

EN

*Case No COMP/M.7005 - SCHNEIDER ELECTRIC/
INVENSYS*

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 29/11/2013

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Brussels, 29.11.2013
C(2013) 8657 final

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying party

Dear Sir/Madam,

**Subject: Case No COMP/M.7005 – Schneider Electric/ Invensys
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

- (1) On 24 October 2013, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Schneider Electric S.A. ("Schneider Electric", France) acquires sole control of the whole of Invensys plc. ("Invensys", United Kingdom) by way of public bid announced on 31 July 2013.² Schneider Electric is referred to as the "Notifying Party" and jointly with Invensys as the "Parties".

1. THE PARTIES AND THE CONCENTRATION

- (2) Schneider Electric is the holding company of an international group of companies that design, manufacture and sell products and systems in energy management, electrical distribution, industrial control and automation.
- (3) Invensys operates world-wide in the electronics and engineering areas with products such as: automation solutions, factory automation products and equipment, power control products as well as controls and control systems for buildings.

¹ OJ L 24, 29.1.2004, p. 1 ('the Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

² Publication in the Official Journal of the European Union No C 318, 1.11.2013, p. 7.

- (4) The transaction is a public bid by Schneider Electric to acquire 100% of the share capital in Invensys, which constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

2. EU DIMENSION

- (5) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5,000 million³ (Schneider Electric: EUR 23,946 million; Invensys: EUR 2,186 million). Each of them has an EU-wide turnover in excess of EUR 250 million (Schneider Electric: EUR [...]; Invensys: EUR [...]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension pursuant to Article 1(2) of the Merger Regulation.

3. COMPETITIVE ASSESSMENT

3.1. Relevant markets

3.1.1. Relevant product markets

- (6) The activities of the Parties overlap primarily with respect to automation and control of machines, manufacturing plants and industrial sites, in particular with regard to Human Machine Interface ("HMI") software, graphic operator panels, and process safety systems.

3.1.1.1. Automation and control

- (7) The Notifying Party submits that the automation and control industry provides solutions for sensing, monitoring, supervising, controlling and automating objects, machines, industrial processes or systems, as well as infrastructures. The various components of automation and control systems can be grouped into different levels of automation hierarchy. Although the precise delineation and number of the hierarchy levels vary between the Commission's past decisional practice and some of the market studies submitted by the Parties⁴, the main categories can be described as follows: (i) drives and sensors located throughout the manufacturing facility (level 1 or field level), (ii) computers controlling the production process and systems enabling the operational personnel to interact with the automated plant floor (level 2 or automation control level), (iii) integrated solutions for controlling and monitoring the production process, quality and logistics of a plant (level 3 or management level) and (iv) products which facilitate information flow between all business functions inside the enterprise and the management of resources involved in the production process (level 4 or enterprise level).
- (8) The Notifying Party accepts that while some automation and control products (e.g. the equipment belonging to level 1, described in recital (7) above) may be adapted in some way for application in certain sectors, there is a considerable commonality in

³ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p. 1).

⁴ In previous cases, the Commission referred to four levels see Case COMP/M.4608 - *Siemens/UGS*, par. 13, Case COMP/M.3653 - *Siemens/VA Tech*, par. 234, while in an industry report of Crédit Suisse ("Global Industrial Automation", 14 August 2012), there is a reference to three levels.

their function and basic design irrespective of the sector in which the end-user of these products is active (for instance pharmaceuticals, automotive, oil and gas etc.).⁵ In previous decisions, the Commission, while leaving the market definition open and noting the specificity of electricity industry, decided to analyse the control equipment without differentiating between end-user sectors.⁶ The responses obtained in the context of the market investigation conducted in the present case do not allow a conclusion as to whether segmentation according to the end-user should be made.⁷

