and enjoy wide

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<sup>68</sup> GFK "Hit List".

<sup>69</sup> Reply dated 10.9.2003.

recognition, which is true especially of Imetec in the case of irons and ironing stations. It does not appear likely that Moulinex could make a come-back in the lower price segments in the short term: even if SEB were to reposition Moulinex products at entry level, competition in the entry-level segments is mainly on the basis of price, and not in terms of brand image. Thus ownership of the Moulinex brand will not confer any substantial advantage on SEB in the entry-level segment. And in the market for irons SEB already has the Rowenta and Tefal brands, which are more widely recognised than Moulinex and have significant market shares at entry level.

- (329) The Moulinex brand's capacity to regain the market shares it had in 2000 has to be examined in the light of these factors. It is unlikely that Moulinex will recover its shares of the lower price segments for irons in Italy in the short term, owing to competition from Imetec and Termozeta. The market share lost by Moulinex in the higher price segments amounts to only [ $>1\%$ ]\* of the total market. If Moulinex were to recover these market shares its share of the market for irons and ironing stations would be less than 2% ([...%]\*).
- (330) In any event, even if Moulinex were to recover all of its market shares of 2000, or less than [5-10%]\*, combining Moulinex with SEB would not give SEB a dominant position, because the competitive pressure exerted by its four main competitors, De'Longhi, Philips, Imetec and Polti, would be unchanged, Moulinex being only a marginal source of competition.
- (331) Combining the brands would create or strengthen a dominant position in none of the segments of this category. Moulinex's sales in the irons segment are similar to those of De'Longhi and Braun, and in any event much lower than those of Imetec. SEB's and Moulinex's combined sales account for about [0-10%]\* of the ironing stations segment.
- (332) Combining SEB and Moulinex will not help to create or strengthen a dominant position in any of the segments of the irons and ironing stations market, which means that within this market there can be no non-horizontal effects.
- (333) To conclude, the structure of competition in the market for irons and ironing stations in Italy would be affected by this addition of market shares only marginally, and no dominant position would be conferred on SEB.

#### Filter coffee makers

- (334) The market shares are shown in the following table:

Market shares	Filter coffee makers	
	2000	2002
SEB <sup>70</sup>	[10-15]%	[10-15]%
Moulinex	[30-35]%	[15-20]%
<b>TOTAL</b>	<b>[40-50]%</b>	<b>[25-35]%</b>
Braun	[10-15]%	[10-15]%
Philips	[5-10]%	[5-10]%
Severin	[5-10]%	[5-10]%
Saeco/Gaggia	[0-5]%	[0-5]%
De'Longhi	[0-5]%	[0-5]%

(335) In the year 2000 Moulinex was the market leader, with sales twice as large as those of SEB or Braun. Philips, Severin, Saeco and De'Longhi were smaller competitors, though Philips and Severin had significant market shares. Moulinex's sales fell substantially between 2000 and 2002. There are now three market leaders, SEB, Braun and Moulinex; Severin has improved its market position very considerably, and Philips, Saeco and De'Longhi have maintained their positions. The Italian market for filter coffee makers is small (about EUR [...] million), and varies widely from one year to the next: according to the data the Commission has assembled, it grew by 20% between 2000 and 2001, and shrank by 20% the year after. Sales by Moulinex's main competitors are likewise erratic, sometimes rising or falling by more than 50% in a year without any consistent trend. The value to be attached to these market shares is therefore subject to caution.

(336) In terms of must-have brands, Braun was cited six times, Moulinex, Rowenta and Philips four times, Gaggia (Saeco), Saeco and De'Longhi twice, and Krups, Tefal, Ariete (De'Longhi) and Velox once each.

(337) On the basis of the figures for 2002, the parties have a combined market share of about [25-35]\*; they face competition from Braun, which has sales of about [10-20]\* of the market, and is most widely recognised, and from Philips and Severin, both of whom are well established, Philips being also widely recognised. Distributors and consumers have numerous alternatives open to them, and the acquisition of Moulinex by SEB will not create a dominant position.

(338) The capacity of Moulinex to win back market share is limited by the fact that the sales it lost in the two lowest quartiles amounted to [15-25]\* in market share, whereas the increases in its sales in the two highest quartiles amounted to [0-5]\* in market share<sup>71</sup>. Moulinex's decline in the two lowest quartiles benefited mainly Philips and Braun, which are both recognised as must-have brands and are Moulinex's two main competitors. SEB intends to reposition all of Moulinex's products in the two higher-priced quartiles, and to introduce a new filter coffee machine under the Krups label, the "new pro aroma", which would be aimed at the same quartiles. It is unlikely, therefore, that Moulinex will be able to recover in the next few years the market shares it lost in the two lowest quartiles, where all the decline in its sales occurred between 2000 and 2002.

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<sup>70</sup> A quarter of SEB's sales were via the Esselunga fidelity catalogue.

<sup>71</sup> GFK "Hit List".

(339) Given the volatility of the market for filter coffee makers in Italy, and the positions held by Braun and Philips, combining SEB and Moulinex will not give SEB a dominant position in the market for filter coffee makers.

#### Barbecues and grills

(340) The market shares are shown in the following table:

Market shares	Barbecues and grills	
	2000	2002
<b>SEB</b>	[20-25]%	[25-30]%
<b>Moulinex</b>	[0-5]%	0%
<b>TOTAL</b>	<b>[20-30]%</b>	<b>[25-30]%</b>
<b>De' Longhi</b>	[15-20]%	[20-25]%
<b>Imetec</b>	[5-10]%	[5-10]%
<b>Girmi</b>	[0-5]%	[5-10]%

(341) SEB and De'Longhi are the two market leaders, in front of Imetec, Girmi and Termozeta. In 2000 Moulinex was a player on a par with these three local competitors. In 2002 there were no Moulinex products on sale. Moulinex is never cited as a must-have brand, whereas De'Longhi and Tefal are cited almost invariably, at 10 times out of 11, and Rowenta, Girmi, Imetec, Ariete, G3 Ferrari and Philips are all cited at least once.

(342) SEB is in competition in this market with a similar-sized firm, De'Longhi. Any reintroduction of Moulinex would not significantly alter the competition in this market, where there are several players whose sales are currently at least equal to those of Moulinex in 2000, namely Imetec, Girmi, Termozeta and Philips.

(343) Thus the structure of the market for barbecues and grills in Italy would be affected only marginally by this addition of market shares, and would not give SEB a dominant position.

#### 5.3.4. Absence of non-horizontal effects

(344) The analysis of the competitive position of the new entity must take account, not only of the strictly horizontal effects, but also of the portfolio of brands held by it and of the fact that it holds substantial market shares in many of the product markets concerned.

#### Portfolio of brands

(345) The operators present in the small electrical household appliance market seem to have two development strategies in relation to brands. Some, like the parties, have a multibrand strategy. These include De'Longhi (with the De'Longhi, Kenwood, Ariete, Simac and La Supercalor brands) and BSH (with the Bosch and Siemens brands). Others, by contrast, have opted for single-brand development, e.g. Philips and Braun or the domestic producers (Imetec, Termozeta and Girmi).

(346) A broad portfolio is generally perceived as enabling producers to cater better for consumers' needs. However, such a strategy is more costly as it means having several advertising and promotion budgets and risks diluting the value of certain brands.

