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Case No COMP/M.7323 - NORDIC CAPITAL/ GHD VERWALTUNG

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REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party:

Dear Sir/Madam,

Subject: **Case M.7323 - NORDIC CAPITAL/ GHD VERWALTUNG**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1]

(1) On 10 July 2014, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Nordic Capital Fund VIII,formed by Nordic Capital Limited Jersey, Nordic Capital VIII Alpha L.P. and Nordic Capital VIII Beta L.P., part of Nordic Capital Funds ("Nordic Capital"), acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of the undertaking GHD Verwaltung GesundHeits GmbH Deutschland ("GHD" Germany) and its direct and indirect

[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.

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subsidiaries, by way of purchase of shares[2]. Nordic Capital is referred to hereinafter as the "Notifying Party".

1. THE PARTIES

(2) Nordic Capital is a private equity fund with portfolio companies active in Europe in a wide range of sectors, including production and sale of ostomy and wound care products.

(3) GHD is the ultimate parent company of various entities which are active in the production of ostomy products, compounded pharmaceuticals, the provision of logistics services within the healthcare sector, the wholesale of medical devices and pharmaceuticals and the provision of medical devices and certain pharmaceutical products with associated services to non-hospitalised patients ("home care").

2. THE OPERATION AND THE CONCENTRATION

(4) By a Share Purchase Agreement ("SPA") signed on 18 June 2014 between GHD and Nordic Capital[…]. Nordic Capital will acquire […] indirect sole control over GHD.

(5) Consequently, the transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

(6) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million[3] (Nordic Capital [..] million; GHD […] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Nordic Capital […] million; GDH […] million), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.

(7) Therefore, the notified operation has an EU dimension within the meaning of Article 1(2) of Merger Regulation.

4. ASSESSMENT

(8) Nordic Capital, through one of its portfolio companies, ConvaTec Inc. ("ConvaTec", USA), is active in the manufacturing and sale of products for ostomy, advanced wound care and faecal incontinence in the U.S. and all EEA States. Another Nordic Capital's portfolio company, Capio AB ("Capio", Sweden) is active in the provision of hospital services in several Member States.

(9) GHD through ForLife GmbH ("ForLife", Germany) is also active in the manufacturing of ostomy products. Moreover, GHD is active in Germany in the wholesale of medical devices and pharmaceuticals (through Sangro Medical

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2 Publication in the Official Journal of the European Union No C 227, 17.07.2014, p. 21.

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).

Services GmbH ("Sangro", Germany), and in home care through eight commercial units located across Germany.

(10) The notified transaction will result in a one horizontal overlap in relation to the manufacturing/sales of ostomy products where both ConvaTec and ForLife are active. In addition, it also gives rise to the following vertical links between:

i. the upstream markets for the manufacturing of ostomy products and of wound care products (where ConvaTec is active), and the downstream market for the wholesale of medical devices and pharmaceuticals (where GHD – through Sangro – is active);

ii. the upstream markets for the manufacturing of ostomy products and of wound care products (where ConvaTec is active), and the downstream market of home care services (where GHD is active); and

iii. the upstream market of manufacturing of ostomy products (where GHD - through ForLife - is active) and the downstream market of hospital services (where Nordic Capital – through Capio – is active).

4.1. MARKET DEFINITION

4.1.1. Ostomy products

4.1.1.1. Relevant product market

(11) An ostomy procedure is the creation of a surgical opening (a "stoma") through the abdominal wall in patients with dysfunction in the colon or bladder.[4] The ostomy procedure entails a bypass of damaged or non-functional intestinal tissue by raising a shortened intestine to the abdominal surface where the stoma will be created.

(12) The stoma protrudes slightly from the abdomen and lacks both sensation and sphincter control, hence preventing the patient ("ostomate") from controlling the intestinal effluent. Ostomy pouches, together with other related products, are then used to collect the passing faeces in case of colon dysfunction (or urine in the case of bladder dysfunction). Ostomies may be either temporary or permanent depending on the health of the intestinal region.

(13) The Commission has not dealt with the market for ostomy products in the past. In previous cases, the Commission has however considered sales of medical devices within different categories to constitute separate relevant product markets.[5]

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4 A colostomy is a surgically created opening in the large intestine that allows the removal of feces out of the body, bypassing the colon, to drain into a pouch or other collection device. An ileostomy is a surgical opening constructed by bringing the end or loop of small intestine (the ileum) out onto the surface of the skin. Intestinal waste passes out of the ileostomy and is collected in an external pouching system which is adhered to the skin.