- (9) The Notifying Party also states that automation and control technology has evolved in two categories targeted at two different types of industries: process industries and discrete industries.⁸ Process industries are manufacturing environments in which raw materials are processed and/or transformed following a continuous process. Examples of these include inter alia: petrochemicals, refining, electric power, oil and gas, water, pulp and paper or mining. Automation and control in these industries requires continuous, uninterrupted control and is focused on limiting downtime and maintaining control of potentially very dangerous processes. On the other hand, discrete industries involve production or processing of a countable number of individual pieces or products. Automotive, aerospace, machine tools, electronics and textiles are examples of discrete industries. Automation and control in these industries requires fast moving, repetitive control functions.
- (10) The Commission has previously referred specifically to control equipment used in continuous or batch production processes, such as petrochemical, power generation, chemicals, etc.⁹ However it has not determined whether process and discrete automation and control should be considered as separate product markets.
- (11) The Notifying Party is of the opinion that no distinction should be made between these three types of automation and control (process, discrete, hybrid). Instead, the relevant market should comprise all automation and control products. To support this view, the Notifying Party argues that major players in the market are active in all types of automation and control, while customers very often ask for both discrete and process automation and control products.
- (12) It appears from the information collected during the market investigation that the big players in the automation and control sector are indeed active at the same time in process, discrete and hybrid industries.¹⁰ On the other hand, the responses obtained in the context of the market investigation do not allow a conclusion as to whether, for a supplier of automation and control products, switching from process to discrete industry (or vice versa) would require significant time or investment.¹¹

⁵ See also Case COMP/M.670 – *ELSAG Bailey/Hartmann & Braun AG*, par. 9.

⁶ *Ibidem*.

⁷ See responses to question 7 of the Questionnaire Q1 – Automation and HMI software-competitors and to question 7 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

⁸ A potential third category of hybrid industries (for instance beverage plants) has overlapping characteristics of the two previous ones and therefore requires features of both discrete and process automation.

⁹ Case COMP/M.670 – *ELSAG Bailey/Hartmann & Braun AG*, par. 8.

¹⁰ Responses to question 2 of the Questionnaire Q1 – Automation and HMI software-competitors.

¹¹ Responses to question 7 of the Questionnaire Q1 – Automation and HMI software-competitors.

- (13) As for another potential segmentation, the Notifying Party argues that within automation and control products, the various types of automation and control software (such as HMI software, product life cycle management software, etc.) together belong to the same relevant market, since a number of suppliers offer a significant range of such software. From the market investigation, the Commission notes that the main suppliers active in the automation and control sector also provide various types of automation and control software, even though not all of them can offer a wide range.¹²
- (14) Irrespective of whether the relevant market encompasses all automation and control products (including hardware and software) or is limited to all automation and control software, the proposed transaction would not lead to any affected markets. Moreover, since Schneider Electric is focused on discrete industries, while Invensys is mainly active in process industries, there would be no or very limited overlap between the Parties' activities if the relevant market were to be defined more narrowly on the basis of segments for discrete and process automation and control products.
- (15) Thus the exact delineation of the relevant market can be left open as the notified operation does not raise serious doubts as to its compatibility with the internal market under any possible market definition.

3.1.1.2. HMI software

- (16) The Notifying Party submits that HMI software assists operators in managing control machinery for industries and processes via a computer-based graphical user interface. HMI software would belong to level 2 in the hierarchy of automation and control systems described at recital (7) above. Previously, the Commission, while leaving the market definition open, has considered a separate market for HMI software solutions (i.e. software and professional services associated with the software). It has also analysed a potential narrower segment of HMI software only.¹³ The Notifying Party however argues that no distinction should be made between HMI software and HMI software solutions since most suppliers offer both.
- (17) The majority of the customers that responded to the Commission's market investigation consider that various types of software belonging to level 2 of the automation hierarchy (including HMI software) are not substitutable with one another.¹⁴ The data collected in the context of the market investigation also revealed that it depends on customers' requests whether HMI software is sold on a stand-alone basis or as a part of a package, whether it is sold with or without associated services, and whether HMI software is sold separately from HMI hardware or jointly with it.¹⁵
- (18) However, the exact delineation of the relevant product market(s) can be left open as the notified operation does not raise serious doubts as to its compatibility with the internal market under any possible market definition.

¹² Responses to question 5 of the Questionnaire Q1 – Automation and HMI software-competitors.

¹³ Case COMP/M.4608 – *Siemens/UGS*, par. 17.