- (347) The review of the Italian situation has not made it possible to determine whether the strategy of holding a portfolio of brands confers a decisive competitive advantage. Despite having only one brand, Philips and, even more so, Braun occupy significant positions in the small electrical household appliance sector in Italy.
- (348) Even supposing that the holding of a portfolio of brands constitutes a decisive advantage, the situation of the new entity must be put in perspective. Although the new entity is in a favourable position, that position is not exceptional.
- (349) SEB will henceforth hold a portfolio of four brands: Tefal and Rowenta, to which must be added Moulinex and Krups. In most markets, however, the new entity is present with only three brands or less, and there are even markets where it has ceased marketing under certain brands (e.g. Krups in that for irons). This portfolio is up against substantial portfolios held by competitors such as BSH or De'Longhi, which have two or even five brands.

#### Strong positions in several markets

- (350) As regards the cumulative effect of strong positions in several markets, the Commission's investigation has shown that the new entity is not of strategic importance when it comes to distributors' purchasing decisions and that its strong positions do not differ in number and size from those of its main competitors.

- SEB's position in distributors' purchases

- (351) SEB/Moulinex is not of strategic importance when it comes to the purchases effected by distributors, as was confirmed by the latter at the time of the market survey. Distributors and consumers can turn to a number of competitors such as Philips, BSH, Braun De'Longhi and Imetec, who propose a wide range of alternatives and well-known brands.

- (352) Two groups, De'Longhi and SEB/Moulinex, each have a share of 10 to 15% of overall sales of small electrical household appliances in Italy, and a strong presence in all product categories. Philips, Braun and Imetec each have a share of between 5 and 10% of the overall market, and a presence in a large number of product categories (between five and seven).

- Possible positions of strength

- (353) The adding together of SEB and the Moulinex assets it has acquired could produce non-horizontal effects that damaged competition if the combined entity had positions of strength in some markets that it could extend to a situation of dominance in other markets. In order for these two cumulative conditions to be met, the parties would therefore have to hold a position of strength, either resulting from the merger or pre-existing, in sufficiently important markets for them to be able to extend that position to other markets.

- (354) In 2000 the new entity was the market leader with a share of more than 25% in a number of categories of small electrical household appliances (kettles, food preparation appliances, informal meal appliances, irons and ironing stations, filter coffee makers and sandwich/waffle makers. But this leadership was fiercely contested in the markets for irons, with the result that the new entity would

potentially have enjoyed a position of strength only in the markets for kettles, informal meal appliances, filter coffee makers, sandwich/waffle makers and food preparation appliances, which accounted for [10-20%]\* of small electrical household appliances. De'Longhi, for its part, was leader in three markets (toasters, tabletop ovens and deep fryers). In the markets for tabletop ovens and deep fryers, which accounted for [0-5%]\* of small electrical household appliances, De'Longhi's leadership was uncontested.

(355) In 2002, SEB and Moulinex were market leaders in five product categories: kettles, filter coffee makers, steam cookers, barbecues and grills, and food preparation appliances. In the market for steam cookers, this leadership was uncontested. De'Longhi was the market leader in three product categories: toasters, mini ovens, and deep fryers, with market shares over 25% in mini ovens and deep fryers. Its leadership was uncontested in the case of ovens, toasters and deep fryers, which account for [5-10%]\* of small electrical household appliances. Lastly, Saeco, Severin and Imetec were each leader in one category (espresso machines, informal meal appliances and personal care appliances, respectively), accounting for [5-10%]\*, [0-5%]\* and [25-35%]\* respectively of small electrical household appliances. Only Saeco was an uncontested leader, in the market for espresso machines.

(356) Even if it is supposed that in 2002 SEB and Moulinex held a position of strength in the market for steam cookers, that market accounted for less than 1% of the market for small electrical household appliances. Thus it did not give SEB any leverage: almost all of the turnover distributors achieve on small electrical household appliances is earned in other product categories.

(357) The De'Longhi, Braun, Philips and Imetec ranges invariably offer distributors alternatives to SEB and Moulinex products. In each of the markets that amount to more than 5% of the overall market for small electrical household appliances (espresso machines, irons, food preparation appliances and personal care appliances), whenever SEB and Moulinex have a market share of over 15% there are at least three of the main competing brands with shares of over 10%, and two are cited by distributors as must-have brands.

(358) There is therefore no category of product where SEB might be able to use its position in such a way as to favour its sales of other products. The size of the markets where SEB could hold powerful positions is marginal, and in each market of a significant size distributors have alternatives to SEB/Moulinex in the form of its main competitors, De'Longhi, Philips, Braun and Imetec.

### 5.3.5. *Conclusion concerning the Italian markets*

(359) The acquisition of the Moulinex and Krups brands would not create or strengthen a dominant position held by SEB in the Italian markets for small electrical household appliances.

## 5.4. The United Kingdom and Ireland

(360) According to the authorising decision, in 2000 the notified merger did not result in large market shares in any of the product markets concerned. According to the judgment of the CFI (paragraph 410), the Commission's reasoning did not overcome the serious doubts regarding the markets for irons and ironing stations.

### 5.4.1. Structure of supply and demand

#### 5.4.1.1. Supply

(361) The SEB group does business in the United Kingdom and Ireland under the Rowenta and Tefal brands; it has an overall share of around [5-10%]\* of the markets for small electrical household appliances. SEB is present in all of the markets for small electrical household appliances, though it is not strong in the markets for food preparation appliances, sandwich and waffle makers, barbecues and grills, espresso machines and personal care appliances. Rowenta is used mainly in the market for irons and ironing stations and tends to be positioned more towards the top of the range, whereas Tefal is used for all product categories and covers all price brackets. SEB's brands are often cited by distributors as must-have brands for the markets in deep fryers, toasters, steam cookers and irons<sup>72</sup>.

(362) Moulinex does not have a strong presence in the United Kingdom and Ireland and holds less than 1% of the markets in small electrical household appliances. In 2002, its only significant presence (more than 5% market share) was in the market for food preparation appliances. Historically, Moulinex also held significant positions in the markets for deep fryers, filter coffee makers and espresso machines. Moulinex is a generalist brand often positioned at the bottom or middle of the range, whereas Krups is a top-of-the-range brand. Moulinex and Krups are almost never cited as must-have brands.

(363) In the United Kingdom the SEB/Moulinex group faces competition from four major international groups: Braun, Philips, De'Longhi and, to a lesser extent, BSH.

(364) Braun is, according to SEB, the leading operator in the market for small electrical household appliances, with a [10-15%]\* share of sales. These market shares are, however, unequally divided between the three areas of small electrical household appliances: though it is the clear leader in personal care appliances, this Gillette subsidiary has smaller market shares in kitchenware and laundry care appliances. In kitchenware, it focuses on food preparation appliances and is absent from all the other product markets. Its presence in laundry care appliances is also fairly modest compared with the market leaders SEB and Philips. Braun pursues a single-brand strategy. The Braun brand is cited as a must-have brand by two distributors out of nine in the market for food preparation appliances.

(365) With [5-15%]\* of the small electrical household appliance market, Philips is the second-largest operator in the sector in the United Kingdom and Ireland, its turnover being almost the same as that of the SEB group. It operates throughout the three

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<sup>72</sup> In the case of deep fryers, Tefal is cited 5 times out of 7, in that of toasters, 4 times out of 9, in that of steam cookers, 6 times out of 7, and Rowenta 3 times out of 8.



sections of the small electrical household appliance market, but is strongest in the markets for personal and laundry care appliances. It does nevertheless have a significant presence in kitchenware, given that it covers virtually all of the markets and has a striking position on some of them, including the high-value food preparation appliance market. It decided in the mid-1990s to withdraw from the mini-oven market, where it felt it was not sufficiently competitive. Philips has clearly opted for a single-brand strategy<sup>73</sup>. The Philips brand is a must-have brand in the view of distributors in the market for irons and ironing stations (cited five times out of eight), which appears to be in line with its position in that market. It is also very frequently cited in the market for personal care appliances (five times out of eight) and also fairly frequently cited, though more patchily, in the kitchenware market.