5 For example, medical devices within urology (urethral catheters/kits, urinary drainage bags and urine meters), oncology (implantable ports and chronic catheters) and in dialysis (haemodialyis catheters/kits) have been considered to constitute separate relevant product markets, - Case COMP/M.2505 – *Tyco/CR Bard*, Commission decision of 04.10.2001.

(14) According to the Notifying Party, all ostomy products, regardless of the stoma, consist of a skin barrier surrounding the stoma and a pouch collecting the effluent. They all serve the same basic purpose of collecting and storing the effluent. All skin barriers are made of hydrocolloids and of a disposable wafer that is worn from 12 hours to 3 days on average. The Notifying Party therefore submits that the only plausibly relevant product market definition is the market for the manufacturing and sale of ostomy products.

(15) A market investigation was carried out on whether there is one overall market for the manufacturing of ostomy products, or if there are sub-segmentations, such as (but not limited to), (i) one-piece pouches, (ii) two-piece pouches, (iii) wafers/flanges pouch, (iv) deodorants skin barriers, (v) skin barrier wipes, (vi) adhesive remover wipes.

(16) The market investigation carried out in the case at hand was inconclusive on this issue. In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.1.2. Relevant geographic market

(17) The Notifying Party submits that there are no regulatory barriers and all major suppliers of ostomy products such as Coloplast, Hollister and ConvaTec, are active throughout Europe and the same ostomy products are marketed across the EEA. Therefore, the Notifying Party submits that the relevant geographic market for manufacturing/sales of ostomy products is at least EEA-wide.

(18) The previous Commission decisions[6] dealing with markets for medical devices considered the markets EEA-wide notably due to tendering procedures that cover the EEA, lack of national regulatory barriers, relatively high imports and low transport costs, and the presence of most major players across the EEA. In more recent cases concerning ophthalmic surgical products[7] and renal replacement therapy products [8], the Commission analysed the effects of the transaction at both the EEA and national levels.

(19) The market investigation carried out in the case at hand was inconclusive on the exact geographic scope of the market for ostomy products. In any event, the Commission considers that the exact geographic market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

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6 Case COMP/M.2505 – *Tyco/CR Bard*, Commission decision of 04.10.2001.

7 Case COMP/M.6969 - *Valeant Pharmaceuticals International/Bausch & Lomb Holdings*, Commission decision of 05.08.2013.

8 Case No COMP/M. 6851 – *Baxter International / Gambro*, Commission decision of 22.07.2013.

4.1.2. Wound care products

4.1.2.1. Relevant product market

(20) In previous decisions, the Commission distinguished (a) traditional wound care products from (b) advanced wound care products.[9] In the market of advanced wound care, the Commission further differentiated between (i) moist wound care products, (ii) active wound care products, and (iii) biological active wound care products. It noted that the common functionality of moist advanced wound care products that differentiates them from other advanced wound care products is that they provide a moist environment that can be beneficial for healing.[10]

(21) Within the segment of moist advanced wound care products the following sub-segments were identified in previous Commission decisions: alginates, foams, hydrocolloids, hydrogel, films, contact layers and silver antimicrobials.[11]

- Alginates dressings contain soft non-woven fibres derived from brown seaweed. They absorb wound exudates to form a gel that provides a moist wound healing environment. They are mainly used for moderately to highly exudative wounds.

- Foam dressings are usually polyurethane, film or silicone coated. Some have a film outer surface to resist water and bacteria and allow for moisture vapour permeability. Some foams are adhesive, some non-adhesive. They absorb wound exudates and maintain a moist wound healing environment. They are mainly used for moderately to highly exudative wounds.

- Hydrocolloid dressings are composed of a mixture of adhesive, absorbent and elastomeric ingredients. They seal the wound bed and prevent moisture loss (i.e. they achieve total occlusion) and form a gel upon absorbing exudates to provide a moist healing environment. They are mainly used for light to moderately exudative wounds with no infection.

- Hydrogel dressings are available as sheets and amorphous gels, and contain more than 80% water. They add moisture to wounds (particular dry wounds) and can be used with infected wounds. They are mainly used for dry to light exudative wounds.