¹⁴ See responses to question 10.2.1 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

¹⁵ Responses to questions 11-13 of the Questionnaire Q1 – Automation and HMI software-competitors and responses to questions 11-13 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

3.1.1.3. Graphic operator panels

- (19) The Notifying Party submits that operator panels are devices to monitor and operate automated processes. Within the overall category of operator panels, graphic operator panels and automation operator panels (which offer an ability to install additional automation tasks in addition to monitoring and operation functions) can be distinguished. The above characteristics of operator panels were confirmed by respondents to the Commission's market investigation.¹⁶
- (20) While Schneider Electric offers both automation operator panels and graphic operator panels, Invensys supplies only the latter.
- (21) However, for the purpose of the assessment of the present case it is not necessary to conclude whether the overall market for operator panels should be subdivided further, notably into graphic operator panels and automation operator panels as the notified operation does not raise serious doubts as to its compatibility with the internal market under any possible market definition.

3.1.1.4. Process safety systems

- (22) According to the Notifying Party, while Invensys and Schneider Electric both offer safety control products, their activities do not overlap. Schneider Electric offers only components (safety controllers) based on the principle of dual modular redundancy, which are usually not used in process industries, while Invensys generally provides entire Safety Instrumented Systems (SIS) based on triple modular redundancy, which are used in process industries. Thus, the Notifying Party argues that the only market relevant for the purpose of the assessment of the transaction would be the broad market for process safety systems.
- (23) The information obtained in the context of the market investigation in the present case does not allow a conclusion as to whether safety systems used for process industries differ from those used in discrete industries.¹⁷ On the other hand, the majority of customers that responded to the market investigation confirmed that safety products are supplied as parts of a complete SIS, with hardware and software together rather than on a stand-alone basis.¹⁸
- (24) However, for the purpose of the assessment of the present case it is not necessary to conclude on the exact delineation of the relevant market, as the notified operation does not raise serious doubts as to its compatibility with the internal market under any possible market definition

3.1.2. *Relevant geographic market*

- (25) The Notifying Party considers that the overall market for automation and control and any possible submarket(s) thereof (including the potential markets for HMI software, graphic operator panels and process safety systems) are global in scope or at least EEA-wide.

¹⁶ Responses to question 2 of the Questionnaire Q3 – Graphic operator panels.

¹⁷ Responses to questions 2, 3 of the Questionnaire Q4 – Safety systems.

¹⁸ Responses to question 5 of the Questionnaire Q4 – Safety systems.

- (26) Previous Commission decisions relating to automation and control software considered the markets to be at least EEA-wide, but have ultimately left the market definition open.¹⁹
- (27) All the competitors that responded to the market investigation confirmed that they sell their automation and control products and services (and in particular HMI software) on a worldwide basis²⁰ and the majority of them does not see any limitations to the supply of these products and services on an EEA-wide or even worldwide basis.²¹ Generally, the majority of customers procure automation and control products and services on a worldwide basis, while for HMI software the majority of customers procure it at least on an EEA-wide basis.²²
- (28) With respect to graphic operator panels and process safety systems all of the customers which responded to the market investigation confirmed that they view these markets as worldwide.²³
- (29) Thus the information obtained in the context of the market investigation in the present case militates in favour of the view that the overall market for automation and control and its potential segment of HMI software are at least EEA-wide in scope, while the markets for operator panels and safety systems are likely worldwide in scope.
- (30) However, the Commission considers that it is not necessary to conclude on the exact geographic market definition in the present case since the proposed transaction does not raise serious doubts as to its compatibility with the internal market under any possible market definition.

3.2. Competitive assessment

3.2.1. Automation and control

- (31) The proposed transaction gives rise to the following affected markets: (i) HMI software (both in the EEA and worldwide), (ii) graphic operator panels (at worldwide level), and (iii) process safety systems (at worldwide level). As shown in Table 1 below, in a potential overall market for automation and control the combined market shares of the Parties would be below [5-10]% both on an EEA-wide and a worldwide basis. In a potential market for automation and control software only, the combined market shares of the Parties would be below [0-5]%.

¹⁹ Case COMP/M.5755 - *Schneider Electric/Areva T&D*, Case COMP/M.6222 - *GE Energy/Converteam*, Case IV/M.913 - *Siemens/Electrowatt*.

²⁰ Responses to questions 16, 19 of the Questionnaire Q1 – Automation and HMI software-competitors.

²¹ Responses to questions 17, 20 of the Questionnaire Q1 – Automation and HMI software-competitors.

²² Responses to questions 16, 19 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

²³ Responses to question 7 of the Questionnaire Q4 – Safety systems and question 5 of the Questionnaire Q3 – Graphic operator panels.