(366) Although it is almost on a par with Braun and Philips in terms of turnover, the De'Longhi group has a rather different profile from its two competitors described above, in that it does not operate in the market for personal care appliances and has a very weak presence in the market for laundry care appliances. It operates mainly in the markets for kitchenware. Operating in eleven markets in that sector, it holds very strong positions in some of them, namely deep fryers, espresso machines, filter coffee makers, kettles, mini ovens and food preparation appliances. The De'Longhi group's brands are seen to be strong brands. De'Longhi and Kenwood are very frequently cited by UK and Irish distributors in all the kitchenware markets. In some of the markets, and particularly the very large food preparation appliance market, Kenwood seems to have an excellent brand image<sup>74</sup>.

(367) The Bosch-Siemens group is the smallest of the international operators in terms of its turnover in the United Kingdom and Ireland. It does not sell personal care appliances, and its presence in kitchenware is patchy in terms of markets covered. Its main strength is in laundry care appliances, where it holds positions approximately equivalent to those of Braun. Bosch-Siemens does not have any brands that are regarded as must-have brands by distributors.

(368) The national operators, or operators achieving a very large proportion of their turnover in Ireland and the United Kingdom, are competitors with a significant base: Morphy Richards and Russell Hobbs with between 9 et 10% of the markets for small electrical household appliances are on a par with the other four large international operators in the sector, SEB, Braun, Philips and De'Longhi. With around 5%, Breville is a smaller operator, but holds significant positions in a number of product markets. Their brands are in general strong and well regarded by their distributors, which frequently cite them as must-have brands. In this respect, therefore, the international groups do not appear to be any better placed.

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<sup>73</sup> It was decided within the group in 1998 to abandon most of the strong regional brands and to concentrate advertising and marketing investment on the Philips brand alone.

<sup>74</sup> For food preparation appliances, 8 distributors out of 10 cite it as a must-have brand, with 3 of them citing it as the only must-have brand (the only instance of this in the United Kingdom and Ireland). For the other categories of kitchen products, De'Longhi is cited 4 times out of 7 for deep fryers and Kenwood 3 times, for toasters Kenwood is cited 5 times out of 9, for kettles Kenwood is cited 4 times out of 7 and for espresso machines De'Longhi is cited 5 times out of 8.

(369) Morphy Richards is an important operator in the small electrical household appliances sector with very strong positions in laundry care and in a number of markets in kitchen appliances, such as kettles, espresso machines and toasters. It does not produce personal care appliances and pursues a one-brand strategy. Morphy Richards is frequently cited in all the markets in which it is present, with the exception of food preparation appliances. In laundry care, Morphy Richards appears to have the best reputation: it is cited by six distributors out of the nine who replied<sup>75</sup>. All in all, Morphy Richards appears to enjoy an excellent reputation in the Irish and UK markets.

(370) Salton is one of the group leaders in small electrical household appliances in the United States. In the United Kingdom/Ireland, it is present only in the kitchenware range, where it holds pre-eminent positions in the market for toasters, kettles, ovens and barbecues/grills. It has a relative large and strong range of brands, such as Russell Hobbs, George Foreman and Haden. It is regarded as a very dynamic and innovative operator in the market, witness the launch of the successful George Foreman range of barbecues/grills/ovens in 1995. The Russell Hobbs and George Foreman brands have a good reputation. The George Foreman brand is the only must-have brand in the market for barbecue/grills and is the clear market leader (cited seven times out of seven and the only brand cited). It is difficult to see it being delisted (even though the brand is only eight years old). Russell Hobbs is a leading brand in the market for kettles and toasters<sup>76</sup>.

(371) Lastly, the Home Products International group, which does not sell any personal and laundry care appliances, holds important positions in a number of markets such as sandwich/waffle makers and, to a lesser extent, food preparation appliances. Its products are sold essentially under the Breville brand name. Breville is a must-have brand in the market for sandwich/waffle makers, where it is cited six times out of seven by distributors.

#### 5.4.1.2. Demand

(372) Distribution in the United Kingdom and Ireland takes place mainly through large chains, in the same way as in the countries of southern Europe. The main difference, however, is that large chains selling mostly food are of relatively lesser importance in the distribution of goods in this sector. The Tesco and Sainsbury groups are the only large food distributors present, occupying fifth and eighth place respectively.

(373) The positions of the main operators are set out in the following table:

distributor	Market share in -%
ARGOS/GUS	[30-35%]*
COMET	[10-15%]*
DSG	[10-15%]*
LITTLEWOODS / INDEX	[5-10%]*
TESCO	[0-5%]*
JOHN LEWIS	[0-5%]*

<sup>75</sup> For toasters, Morphy Richards is cited 5 times out of 9, for filter coffee makers 4 times out of 5, for kettles 4 times out of 7 and for espresso machines 4 times out of 8.

<sup>76</sup> For toasters, Russell Hobbs is cited 4 times out of 9 and for kettles 6 times out of 7.

distributor	Market share in -%
MAKRO	[0-5%]*
SAINSBURY	[0-5%]*
POWERHOUSE	[0-5%]*
WOOLWORTHS	[0-5%]*
OTHER	[20-25%]*
TOTAL	100%

*Estimates provided by the SEB group, 2002*

- (374) In addition to small electrical household appliances, the main operators generally also sell large electrical household appliances and sometimes furniture or brown goods (hi-fi/television/video/computers). Argos is the clear leader in both countries, with nearly [30-35%]\* of sales. Argos is cited by operators as being a must-use distributor. In addition to its 500 sales outlets, Argos also sells by mail order from catalogues or through the Internet.
- (375) The level of concentration between distribution and supply appears fairly balanced, since the first five operators, both on the supply and on the demand side, account for about half of turnover. However, it should be noted that the five largest manufacturers are about equal in size, whereas Argos is by far the largest distributor.
- (376) Distributors' own brands may account for a large part of their sales or form a key element in their strategic development. It is interesting to note, moreover, that the Swan brand, which used to be owned by Moulinex, has just been sold to the distributor Littlewoods, which wants to use it as its own brand. With regard to the leading distributor, Argos, shelf space reports communicated by the parties show that Argos's Cookworks brand<sup>77</sup> has almost as many references as the market leader for toasters, sandwich makers and kettles<sup>78</sup>. The other distributor brands are: Carlton for DSG, Pacific for Asda, Proline for Comet and Swan for Littlewoods.
- (377) Distributor brands seem to have some difficulty in penetrating some markets, and this is the case with all products in the laundry care range (irons and ironing stations) and personal care appliances. The reasons for this are not clear, although it seems that own brands focus on products involving little innovation or technological sophistication, with little value added compared to production costs. Negotiations between distributors and their suppliers vary in form: in general, a negotiating round relating to general negotiations takes place annually, with additional product-by-product negotiations. There are no negotiations relating to several brands belonging to one and the same supplier. These are generally carried out separately brand by brand.

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<sup>77</sup> The parties estimate this brand accounts for [10-20%]\* of this distributor's sales in the small electrical household appliance sector.