- Film dressings are polyurethane-based or co-polyester with an adhesive backing. They are non-absorptive but allow for moisture vapour permeability, thereby maintaining a moist wound surface. They are mainly used for lightly exudative wounds.

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9 Case COMP/JV.54- Smith&Nephew/Beiersdorf, Case COMP/M.3816 *Apax/Mölnlycke,* Commission decision of 15.06.2005 Case COMP/M.5190 – Nordic Capital/ConvaTec, Commission decision of 15.07.2008.

10 Case COMP/M.4367 – *APW/Nordic Capital/APSA/Capio,* Commission decision of 16.03.2007*;* Case COMP/M.4229 – *APHL/L&R/Netcare/General Healthcare Group,* Commission decision of 25.07.2006; Case COMP/M.3816 – *Apax/Mölnlycke,* Commission decision of 15.06.2005; Case COMP/M.5190 – *Nordic Capital/ConvaTec*, Commission decision of 15.07.2008.

11 Case COMP/M.3816 *Apax/Mölnlycke,* Commission decision of 15.06.2005 Case COMP/M.5190 – Nordic Capital/ConvaTec, Commission decision of 15.07.2008.

- Contact layers are placed directly on the wound and are typically covered by an absorbent layer which can be changed without disturbing the wound.

- Silver antimicrobial dressings incorporate silver for the treatment and prevention of infection. They avoid bacterial contamination and proliferation which constitutes the major risk in creating a moist wound healing environment.

(22) In a previous decision[12], the Commission also envisaged a potential segmentation between (i) moisture-absorption advanced wound care products that includes alginates, foams and hydrofibres, (ii) a market segment for moisture-donation advanced wound care products that includes hydrogels and hydrocolloids, (iii) a market segment for secondary dressings that includes films and contact layers and (iv) a market segment for silver antimicrobials and other antimicrobials (which include all wound care products in other categories in which silver is incorporated).

(23) ConvaTec is only active in the sub-segment of alginates, foams, hydrocolloids, and silver antimicrobials.

(24) In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.2.2. Relevant geographic market

(25) In previous decisions, the Commission has left open whether the market for moist advanced wound care products is EEA-wide or national.[13] In a more recent decision[14] however, the Commission has defined the geographic market for advanced wound care products as national[15] for the purposes of that specific case. The Notifying Party submits that the relevant geographic market is national.

(26) In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.3. Wholesale of medical devices and pharmaceuticals

4.1.3.1. Relevant product market

(27) The Commission has in previous decisions considered that a number of different products (including medicines, health care and para-pharmaceuticals) belong to the "full-line wholesale" of pharmaceuticals.[16]

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12 Case COMP/M.5190 – *Nordic Capital/ConvaTec*, Commission decision of 15.07.2008.

13 Case No COMP/M.4579 - *Investor/Morgan Stanley/Mölnlycke*, Commission decision of 27.03.2007.

14 Case COMP/M.5190 – *Nordic Capital/ConvaTec*, Commission decision of 15.07.2008.

15 More specifically the U.K.

16 The Commission has divided the wholesale of pharmaceuticals into (i) full-line wholesale consisting of distribution of the total range of medicines, including doctor prescription only medicines, over the counter medicines, products which require special storage and handling such as analgesics and

(28) The Notifying Party submits that considering the types of medical devices that Sangro sells, in competition with these "full-line" wholesalers of pharmaceuticals such as Celesio and Phoenix, these devices should reasonably belong to such a market along with the products that are classified as pharmaceuticals. However, if a distinction between the wholesale of (i) medical devices and (ii) pharmaceuticals were considered, it is relevant to note that whereas pharmacies in general exclusively source from wholesalers, home care providers and nursing homes mainly source medical devices directly from manufacturers. The wholesale channel is therefore considered less important for medical devices than for pharmaceuticals. Also, wholesalers of medical devices generally do not have to be full-line wholesalers.

(29) In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.3.2. Relevant geographic market

(30) The Notifying Party submits that the market should be considered as national. Sangro and the major wholesalers of pharmaceuticals and medical devices are active throughout Germany and the conditions for competition are generally the same. In previous decisions[17], the Commission considered that the geographic market might be sub-national due to the emphasis placed by customers on the frequency and speed of delivery and the resulting need for wholesalers to compete on a sub-national basis and to have warehouses at regional level.