Table 1 - 2012 market shares of the Parties in the overall market for automation and control (both hardware and software)

	Overall automation and control Worldwide	Overall automation and control EEA
Schneider Electric	[0-5]%	[0-5]%
Invensys	[0-5]%	[0-5]%
Combined	[5-10]%	[0-5]%

Source: Form CO – Notifying Party's estimates

Table 2 - 2012 market shares of the Parties in the market for automation and control software

	Automation and control software Worldwide	Automation and control software EEA
Schneider Electric	[0-5]%	[0-5]%
Invensys	[0-5]%	[0-5]%
Combined	[0-5]%	[0-5]%

Source: Form CO – Notifying Party's estimates

- (32) More generally, the Notifying Party submits that the proposed transaction does not raise competitive concerns because the activities of the Parties are complementary: Schneider Electric focuses on discrete automation and control, while Invensys is mainly active in process automation and control. Considering a possible segmentation by discrete automation and control and process automation and control, the Parties' combined market share would in any event be below [5-10]%, both on a EEA-wide and worldwide basis. Considering the potential market for automation and control for hybrid industries, the Parties combined market share would be less than [0-5]% both on an EEA-wide and worldwide basis.
- (33) The information obtained in the context of the market investigation militates in favour of the views expressed by the Notifying Party. Several respondents, both competitors and customers, noted that Schneider Electric is a key player in discrete automation and electrical components and that Invensys is active in process solutions and therefore the overlapping activities are limited.²⁴ Many customers also noted that the offers of Invensys and Schneider Electric in the overall automation and control segment are indeed complementary.²⁵

3.2.2. HMI software

- (34) According to the Notifying Party, the proposed transaction would create the second largest player in the EEA in the potential market for HMI software, with a combined market share of [20-30]%. The first player in that potential market would be Siemens with a significantly higher market share of [30-40]%. On a worldwide basis, the

²⁴ See responses to questions 22 and 23 of the Questionnaire Q1 – Automation and HMI software-competitors, see responses to question 22 of the Questionnaire Q2 – Automation and HMI software-customers.

²⁵ See response to questions 22, 23 of the Questionnaire Q2a – Automation and HMI software-customers.

merged entity would have the biggest market share, followed by Siemens and strong players such as Rockwell Automation and General Electric. Table 3 presents the Parties' estimates of their own market shares as well as those of their main competitors in the potential market for HMI software in 2012, both in the EEA and worldwide.

Table 3 – 2012 market shares in the market for HMI software

	HMI Software Worldwide	HMI Software EEA
Schneider Electric	[5-10]%	[5-10]%
Invensys	[20-30]%	[10-20]%
Combined	[20-30]%	[20-30]%
Siemens	[20-30]%	[30-40]%
Rockwell Automation	[5-10]%	[5-10]%
General Electric	[5-10]%	[5-10]%
Iconics	[0-5]%	[0-5]%
Others	[20-30]%	[20-30]%
Total	100%	100%

Source: Form CO – Notifying Party's estimates

- (35) The Parties' market shares have been relatively stable over the past three years. Invensys' worldwide market share amounted to [20-30]% in 2010 and to [10-20]% in 2011, and its EEA market share amounted to [10-20]% in 2010 and [10-20]% in 2011. Schneider Electric's worldwide market share amounted to [5-10]% both in 2010 and 2011, while in the EEA it amounted to [5-10]% both in 2010 and 2011. The Notifying Party submits that competitors' market shares in 2010 and 2011 did not substantially differ from their 2012 market shares.
- (36) The Notifying Party argues that the potential market for HMI software is highly competitive and characterised by the presence of both established players (Siemens, General Electric, Rockwell Automation) as well as smaller companies, all of which will continue to exercise competitive constraints and price pressure on the merged entity.
- (37) In the course of the Commission's market investigation, an overwhelming majority of customers stated that the Parties are not each other's closest competitors with regard to HMI software, neither worldwide nor in the EEA.²⁶ Moreover, an overwhelming majority of customers consider that post-transaction there will be a sufficient number of HMI software providers and they point in particular to the market leader in the EEA, Siemens, and other strong players such as Rockwell Automation and General Electric.²⁷ One customer specifically stated that the proposed transaction might in fact

²⁶ See responses to question 34 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

²⁷ See responses to question 37 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

lead to "better competition" in the overall automation and control sector and also with regard to HMI software.²⁸

- (38) The Commission considers that following the transaction, the Parties will continue to face competition from other established players in the potential market for HMI software and customers will still have a sufficient number of suppliers to choose from. It should be also noted that no substantiated concerns were raised during the market investigation.
- (39) Consequently, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market in the potential market for HMI software.