<sup>78</sup> For toasters, Morphy Richards has 9 references, Cookworks 5 and the other manufacturers fewer than 3. For sandwich makers, Breville has 5 references, Cookworks 3 and the other manufacturers 1. For kettles, Kenwood has 11 references, Russell Hobbs 9, Morphy Richards and Cookworks 7 and the other manufacturers fewer than 3.

(378) Since the demand side is not fragmented, distributors have a degree of negotiating power. It is clear from the market survey that this negotiating power acts as a constraint on the prices charged by producers of small electrical household appliances. According to their replies, UK and Irish distributors agree only to moderate price increases, which they then try to pass on to the final consumer. Any relative increase in the selling price makes consumers turn towards products whose price has not gone up. If distributors notice a fall in sales, their likely reaction is to seek to renegotiate the terms of sale or to limit their purchases. Thus, the foreseeable reaction of distributors and consumers considerably restricts the scope for producers to increase prices.

#### 5.4.2. *Relevant market shares*

##### 5.4.2.1. Moulinex's sales

(379) Moulinex's sales fell substantially between 2000 and 2002, by at least 30% in all markets and by more than 50% in most markets. This was due to a combination of factors: the withdrawal of product lines, the interruption of supplies to distributors and the protracted lack of innovation. In the markets for informal meals, steam cookers, irons and ironing stations, toasters, filter coffee makers, kettles, barbecues and grills, tabletop ovens and deep fryers, sales were zero or close to zero in 2002, most often because the items were not listed by distributors.

##### 5.4.2.2. Competitive potential represented by Moulinex

(380) Although the competition analysis is based on the current market situation, i.e. the situation prevailing at the time of this Decision<sup>79</sup>, it nevertheless takes account of the exceptional fact that, since Moulinex went bankrupt in September 2001, its market shares have fallen sharply in all markets for small electrical household appliances. This Decision accordingly takes into consideration the recovery potential of the Moulinex group's brands. Indeed, the market survey has shown that the image of the Krups and Moulinex brands has suffered in the eyes of the consumer as a result of their prolonged disappearance from the shelves in the United Kingdom and Ireland.

(381) The taking into account of the potential for recovery is, however, subject to two cumulative and interdependent conditions: first, the recovery of market shares by Krups and Moulinex must be sufficiently probable and, second, such a recovery must be a direct result of the merger. In those markets where these two conditions are not met, the losses of market share observed between 2000 and 2002 must be considered structural.

(382) The Commission's investigation has also shown that a recovery of the Moulinex and Krups brands will depend on a number of factors. In addition to a strong brand in a particular market, there will be an absolute need for innovative, good quality products and for substantial in-house investment in advertising and promotion. The results of the investigation show, therefore, that the recovery of the Moulinex and

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<sup>79</sup> See footnote 39.

Krups brands depends not only on their increased worth stemming from the merger but also on the innovative, commercial (in terms of advertising and promotional back-up) and financial capacity of the new owner. The recovery potential to be taken into account is therefore reduced by the impact of these other factors, which have no direct causal link with the present merger.

- (383) This recovery potential must also be assessed over a reasonable period. This may be taken as being the lifetime of the products, which is approximately three years. In 2004/2005, almost the entire range of Moulinex and Krups products will be renewed. The brand's image will be determined more by recent and future investments than by the way it was perceived before the bankruptcy. In this connection, the Commission has already noted that, in most markets, sales of Moulinex products did not increase substantially in the first half of 2003 compared with 2002.
- (384) Moreover, the likelihood of a total recovery of market shares is considerably reduced in the following four eventualities: (a) the cessation of marketing of Moulinex/Krups products; (b) their withdrawal from certain market segments; (c) the occupation of lost positions by strong competitors; (d) the poor notoriety of the Moulinex and Krups brands in certain markets.
- (385) Once the marketing of products under the Moulinex and Krups brands ceased, a reconquest of their 2000 market shares became unlikely. This is due to the fact that the brands would have to re-enter the markets they had exited and would therefore have to regain the trust of consumers and distributors in order to be listed. The longer the absence, the harder it will be to regain that trust.
- (386) A similar situation arises where the brands have abandoned market segments or quartiles where they were particularly strong in 2000. The likelihood of a successful return to these segments is small in those instances where Moulinex's presence was economically unviable owing to a selling price that was below cost. In the event of a migration of these products to more expensive segments, it will no longer be a question of reconquering earlier positions but instead of a strategy of repositioning in segments where the acquired brand did not necessarily have any significant value prior to the merger.
- (387) The reconquest of a large part of the lost market shares is also unlikely where these lost positions have been occupied by strong competitors who hold all the keys to success in the small electrical household appliance market, namely well-known brands, innovative and promotional strength and access to distributors. It is therefore unlikely that these competitors are going to abandon their positions to Moulinex.
- (388) Lastly, a reconquest of lost positions is unlikely in those markets where the Moulinex and Krups brands are not considered must-have brands by the distributors surveyed. In these cases, brand image does not embody a particular competence or quality and therefore does not confer any comparative advantage over competing brands. There is therefore no incentive for distributors to list Moulinex and Krups for the products in question.

### 5.4.2.3. Market shares

(389) Below are set out, for reasons of transparency, the estimates produced by SEB and the market shares worked out on the basis of the results of the market survey. The competition analysis is based exclusively on the results of the survey.

(390) According to data furnished by SEB, the new entity's market shares were as follows<sup>80</sup> in 2000 and 2002:

Products		SIZE	SEB	Moulinex	Combined	Main competitor
Toasters	2000	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Russell Hobbs [15-20%]*
	2002	[...]*	[10-15%]*	[0-5%]*	[10-20%]*	Russell Hobbs [15-20%]*
Espresso machines	2000	[...]*	[0-5%]*	[25-30%]*	[20-30%]*	Morphy Richards [20-25%]*
	2002	[...]*	[0-5%]*	[10-15%]*	[10-20%]*	Morphy Richards [30-35%]*
Kettles	2000	[...]*	[5-10%]*	[0-5%]*	[10-20%]*	Morphy Richards [15-20%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[0-10%]*	Russell Hobbs [15-20%]*
Ovens	2000	[...]*	[15-20%]*	[0-5%]*	[10-20%]*	Breville [5-10%]*
	2002	[...]*	[15-20%]*	[0-5%]*	[10-20%]*	Russell Hobbs [35-40%]*
Barbecues /grills	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	De' Longhi [0-5%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[10-20%]*	Russell Hobbs 90 %
Food preparation appliances	2000	[...]*	[0-5%]*	[15-20%]*	[10-20%]*	De' Longhi [35-40%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	De' Longhi [35-40%]*
Irons	2000	[...]*	[35-40%]*	[0-5%]*	[40-50%]*	Philips [20-25%]*
	2002	[...]*	[30-35%]*	[0-5%]*	[30-40%]*	Philips [20-25%]*
Deep fryers	2000	[...]*	[20-25%]*	[15-20%]*	[30-40%]*	De' Longhi [35-40%]*
	2002	[...]*	[20-25%]*	[0-5%]*	[20-30%]*	De' Longhi [30-35%]*
Filter coffee makers	2000	[...]*	[5-10%]*	[5-10%]*	[10-20%]*	De' Longhi [25-30%]*
	2002	[...]*	[5-10%]*	[0-5%]*	[10-20%]*	De' Longhi [20-25%]*
Sandwich makers	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Breville [55-60%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Breville [55-60%]*
Informal meal appliances	2000	[...]*	[20-25%]*	[5-10%]*	[30-40%]*	Philips [0-5%]*
	2002	[...]*	[45-50%]*	[0-5%]*	[40-50%]*	Russell Hobbs [5-10%]*
Personal care appliances	2000	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Braun [30-35%]*
	2002	[...]*	[0-5%]*	[0-5%]*	[0-10%]*	Braun [30-35%]*
Steam cookers	2000	[...]*	[30-35%]*	[0-5%]*	[30-40%]*	De' Longhi [0-5%]*
	2002	[...]*	[30-35%]*	[0-5%]*	[30-40%]*	Russell Hobbs [5-10%]*

(391) The market survey carried out by the Commission established the sales of the main players in the markets for small electrical household appliances in the United Kingdom and Ireland; the market shares these figures give are as follows<sup>81</sup>:

<sup>80</sup> The Swan brand having been sold to the Littlewood's distribution chain, its sales in 2000, when the brand was owned by Moulinex, have not been taken into account.