(31) In any event, the Commission considers that the exact geographic market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.4. Home care

4.1.4.1. Relevant product market

(32) The Notifying Party submits that home care is the combined provision of medical devices and certain pharmaceuticals with associated services to non-hospitalized patients, i.e., patients at home or in nursing homes. A wide array of therapies, such as ostomy, enteral nutrition, incontinence, wound care, tracheostomy, and vigil is covered.

(33) The medical devices that form part of the home care offering are characterized by the fact that they cannot be applied without a specialized service and therefore require attention from qualified personnel who provide services such as the application of the products at the location of the patient and expert advice on the

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inflammables, and other parapharmaceuticals such as toiletries, health care, baby and beauty products; and (ii) short-line wholesale generally focusing on a very limited range of fast-moving pharmaceutical products. See for example Case No IV/M.1243 – *Alliance Unichem Plc/SAFA Galencia SA*, Commission decision of 27/07/1998 and Case COMP/M.2573 – *A&C/Grossfarma*, Commission decision of 30.08.2001.

17 Case No IV/M.1243 – *Alliance Unichem Plc/SAFA Galencia SA*, Commission decision of 27.07.1998 and Case COMP/M.2573 – *A&C/Grossfarma*, Commission decision of 30.08.2001.

correct use of the products. The service also involves interaction with relevant care personnel (such as staff that provide the patient nursing services, which is not conducted by the GHD and its competitors), training the nursing staff and the patient, e.g., in the correct use of infusion pumps or the application of ostomy bags.

(34) For this reason, the products and services that constitute the home care offering are inextricably linked. German health insurers (Gesetzliche Krankenkassen) reimburse home care providers for the products and services offered on a lump sum basis without making a distinction between products and services.

(35) For the purpose of this notification, the Notifying Party submits that the relevant market is the provision of medical devices and certain pharmaceutical products with related services to non-hospitalized patients, i.e. patients at home or in nursing homes ("home care" market).

(36) In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.4.2. Relevant geographic market

(37) The Notifying Party submits that the markets are national in scope given the regulatory conditions that apply to the provision of these activities. National markets have also been the approach of the Commission in regard to pharmaceuticals[18] and medical products[19], notably due to regulatory differences such as reimbursement rules and price setting. In a number of cases involving services similar to home care, the Commission considered that the geographic scope of the markets was not wider than national[20], due to the fact that i) home care services are normally covered by health insurance; ii) healthcare reimbursement systems are generally national; iii) regulatory regimes, prescription practices and market organisation (e.g. tenders by healthcare authorities or insurers, direct contracts with providers, influence of prescribing doctors on choice of provider) are different in each Member State and iv) most players operate at national level and compete for patients across the national territory.

(38) In any event, the Commission considers that the exact geographic market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

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18 Case COMP/M.1835 – *Monsanto/Pharmacia & Upjohn*, Commission decision of 30.03.2000. and Case COMP/M.1846 – *Glaxo Wellcome/Smithkline Beecham*, Commission decision of 08.05.2000.

19 Case COMP/M.5190 – *Nordic Capital/ConvaTec* and Case COMP/M. 4579 – *Investor/Morgan Stanley/Mölnlycke*, Commission decision of 27.03.2007.

20 COMP/M.4540, *Nestlé/Novartis (Medical Nutrition* Business*)*, Commission decision of 29.06.2007, Case COMP/M.6504 – *LINDE / AIR PRODUCTS HOMECARE*, Commission decision of 18.04.2012. Different reimbursement systems at national level were also considered in COMP/M.4367 - *APW/Nordic Capital/ Apsa/Capio*, Commission decision of 16.03.2007, although the exact market definition was ultimately left open.

4.1.5. Hospital services

4.1.5.1. Relevant product market

(39) The Commission has assessed the market for hospital services on a number of occasions[21]. In its previous decisions, the Commission has indicated a possible distinction between private hospital services and publicly funded hospitals.[22]

(40) Moreover, the Commission has not concluded on the need to further segment the market according to the "group of specialties", namely medicine, surgery, obstetrics, gynaecology etc.

(41) In any event, the Commission considers that the exact product market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.1.5.2. Relevant geographic market

(42) In previous decisions, the Commission considered that the market for hospital services was not broader than national in scope, but left the precise geographic scope of this market open.[23] In other cases, the Commission noted that the relevant market could be narrower than national, but did not conclude on the exact geographic scope of the hospital services market.[24]

(43) In any event, the Commission considers that the exact geographic market definition can be left open for the purpose of the case at hand, as competition concerns are unlikely to arise under any plausible market definition.