3.2.3. *Graphic operator panels*

- (40) As regards graphic operator panels, the proposed transaction would only lead to an affected market, if the potential market for graphic operator panels were to be defined on a worldwide basis. However, the increments in market shares in this potential market would be limited, i.e. of less than [0-5]%, given Invensys' negligible market share of [0-5]%.
- (41) In the potential worldwide market for graphic operator panels the Parties' combined market share amounted to [10-20]% in 2012 (Schneider Electric: [10-20]%; Invensys: [0-5]%). Following the transaction, Siemens would still remain the market leader with a market share of [20-30]%. Other players include Rockwell Automation ([10-20]%) and Mitsubishi Electric ([10-20]%), as well as a large number of other suppliers – jointly holding [30-40]% of the market and offering a wide variety of graphic operator panels. The majority²⁹ of the customers that responded to the Commission's market investigation do not consider that the notified transaction would have any impact on the potential market for graphic operator panels.³⁰
- (42) Consequently, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market in the potential market for graphic operator panels.

3.2.4. *Process safety systems*

- (43) As regards process safety system, the proposed transaction would only lead to an affected market, if the potential market for process safety systems were to be defined on a worldwide basis. In the potential worldwide market for process safety systems, the combined market share of the Parties amounted to [10-20]% in 2012 (Schneider Electric: [0-5]%; Invensys: [10-20]%). However, the increment in market shares in this potential market would be limited, i.e. of less than [0-5]%, given Schneider Electric's negligible market share of [0-5]%.
- (44) The argument of the Notifying Party that the offers of Schneider Electric and Invensys with respect to safety systems are complementary was confirmed by the majority of

²⁸ See response to question 48 of the Questionnaire Q2, Q2a – Automation and HMI software-customers.

²⁹ One of the customers expressed concerns as regards the transaction, but these were not substantiated and not in line with the market share data and with the other repliers to the market investigation.

³⁰ Responses to question 8 of the Questionnaire Q3 – Graphic operator panels.

customers that responded to the Commission's market investigation, which stated that they do not view the Parties safety products as substitutable.³¹ . Even if those complementary products were to be bundled by the Parties the majority of customers that responded to the Commission's market investigation do not consider that such bundling would have any effect either on the market or on their business, while the remaining ones expect positive effects due to a more competitive landscape.³² One customer expects that the merged entity will have more resources and will invest in the development of process safety systems, which will have a positive economic impact.³³

- (45) In view of the above, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market in the potential market for process safety systems.

3.2.5. *Vertical and conglomerate aspects*

- (46) The proposed transaction does not give rise to any vertically affected market.³⁴
- (47) As regards conglomerate effects, the Notifying Party explains that there are various purchasing patterns in the automation and control sector. Due to the complexity and sensitivity of the products, end-customers often rely on the services of Engineering, Procurement and Construction ("EPC") contractors, which design the installation, procure the necessary materials and build the automation project either directly or by subcontracting part or all works to system integrators. For projects which are particularly demanding in terms of safety – i.e. mostly in the process industries - end-users will also engage a Main Automation Contractor ("MAC").
- (48) While end-users choose suppliers for strategic automation and control products (which include HMI software) themselves, the choice of the non-strategic products is left to the EPC contractors. Separate tenders and Requests for Quotation ("RFQ") are launched for various automation and control products to minimise the overall costs of the project. Both Schneider Electric and Invensys act as system integrators, the latter also acts as a MAC.
- (49) The Notifying Party argues that the coexistence of several purchasers (end-customers, EPCs, system integrators, MACs), the practice of separate tenders and RFQs, which are strongly price driven, as well as the distinction between strategic and non-strategic automation and control products make it difficult for a supplier to sell a full range of products.
- (50) The Notifying Party also maintains that neither Schneider Electric nor Invensys have market power enabling them to impose a full range of products on their customers. More specifically Invensys' market share in the segment of discrete automation and control is [5-10]% in the EEA and [5-10]% worldwide, while Schneider Electric's

³¹ Responses to question 9 of the Questionnaire Q4 – Safety systems.