<sup>81</sup> The respondents to the survey were De'Longhi, Braun, Philips, Saeco, BSH, Morphy Richards, Breville and Salton. For those firms that did not respond, the estimates used were supplied by the parties.

Products		Seb	Moulinex	Combined	Main competitor
Toasters	2000	[10-15]%	[0-5]%	[10-20]%	Morphy Richards [15-20] %
	2002	[10-15]%	[0-5]%	[10-20]%	Morphy Richards [10-15]%
Espresso machines	2000	[0-5]%	[35-40]%	[35-45]%	Saeco [15-20]%
	2002	[0-5]%	[15-20]%	[15-25]%	De' Longhi [20-25] %
Kettles	2000	[5-10]%	[0-5]%	[5-15]%	Philips [15-20] %
	2002	[5-10]%	[0-5]%	[5-15]%	Morphy Richards [10-15]%
Ovens	2000	[15-20]%	0%	[15-20]%	De' Longhi [15-20] %
	2002	[10-15%]	0%	[10-15]%	Russell Hobbs [20-25] %
Barbecues /grills	2000	[0-5]%	0%	[0-5]%	De' Longhi [10-15] %
	2002	[0-5]%	0%	[25-30]%	Russell Hobbs [75-80]%
Food preparation appliances	2000	[0-5]%	[15-20]%	[15-25] %	Philips [15-20] %
	2002	[0-5]%	[5-10]%	[5-15]%	Philips [15-20] %
Irons	2000	[30-35]%	[0-5]%	[30-40]%	Philips [35-40] %
	2002	[20-25]%	[0-5]%	[20-30]%	Philips [35-40]%
Deep fryers	2000	[20-25]%	[10-15]%	[30-40]	De' Longhi [30-35] %
	2002	[25-30]%	[0-5]%	[25-35]	De' Longhi [25-30] %
Filter coffee makers	2000	[5-10]%	[5-10]%	[10-20]%	Morphy Richards [35-40] %
	2002	[5-10]%	0%	[5-10]%	Morphy Richards [40-45] %
Sandwich makers	2000	[0-5]%	[0-5]%	[0-10]%	Breville [45-50] %
	2002	[0-5]%	[0-5]%	[0-10]%	Breville [40-45]%
Informal meal appliances	2000	[10-15]%	[0-5]%	[10-20]%	Morphy Richards [50-55]%
	2002	[10-15]%	0%	[10-15]%	Morphy Richards [70-75] %
Personal care appliances	2000	[0-5]%	0%	[0-5]%	Braun [30-35]%
	2002	[0-5]%	0%	[0-5]%	Braun [30-35]%
Steam cookers	2000	[30-35]%	[0-5]%	[30-40]%	De' Longhi [0-5] %
	2002	[30-35]%	0%	[30-35]%	De' Longhi [0-5] %

#### 5.4.3. Absence of horizontal effects

5.4.3.1. Markets where the new entity was not the market leader in 2000 or in 2002, or had market shares of less than 25% (toasters, kettles, ovens, sandwich and waffle makers, barbecues and grills, food preparation appliances and personal care appliances)

(392) In the market for toasters, Moulinex's sales have never exceeded 2%, and SEB's sales have always been below 15%. Morphy Richards and Russell Hobbs have always had at least 10% market shares. The acquisition of Moulinex is not likely to give SEB a dominant position.

(393) In the market for kettles, Moulinex's sales have never exceeded 1%, and SEB's sales have always been below 10%. Philips, Morphy Richards and Russell Hobbs have always had at least 10% market shares. The acquisition of Moulinex is not likely to give SEB a dominant position.

(394) In the market for tabletop ovens, Moulinex has never sold such products. Since there is no overlap, the acquisition of Moulinex is not likely to give SEB (which is

the third largest manufacturer after Russell Hobbs and De'Longhi) a dominant position.

- (395) In the market for sandwich and waffle makers, SEB's and Moulinex's sales have never exceeded 2%, while Breville's sales have always been over 40%. The combination of SEB and Moulinex is not likely to give SEB a dominant position.
- (396) In the market for barbecues and grills, Moulinex has never sold such products. Since there is no overlap, the acquisition of Moulinex is not likely to give SEB (which is the second largest player in the market, far behind Russell Hobbs) a dominant position.
- (397) In the market for food preparation appliances, SEB's sales have never exceeded 2%, and Moulinex's sales have always been below 20%. Braun, Philips and De'Longhi have always had market shares of at least 10%. The acquisition of Moulinex is not likely to give SEB a dominant position.
- (398) In the market for personal care appliances, Moulinex has never sold such products. Since there is no overlap, the acquisition of Moulinex is not likely to give SEB (which is the fourth largest manufacturer in the market after Braun, Philips and Morphy Richards) a dominant position.
- (399) In the market for filter coffee makers, Morphy Richards has always had sales in excess of 35%, while SEB and Moulinex combined have never exceeded 20% of the market. In 2002, Moulinex did not sell any such products in the United Kingdom and Ireland. The combination of SEB and Moulinex is not therefore likely to create a dominant position.

5.4.3.2. Markets where the transaction will not produce a significant addition of market shares (espresso machines, irons and ironing stations)

- (400) In the market for espresso machines, SEB's sales have always been below 1%. In 2002, Moulinex held market shares of between 15% and 20%, whereas De'Longhi and Saeco held shares of more than 20%. Even if Moulinex were able to regain its 2000 sales level of between 35% and 40%, the fact remains that SEB is a marginal actor in this market<sup>82</sup> where Moulinex faces two competitors with significant sales levels. The combination of SEB and Moulinex is not therefore likely to create a dominant position.
- (401) In the market for irons and ironing stations, Philips is the market leader with market shares of more than [30-40%]\*. In 2002, SEB was its main competitor with sales of between 20 and 25%. Moulinex is a marginal actor in this market, with market shares of less than 1% in 2002 and less than 3% in 2000. In addition, Moulinex is absent from the ironing stations segment. Although SEB has a very large market share here, almost [55-60%]\* according to its estimates, it should be borne in mind that this segment accounts for less than 10% of the steam iron segment and that SEB's position in this segment would not therefore give it any advantage in the

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<sup>82</sup> SEB therefore does not have any must-have brands in this market.



market for steam irons. The combination of SEB and Moulinex is not therefore likely to create a dominant position.