4.2. COMPETITIVE ASSESMENT

(44) The proposed transaction gives rise to several horizontally affected national markets in relation to the manufacturing/sale of ostomy products, namely Austria, Belgium, Czech Republic, Hungary, Italy, Malta, Norway, Poland, Romania..

(45) In addition, it also gives rise to two vertically-affected markets namely between the upstream market for manufacturing of alginates (moist advanced wound care products) and the downstream markets for (i) the wholesale of medical devices and pharmaceuticals in Germany; and (ii) home care in Germany.

(46) The Notifying Party submits that, for all of the remaining horizontal overlaps in manufacturing/sale of ostomy products the market shares are below 20% (combined) under all possible product and geographic market definitions.

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21 Case COMP/M.5805 – *3i/Vedici Groupe*, Commission decision of 15.06.2005; Case COMP/M.5548 – *Barclays/RBS/Hillary*, Commission decision of 21.05.2010; Case COMP/M. 4367 – *APW/APSA/Nordic Capital/Capio*, Commission decision of 16.03.2007

22 Case COMP/M.4229 – *APHL/L&R/Netcare General Healthcare Group*, Commission decision of 25.07.2006; Case COMP/M.4788 – *Rozier/BHS*, Commission decision of 21.08.2007.

23 Case COMP/M.4229 – *APHL/L&R/Netcare General Healthcare Group*, Commission decision of ; Case COMP/M.4788 – *Rozier/BHS*, Commission decision of *21.08.2007*.

24 Case COMP /M.5548 – *Barclays/RBS/Hillary*.Commission decision of 06.07.2009.

Similarly, regarding other vertical relationships between (i) the upstream market for the manufacturing/sale of ostomy products and the downstream market for the wholesale of medical devices and pharmaceuticals; (ii) the upstream market for the manufacturing/sale of ostomy products and the downstream market of home care services and (iii) the upstream market of manufacturing of ostomy products and the downstream market of hospital services, the Notifying Party submits that the ensuing market shares are below 30% (upstream and/or downstream) under all possible product and geographic market definitions.

4.2.1. Horizontal assessment: market for the manufacturing of ostomy products

(47) If national markets were to be considered, the combined market shares of the Parties would be above 20% in nine EEA countries. However, with the exception of the Czech Republic, the proposed transaction will only lead to a very small increment brought over by GHD (ForLife) and the ensuing HHI deltas are below 150.

Table 1: National affected markets for manufacturing/sale of ostomy products

Country	Combined market share	Increment	HHI delta
Austria	[20-30]%	[0-5]%	[…]
Belgium	[20-30%	[0-5]%	[…]
Czech Republic	[50-60]%	[0-5]%	[…]
Hungary	[50-60]%	[0-5]%	[…]
Italy	[30-40]%	[0-5]%	[…]
Malta	[80-90]%	[0-5]%	[…]
Norway	[20-30]%	[0-5]%	[…]
Poland	[40-50]%	[0-5]%	[…]
Romania	[20-30]%	[0-5]%	[…]

Source: Form CO

(48) Therefore, the Commission's market investigation regarding the competitive impact of the transaction only concentrated on the Czech Republic.

Czech Republic

Market structure

Table 2: Market shares of the Parties and their main competitors for manufacturing/sale of ostomy products in the Czech Republic

Company	Czech Republic market share
ConvaTec	[40-50]%
ForLife	[0-5]%
ConvaTec & ForLife combined	***[50-60]%***

Coloplast	[20-30]%
Hollister	[5-10]%
Other competitors combined	[10-20]%
Total	100%

Source: Form CO.

(49) The Notifying Party puts forward that despite the relatively high resulting market share ([50-60]%), the increment brought about by the merger is limited ([0-5]%). […]

(50) The merged entity will continue to face competition from the other 16 suppliers of ostomy medical devices, currently active in the Czech Republic and offering a wide range of ostomy products.[25] Most importantly, already pre-merger Parties face competition in the Czech market from two big suppliers, namely Coloplast ([20-30]%) and Hollister ([5-10]%), who also are active across the EEA and have sufficient ability and resources to compete effectively against ConvaTec/For Life in any EEA country, including the Czech Republic.[26] In addition, customers, namely the pharmaceutical wholesalers and distributors/importers of healthcare materials, can easily switch suppliers, as these are standardized products and there is an ample choice of alternative suppliers of ostomy products in the Czech Republic. For the customers, the price, the technical functionalities and the perceived reliability of the product are important criterias when selecting a supplier.