³² Responses to question 10 of the Questionnaire Q4 – Safety systems.

³³ Response to question 12.1 of the Questionnaire Q4 – Safety systems.

³⁴ The Parties have identified two actual vertical relations between them but the revenues derived from these relations are very limited (i.e. EUR [...] of sales of [...] sold by a Canadian subsidiary of Schneider Electric to Invensys in 2012 and EUR [...] of sales of [...] sold by Schneider Electric to Invensys in 2012).

market share in the segment of process automation and control is [0-5]% both in the EEA and worldwide. Therefore, the Notifying Party claims that the merged entity would not be in a position to foreclose its competitors by offering a combination of discrete and process automation and control products.³⁵

- (51) As regards the potential combination of electrification products of Schneider Electric with the process automation and control products of Invensys or the potential combination of the electrification products with both process and discrete automation and control products, the Notifying Party submits that Schneider Electric has no market power in electrification, as its market share in this potential market is [5-10]% both in the EEA and worldwide.
- (52) In the course of the Commission's market investigation, the existence of purchasing patterns as described above as well as the interactions between various players, such as EPC contractors, system integrators, end-customers etc. have been broadly confirmed.³⁶ An overwhelming majority of customers confirm that they buy automation and control products from multiple suppliers.³⁷ Also, an overwhelming majority of customers consider that following the transaction the merged entity will not be able to offer a range of products that no other competitor can match.³⁸
- (53) As to the possibility of combining Schneider Electric's offer in electricity with the Parties' automation and control products, a large majority of customers³⁹ consider that this would not have any effect on the market or on their business.⁴⁰ One of the customers⁴¹ noted that other players – such as ABB or Siemens – are also able to offer both electrification as well as automation and control products.⁴² Furthermore, one of the EPC contractors as well as one of the end-customers expressly confirmed that tenders for automation and control products are conducted separately from tenders for electrification.⁴³

³⁵ Schneider Electric also manufactures motor starters and motor control centres, both of which could be integrated into process automation products. However the former are not sold on a stand-alone basis, while in the latter market share of Schneider Electric is [0-5]% in the EEA and [5-10]% worldwide.

³⁶ See responses to questions 4, 30 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

³⁷ See responses to question 31 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

³⁸ See responses to question 24 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

³⁹ One of the customers stated without substantiating that a combination of the electricity and plant automation offers by the merged entity would lead to negative effects on the market due to the fact that a powerful competitor would be created. However, this assertion is neither in line with the Parties' market shares nor with the replies of all the other respondents to the same question of the market investigation.

⁴⁰ See responses to question 26 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

⁴¹ See minutes of conference call dated 17 October 2013.

⁴² This was confirmed in the market investigation – see responses to question 1 of the Questionnaire Q1, – Automation and HMI software-competitors.

⁴³ See minutes of conference call dated 17 October 2013 and response to question 26 of the Questionnaire Q2 – Automation and HMI software-customers.

- (54) A number of customers that responded to the Commission's market investigation see positive effects of such a combination on their business or on the market and noted for instance that "*[t]he option of purchasing integrated solutions can provide benefits to our business by reducing complexity and potentially also reducing costs.*"; "*(...) [such a combination] should increase competition even further versus the current alternative suppliers in the market*" or "*(...) [it] will increase competition and drive suppliers of niche products and services to better collaboration around supply of solutions from multiple suppliers*".⁴⁴
- (55) The Commission thus concludes that due to the lack of market power the merged entity would not have the ability to foreclose its competitors by combining their offers in discrete and process automation and control, or in electrification with process automation and control, or in electrification with both discrete and process automation and control.⁴⁵ It also appears that the proposed transaction, by combining complementary offers of the Parties, will create a player that will be able to compete on a more equal footing with the established suppliers and that customers expect the effects of such an integration to be positive, or at least neutral.

4. CONCLUSION

- (56) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

For the Commission
(signed)
Joaquín ALMUNIA
Vice-President

⁴⁴ See responses to question 26 of the Questionnaires Q2, Q2a – Automation and HMI software-customers.

⁴⁵ See Commission Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C256, 18.10.2008, p. 6, paragraphs 93, 95.