- 5.4.3.3. Markets where the transaction will produce a significant addition of activities (informal meal appliances, steam cookers and deep fryers)

Market for informal meal appliances

Market shares	Informal meal appliances	
	2000	2002
<b>SEB</b>	[10-15]%	[10-15]%
<b>Moulinex</b>	[0-5]%	0%
<b>TOTAL</b>	<b>[10-20]%</b>	<b>[10-15]%</b>
<b>Morphy Richards</b>	[50-55]%	[70-75]%
<b>Princess</b>	[5-10]%	[5-10]%
<b>Breville</b>	[0-5]%	[0-5]%
<b>De' Longhi</b>	[0-5]%	[0-5]%
<b>Russell Hobbs</b>	[0-5]%	[0-5]%
<b>Hinari</b>	[0-5]%	[0-5]%

(402) In 2002, Morphy Richards was the market leader with sales five times greater than those of SEB. No Moulinex product was sold in 2002. Morphy Richards's sales derive from its Slow Cooker appliance that can be used to cook all sorts of food. Although the parties and Morphy Richards as well as one distributor regard these appliances as belonging to the market for informal meal appliances, however, it is not clear that this type of appliance is used at table and with the same degree of conviviality as other informal meal appliances such as "raclette", "fondue" and wok appliances. In particular, the instructions provided with the appliance state that it must be placed on a heat-resistant surface, which is not always the case with dining tables.

(403) If sales of the appliance are excluded from this category, the relevant market shares are significantly altered:

Market share	Informal meal appliances	
	2000	2002
<b>SEB</b>	[20-25]%	[50-55]%
<b>Moulinex</b>	[5-10]%	0%
<b>TOTAL</b>	<b>[25-35]%</b>	<b>[50-55]%</b>
<b>Princess</b>	[10-15]%	[15-20]%
<b>Breville</b>	[5-10]%	[5-10]%
<b>De' Longhi</b>	[0-5]%	[5-10]%
<b>Russell Hobbs</b>	[0-5]%	[0-5]%

- (404) In this configuration, SEB was the market leader in 2002, its competitors Princess, Breville, De'Longhi and Russell Hobbs having comparatively smaller shares.
- (405) Since no Moulinex product was on sale in 2002, the acquisition of Moulinex by SEB would be neutral from a competition point of view on the basis of the 2002 figures. SEB has stated that it does not intend to launch new Moulinex products in the informal meals category.
- (406) It should be noted, lastly, that Moulinex's sales in 2000 were comparable in level to those of Princess, which in 2001 held more than 20% of the market . This level of sales was comparable to those of Breville, De'Longhi, Russell Hobbs or Hinari in 2002 and, unlike Tefal, none of these brands has been cited as a must-have brand. The potential competition represented by Moulinex is not therefore essential to the operation of competition and does not confer any additional room for manoeuvre on SEB because of the acquisition of a new brand.
- (407) The acquisition of Moulinex by SEB will therefore have a marginal effect on the competitive structure of the market for informal meal appliances in the United Kingdom and Ireland.
- (408) Whether or not Morphy Richards's sales are taken into account, the acquisition of Moulinex by SEB would not give SEB a dominant position or strengthen any dominant position that might exist.

#### Market for steam cookers

- (409) The market shares are shown in the following table:

Market shares	Steam cookers	
	2000	2002
<b>SEB</b>	[30-35]%	[30-35]%
<b>Moulinex</b>	[0-5]%	0%
<b>TOTAL</b>	<b>[30-40]%</b>	<b>[30-35]%</b>
<b>De' Longhi</b>	[0-5]%	[0-5]%
<b>Morphy Richards</b>	[0-5]%	[0-5]%
<b>Russell Hobbs</b>	[0-5]%	[0-5]%
<b>Hinari</b>	[0-5]%	[0-5]%

- (410) SEB is the market leader by a very wide margin, ahead of De'Longhi, Morphy Richards, Russell Hobbs and Hinari. In 2002, SEB withdrew Moulinex products from the market. In 2000, Moulinex steam cooker sales accounted for less than 1% of the market. In terms of must-have brands, Tefal is cited six times, Kenwood twice and Morphy Richards once.
- (411) The acquisition of Moulinex by SEB is thus limited to the potential which the Moulinex brand represents in the market for steam cookers in the United Kingdom and Ireland. This potential is less than the competition from several established or recently introduced brands: between 2000 and 2002, Russell Hobbs, Hinari and Magimix entered the market and, in 2002, achieved sales in excess of Moulinex's sales in 2000.

(412) The competitive structure of the market for steam cookers in the United Kingdom and Ireland would thus be marginally affected by merger, which would not give SEB a dominant position.

#### Market for deep fryers

(413) The market shares are shown in the following table:

Market shares	Deep fryers	
	2000	2002
<b>SEB</b>	[20-25]%	[25-30]%
<b>Moulinex</b>	[15-20]%	[0-5]%
<b>TOTAL</b>	<b>[35-45]%</b>	<b>[25-35]%</b>
<b>De' Longhi</b>	[30-35]%	[25-30]%
<b>Morphy Richards</b>	[10-15]%	[10-15]%
<b>Breville</b>	[5-10]%	[5-10]%
<b>Philips</b>	[0-5]%	[5-10]%

(414) Before the merger, De'Longhi was the market leader and was in competition with SEB, Moulinex and Morphy Richards. This situation has changed considerably: De'Longhi's and SEB's sales are now comparable, with Morphy Richards remaining their main competitor, while Moulinex had market shares of less than 1% in 2002. Tefal is cited five times as a must-have brand, De'Longhi four times, Kenwood three times and Moulinex once.

(415) On the basis of market shares in 2002, the combination of SEB and Moulinex cannot give rise to the creation of a dominant position. The addition of Moulinex to SEB is marginal in terms of market shares, with Moulinex accounting for less than 1% of sales, and the Moulinex brand is less highly thought of than Tefal, De'Longhi and Kenwood.

(416) However, it cannot be ruled out that Moulinex might recover some of its 2000 level of sales. It should be noted, however, that SEB has not taken over Moulinex's production plant and at present actively sells only one top-of-the-range model, manufactured on a sub-contracting basis. SEB has stated that the only project currently on the drawing board is for a deep fryer costing more than [...]\*, i.e. in the fourth quartile.

(417) It should be noted, moreover, that Moulinex has virtually disappeared from the entry level: in 2000, it held more than one quarter of the first quartile<sup>83</sup>, which accounted for almost [40-50%]\* of its sales, while in 2002 it held less than [0-5%]\* of that quartile. The disappearance of Moulinex from this price segment has benefited in particular Cookworks, the Argos brand, which holds [5-10]% of the first quartile, De'Longhi, which holds [25-30]%, Tefal [15-20]% and Breville [15-20]%. What is more, competition in this segment is mainly through price. The Moulinex brand's contribution to SEB is therefore limited, particularly since SEB already held almost [15-25%]\* of this quartile in 2002 and more than [20-30%]\* in 2000 and since Moulinex is not a brand that enjoys a particular reputation in this market.

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<sup>83</sup> GFK "Hit List".

- (418) Moulinex did not have a strong presence in 2000 in the second and third quartiles, both of which accounted for less than one quarter of its sales. In the fourth quartile, which accounted for more than one third of Moulinex's sales, the decline of Moulinex from [10-15]% to [0-5]% benefited mainly Tefal, which rose from [15-20]% to [30-35]%. Repositioning Moulinex at the top of the range would therefore probably be at the expense of Tefal and would thus have a neutral effect for SEB. At all events, the pursuit of any such strategy seems unlikely in view of the brand images of Tefal and Moulinex: unlike Tefal, Moulinex is not a must-have brand in this market. Moreover, the parties' combined market share with products in this quartile is less than [5-10%]\*.
- (419) The Moulinex brand's capacity to regain the market shares it had in 2000 has to be examined in the light of these factors. It appears improbable that Moulinex will in the short term win back its market shares at the bottom of the range. At the top of the range, relaunching Moulinex would probably be at the expense of Tefal and is unlikely. There is therefore little likelihood of Moulinex regaining significant market shares in the short term.
- (420) The competitive structure of the market for deep fryers in the United Kingdom would therefore be marginally affected by this addition of market shares and would not give SEB a dominant position.