(51) Furthermore, the prices for ostomy producst are regulated and the reimbursement rates are fixed.[27]

(52) Finally, the market invetsigation did not provide any indications that the addition of ForLife to ConvaTec would confer to merged entity market power.

(53) Consequently the transaction does not give rise to serious doubts in relation to the market for ostomy products in the Czech Republic.

4.2.2. Vertical assessment

(54) The proposed transaction would give rise to vertically affected markets only when considering the narrowest possible product market definition for the upstream market for the manufacturing of wound care products. Alginates are a very specific

25 See Vseobecna Zdravotni Pojistovna's response to question 2 of questionnaire Q2 – Questionnaire to customers of ostomy products.

26 The Parties submit that at the EEA level their ostomy products' market shares are the following, ConvaTec [10-20]%, For Life [0-5]%. Therefore, post-merger, the merged entity will only be the third largest supplier.

27 The Czech legislation (Act No. 48/1997 Coll., on public health insurance) imposes to health insurance companies to reimburse medical devices (including ostomy products) to its clients. Types (categories) of medical devices to be reimbursed are listed, as well as the amount to be paid. A list of medical devices reimbursed is published on a monthly basis.

category of wound care products intended for a very specific type of wound therapy, namely for moderately to highly exudative wounds.

(55) Since the vertical overlap between the Parties' activities is strictly limited to Germany, the assessment will be conducted for this specific market.

4.2.2.1. Vertical overlap between the upstream market for manufacturing of alginates (moist advanced wound care products) and the downstream market for the wholesaling of medical devices and pharmaceuticals

(56) The Notifying Party submits that ConvaTec's market share in the upstream market for alginates in Germany, is [30-40]% while the downstream market shares of GHD in the market for the wholesale of medical devices and pharmaceuticals in Germany, do not exceed [0-5]%, while other strong competitors are active.

(57) Since GHD's market share in the downstream wholesale market is very limited –[0-5]%, while competitors such as Phoenix and Celesio/Gehe have market shares of [20-30]%, respectively [10-20]%, the transaction is unlikely to give rise to customer foreclosure. Similarly, given ConvaTec's low market share on the alginates market and the existence of several strong competitors, namely Urgo – [20-30]%, Hartmann – [10-20]%, L&R – [10-20]%, Coloplast – [5-10]%, etc. input foreclosure is also unlikely as customers will continue to have several alternative suppliers.

(58) On the basis of the above, it can be concluded that the transaction does not give rise to serious doubts in relation to the vertical link between the upstream market for manufacturing of alginates and the downstream market for the wholesaling of medical devices and pharmaceuticals.

4.2.2.2. Vertical overlap between the upstream market for manufacturing of alginates (moist advanced wound care products) and the downstream market for homecare

(59) According to the Notifying Party GHD's market shares in the downstream market for home care in Germany are low, namely [5-10]%.

(60) The home care market encompasses products provided by a number of different types of providers including manufacturers, dedicated home care companies, medical accessories retailers and pharmacies. Large international producers of medical devices such as Fresenius Kabi and Coloplast are active in Germany and provide, in addition to medical devices, related home care services. Other competitors, such as B Braun TravaCare, Assist Home care, PubliCare, Servona, Fahl Medizintechnik and Pfrimmer Nutricia, provide home care services along with affiliated in-house manufacturing of medical devices. Further, there are more than 1,900 medical accessories retailers all over Germany that provide medical devices and some of which also provide home care services.

(61) Since GHD's market share in the downstream market for home care is limited –[5-10]%, with many competitors such as Fresenius Kabi and Coloplast Siewa being active and holding comparable market shares - the transaction is unlikely to give rise to customer foreclosure. Similarly, given ConvaTec's low market share and the existence of several strong competitors, namely Urgo –[20-30]%, Hartmann – [10-

20]%, L&R – [10-20]%, Coloplast – [5-10]%, etc, input foreclosure is also unlikely as customers will continue to have several alternative suppliers.

(62) On the basis of the above, it can be concluded that the transaction does not give rise to serious doubts in relation to the vertical link between the upstream market for manufacturing of alginates and the downstream market for home care in Germany.

5. CONCLUSION

(63) 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)
Michel BARNIER
Vice-President