#### *5.4.4. Absence of non-horizontal effects*

- (421) The analysis of the competitive position of the new entity must take account, not only of the strictly horizontal effects, but also of the portfolio of brands held by it and of the fact that it holds substantial market shares in many of the product markets concerned.

#### Portfolio of brands

- (422) The operators present in the small electrical household appliance market seem to have two development strategies in relation to brands. Some, like the parties, have a multibrand strategy. The operators in question are BSH, with Bosch and Siemens, and De'Longhi, with Kenwood and De'Longhi. Others, by contrast, such as Braun, Philips, Morphy-Richards or Salton, have opted for single-brand development.
- (423) A broad portfolio is generally perceived as enabling producers to cater better for consumers' needs. However, such a strategy is more costly as it means having several advertising and promotion budgets and risks diluting the value of certain brands.
- (424) The review of the situation in the United Kingdom and Ireland has not made it possible to determine whether the strategy of holding a portfolio of brands confers a decisive competitive advantage. Single-brand operators are the leading operators in both countries, whether their reputation be international or local. Of the first five operators, two (SEB and De'Longhi) have a multibrand strategy and three (Philips, Braun and Morphy-Richards) have only one brand. Clearly, the holding of a single brand is not a decisive handicap to an operator's development.
- (425) Even supposing that the holding of a portfolio of brands constitutes a decisive advantage in the small electrical household appliance sector, which has not been borne out by the market survey, the situation of the new entity must be put in

perspective. Although the new entity is in a favourable position, that position is not exceptional.

(426) SEB will henceforth hold a portfolio of four brands: Tefal and Rowenta, to which must be added Moulinex and Krups. This portfolio faces competition from those of De'Longhi (De'Longhi, Kenwood) and BSH (Bosch, Siemens). Although the new entity's portfolio is broader, the Moulinex and Krups brands' contribution will not in itself enable the new entity to enjoy a substantial advantage over its competitors. Moulinex did not have the clear-cut status of a must-have brand before the merger and its image took a battering as a result of the difficulties facing its former parent company. Krups has hung on to a more favourable image, albeit limited to certain markets, i.e. those related to coffee making.

#### Strong positions in several markets

(427) As regards the cumulative effect of strong positions in several markets, the Commission's investigation has shown that the new entity is not of strategic importance when it comes to distributors' purchasing decisions and that its strong positions do not differ in number and size from those of its main competitors.

- SEB's position in distributors' purchases

(428) SEB/Moulinex is not of strategic importance when it comes to the purchases effected by distributors, as was confirmed by the latter at the time of the market survey. Distributors and consumers can turn to a number of competitors such as Philips, Braun, De'Longhi, Morphy-Richards and Salton, who propose a wide range of alternatives and well-known brands.

(429) Two groups, Braun and Philips, achieve a slightly larger turnover than SEB in the United Kingdom and Ireland. Of these two groups, Philips has the broader range inasmuch as it is present in nine of the 13 markets concerned (being absent only from the markets for mini ovens, informal meal appliances, steam cookers and espresso machines, which together account for only a small proportion of the UK and Irish markets). Braun's strategy, on the other hand, is to concentrate on a small number of markets in which as a rule it holds relatively strong positions. Braun is thus present in four of the 13 markets concerned in the United Kingdom and Ireland (irons, kettles, food preparation appliances and personal care appliances). Braun is one of the foremost operators in the markets for food preparation appliances and personal care appliances.

(430) De'Longhi and Morphy Richards achieve an overall turnover almost the same as that of the new entity with a presence across a very broad range of markets (all except personal care appliances in the case of De'Longhi, and nine out of 13 in the case of Morphy Richards).

- Possible positions of strength

(431) The adding together of SEB and the Moulinex assets it has acquired could produce non-horizontal effects that damaged competition if the combined entity had positions of strength in some markets that it could extend to a situation of dominance in other markets. In order for these two cumulative conditions to be met, the parties

would therefore have to hold a position of strength, either resulting from the merger or pre-existing, in a sufficiently important market for them to be able to extend that position to other markets.

- (432) In 2000, the new entity would have been the market leader in a number of categories of small electrical household appliances (espresso machines, food preparation appliances, steam cookers, toasters and deep fryers). These markets accounted for [20-25%]\* of small electrical household appliances.
- (433) In 2002, SEB and Moulinex were market leaders in two product categories (steam cookers and informal meal appliances<sup>84</sup>), with market shares of over 25%. These markets accounted for [less than 1%]\* of small electrical household appliances. Morphy Richards was market leader in four product categories (toasters, kettles, filter coffee makers and informal meal appliances). These markets accounted for [25-35%]\* of small electrical household appliances. De'Longhi was market leader in two product categories (espresso machines and deep fryers). These markets accounted for [5-10%]\* of small electrical household appliances. Philips was also market leader in two product categories (food preparation appliances and irons and ironing stations), as was Russell Hobbs/Salton (tabletop ovens and barbecues and grills). These markets accounted for [20-25%]\* and [5-10%]\* respectively of small electrical household appliances. Lastly, Breville was the market leader in sandwich and waffle makers, and Braun in personal care appliances, both with market shares of over 25%.
- (434) The De'Longhi, Braun, Philips, Morphy Richards, Russell Hobbs and Breville ranges are such that they invariably offer distributors alternatives to SEB and Moulinex products and they often include must-have brands. In particular, amongst the markets that account for more than 5% of the market in small electrical household appliances (toasters, kettles, steam irons, food preparation appliances and personal care appliances), SEB and Moulinex have a market share of over 15% only in the market for irons and ironing stations, where they are smaller than Philips and in close competition with Morphy Richards.
- (435) There is therefore no category of product where SEB might be able to use its position in such a way as to favour its sales of other products. The size of the markets where SEB could hold powerful positions is marginal, and in each market of a significant size distributors have alternatives to SEB/Moulinex in the form of its main competitors, De'Longhi, Braun, Philips, Morphy Richards, Russell Hobbs and Breville.

#### 5.4.5. *Conclusion concerning the United Kingdom and Ireland*

- (436) The acquisition of the Moulinex and Krups brands is not likely to create or strengthen a dominant position held by SEB in the UK and Irish markets for small electrical household appliances.

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<sup>84</sup> Depending on whether or not certain Morphy Richards products are included.

5.4.6. *The nine Member States in respect of which SEB gave commitments in the first proceedings*

(437) In its authorising decision, the Commission took the view that the commitments proposed by the parties were sufficient to remove the doubts as to the compatibility of the operation with the common market in those nine countries provided that the parties complied with the following commitments:

- (1) the commitment to grant an exclusive licence to sell household electrical appliances under the Moulinex trade mark for a period of five years covering the 13 categories of product mentioned in the decision, as defined in Section 1(a) of the commitments;
- (2) the commitment not to market products bearing the Moulinex trade mark in the countries concerned during the term of the licence and for a further period of three years following the expiry of the licence, as provided for in Section 1(c) of the commitments;
- (3) the commitment not to market models of Moulinex products under a trade mark other than Moulinex in the territories in respect of which the licensee or licensees have concluded a supply contract or been granted an industrial property licence, as provided for in Section 1(e) of the commitments;
- (4) the commitment to enter into supply agreements (at a supply price corresponding to the industrial cost price plus the general costs associated with the production and delivery of the products to the licensee) with, and/or grant licences covering industrial property rights in respect of all products concerned, with the exception of food mixers in Germany, to any licensee requesting such a contract or licence, as provided for in Section 1(d) of the commitments;
- (5) the commitment to pursue the general policy of the development of new models and to maintain the full economic and competitive value of the Moulinex trade mark in each of the nine States concerned until the conclusion of the licence agreements, as provided for in Section 1(h) of the commitments;
- (6) the commitment to conclude the exclusive trade mark licensing agreement or agreements for the nine countries concerned within the deadlines provided for in Sections 1(h) and 2(e)(iv) of the commitments;
- (7) the commitment relating to the approval of the licensee or licensees by the Commission, as provided for in Section 1(i) of the commitments;
- (8) consideration of any suggestion made by the agent that is useful to the carrying out of the commitments or to the performance of its task, as provided for in Section 2(e)(ii) of the commitments.

(438) Pursuant to the judgments of the CFI in Cases T-114/02 and T-119/02, these commitments, once fully carried out, make it possible to remove any serious doubts. The merger has been amended through the existence and implementation of these

commitments. For the purposes of this Decision, it is not therefore necessary to re-examine the competitive situation in the nine countries in question.

(439) Nevertheless, since the implementation of the commitments is still being carried out, this authorising decision is conditional upon full implementation of the commitments.

## 6. CONCLUSION

(440) For the reasons set out above, the Commission has decided not to oppose the notified merger and to declare it compatible with the common market and with the EEA Agreement, subject to the continued implementation of the commitments which were proposed during the first proceedings. This Decision is taken on the basis of Article 8(2) of Council Regulation No 4064/89 and Article 57 of the EEA Agreement,

HAS ADOPTED THIS DECISION:

### *Article 1*

The notified merger operation through which SEB acquires, within the meaning of Article 3(1)(b) of Regulation (EEC) No 4064/89, control of several parts of Moulinex through the purchase of assets is hereby declared compatible with the common market and with the operation of the EEA Agreement.

### *Article 2*



This Decision is addressed to:

SEB SA

Chemin du Petit-Bois

69132 Ecully

France

Done at Brussels, 11 November 2003

*For the Commission*

*Mario MONTI*

*Member of the Commission*



EUROPEAN COMMISSION

The Hearing Officer



**FINAL REPORT OF THE HEARING OFFICER**  
**IN CASE COMP/M.2621 SEB/MOULINEX**

**(PURSUANT TO ARTICLE 15 OF COMMISSION DECISION 2001/462/3C, ECSC OF 23 MAY 2001 ON THE TERMS OF REFERENCE OF HEARING OFFICERS IN CERTAIN COMPETITION PROCEEDINGS - OJ L 162, 19.6.2001, P. 21)**

On 13 November 2001 the Commission received notification, under Article 4 of Council Regulation No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (“the Merger Regulation”), of a transaction whereby a part of the assets of the French company Moulinex was to be acquired by another French company, SEB. On 8 January 2002 the Commission decided not to oppose to the transaction notified and to declare it compatible with the common market and the EEA Agreement, subject to compliance with certain commitments which formed an integral part of the decision. This decision, adopted under Article 6(1)(b) and Article 6(2) of the Merger Regulation, authorised the transaction with respect to its effects outside France. The French authorities had requested that part of the case be referred to them, and by a decision likewise adopted on 8 January 2002, under Article 9 of the Merger Regulation, the Commission referred the French aspects of the case to the French authorities.

On 3 April 2003 the Court of First Instance annulled the Commission’s authorising decision with respect to five countries where no remedies had been required (Spain, Finland, Italy, the United Kingdom and Ireland). The Commission then reopened the first phase of investigation.

In accordance with Article 10(5) of the Merger Regulation, the date on which the notification and the time limits which depend on it now took effect was 3 April 2003.

On 23 May 2003 the Commission concluded that the commitments offered by SEB did not overcome the serious doubts as to the compatibility of the transaction with the common market, and decided to initiate formal proceedings under Article 6(1)(b) of the Merger Regulation.

Those proceedings were suspended on 19 June 2003 by a decision under Article 11 of the Merger Regulation. SEB supplied a full reply, and the proceedings resumed on 1 August 2003. The time limit for a decision under Article 8 of the Merger Regulation is consequently 25 November 2003. The conclusion from the detailed market surveys now carried out is that no commitments other than those entered into in the earlier proceedings were needed in order to prevent the creation or strengthening of a dominant position. For this reason no statement of objections has been sent to the parties.

I consider that the undertakings' right to be heard has been respected in this case.

Brussels, 4 November 2003

*(signed)*

**Serge DURANDE**

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**EUROPEAN COMMISSION**  
COMPETITION DG

**Policy Development and Coordination**

**OPINION**  
**OF THE ADVISORY COMMITTEE ON CONCENTRATIONS**  
**GIVEN AT ITS 120<sup>TH</sup> MEETING HELD ON 3 NOVEMBER 2003**  
**CONCERNING A PRELIMINARY DRAFT DECISION RELATING**  
**TO CASE COMP/M.2621 – SEB/MOULINEX (II)**

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- I. The Advisory Committee agrees with the Commission on the following points:
  1. the merger operation constitutes a concentration within the meaning of Article 3(1)b of Regulation 4064/89 on the control of concentrations having a Community dimension;
  2. the merger has a Community dimension within the meaning of Article 1(3) of Regulation 4064/89 on the control of concentrations having a Community dimension;
  3. the relevant product markets affected by the concentration may be defined as follows:
    - (a) deep fryers
    - (b) mini ovens
    - (c) toasters
    - (d) sandwich and waffle makers
    - (e) appliances for informal meals
    - (f) electric barbecues and indoor grills
    - (g) rice cookers and steam cookers
    - (h) electric filter coffee makers
    - (i) kettles
    - (j) espresso coffee machines
    - (k) blenders and food preparation appliances
    - (l) irons and ironing stations
    - (m) personal care appliances;
  4. the relevant geographic markets are national, with the exception of the United Kingdom and Ireland, which form a single market;
  5. subject to the continued implementation of the commitments which were proposed under the Commission Decision of 8 January 2002, the merger does not create or strengthen a dominant position on the relevant geographic markets and is compatible with the common market and with the EEA Agreement.
- II. The Advisory Committee recommends the publication of its opinion in the Official Journal of the European Union.

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OPINION of the ADVISORY COMMITTEE on concentrations given at its 120<sup>th</sup> meeting held on 3 November 2003 concerning a preliminary draft Decision relating to Case COMP/M.2621 – SEB/Moulinex (II)

III. The Advisory Committee asks the Commission to take into account the other points raised during the discussion.

<u>BELGIË/BELGIQUE</u>	<u>DANMARK</u>	<u>DEUTSCHLAND</u>	<u>ELLAS</u>	<u>ESPAÑA</u>
V. HABILS	---	I. MECKE	---	I. COLINA SÁNCHEZ
<u>FRANCE</u>	<u>IRELAND</u>	<u>ITALIE</u>	<u>LUXEMBOURG</u>	<u>NEDERLAND</u>
B. JEHANNO	---	E. CARLINI	---	G. ESTERUELAS
<u>ÖSTERREICH</u>	<u>PORTUGAL</u>	<u>SUOMI/FINLAND</u>	<u>SVERIGE</u>	<u>UNITED KINGDOM</u>
S. FISCHER	R. MARQUES	P. KALLIOMÄKI	---	I. NITSCHÉ