

***Case No COMP/M.7366 -  
WHIRLPOOL /  
INDESIT***

Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 13/10/2014

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## EUROPEAN COMMISSION

Brussels, 13.10.2014  
C(2014) 7573 final

### *COMP Operations*

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 No M.7366 – Whirlpool / Indesit  
Commission decision pursuant to Article 6(1)(b) of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 8 September 2014, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Whirlpool Corporation ('Whirlpool', United States of America) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the undertaking Indesit Company S.p.A. ('Indesit', Italy) by way of purchase of shares.<sup>2</sup> Whirlpool is hereinafter referred to as the 'Notifying Party' while Whirlpool and Indesit together are referred to as the 'Parties'.

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<sup>1</sup> 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.

<sup>2</sup> Publication in the Official Journal, OJ C 316, 16.9.2014, p. 4.

## **I THE PARTIES**

2. *Whirlpool* is a U.S. incorporated company, listed on the New York Stock Exchange. Whirlpool's principal products are major domestic appliances ('MDA's). In the EEA, Whirlpool markets and distributes MDAs primarily under the Whirlpool, Bauknecht, Ignis, Maytag, Laden, Polar, and Privileg brands.
3. *Indesit* is a joint-stock company listed on the Italian Stock Exchange almost exclusively active in the production and sale of MDAs. In the EEA, Indesit markets and distributes its products under the Indesit, Hotpoint / Hotpoint-Ariston and Scholtès brands.

## **II THE OPERATION AND THE CONCENTRATION**

4. On 10 July 2014, Whirlpool entered into a set of share purchases agreements with the principal owners of Indesit. Pursuant to those agreements, Whirlpool will acquire an overall 60.77% stake in Indesit. In addition, Whirlpool will be required to launch a tender offer on the remainder of Indesit's share capital. Whirlpool will acquire sole control over Indesit regardless of the outcome of the tender offer.<sup>3</sup>
5. The transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

## **III UNION DIMENSION**

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million<sup>4</sup> (Whirlpool: EUR 14 137 million; Indesit: EUR 2 671 million). Each of them has a Union-wide turnover in excess of EUR 250 million (Whirlpool: EUR [...] million; Indesit: EUR [...] million), but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State.
7. The notified transaction therefore has a Union dimension within the meaning of Article 1(2) of the Merger Regulation.

## **IV COMPETITIVE ASSESSMENT**

### **A. General remarks**

8. The Parties' activities overlap and result in horizontally affected markets in the production and supply of MDAs to retailers. In addition, the Parties are active in producing MDAs for third parties (private label customers and other OEMs), such as

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<sup>3</sup> Whirlpool is not party to, and does not envisage entering into, any shareholders' agreements limiting its possibility to exercise sole control on the basis of its shareholding. According to the best knowledge of the Notifying Party, its ability to solely control Indesit after the transaction is also not limited by other instruments such as company by-laws.

<sup>4</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

Ikea. However, given that Indesit's sales to private label customers and other OEMs are minimal, that level of the market is not discussed further in this decision.<sup>5</sup>

9. In addition, Whirlpool is active in the production of refrigeration compressors that are used as an input in the production of refrigerators and freezers.

## **B. Relevant product markets**

### *Major domestic appliances ('MDA's')*

10. In previous decisions, the Commission has identified separate relevant product markets for each category of MDAs. More precisely, the Commission has identified the following separate markets: (1) cooking appliances, (2) hoods, (3) dishwashers, (4) refrigerators, (5) freezers, (6) microwave ovens, (7) washing machines and (8) tumble dryers.<sup>6</sup> The Commission has also previously considered a possible subdivision of microwave ovens into freestanding and built-in ones but has ultimately left the question open.<sup>7</sup>
11. The Notifying Party agrees with those market definitions but submits that none of the categories of MDAs should be further sub-divided, for example, into freestanding or built-in appliances. The Notifying Party supports that view by referring to supply-side substitutability as, according to the Notifying Party, built-in and freestanding models can and are produced on the same production lines and the production costs are very similar.<sup>8</sup> Moreover, the Notifying Party submits that there is demand-side substitutability as all possible sub-segment products in a given MDA category are aimed at satisfying the same needs.
12. Nonetheless, the Notifying Party has provided market data separately for those categories of MDAs where both freestanding and built-in models are offered. In addition, the Notifying Party has provided market data separately for the possible segments of cooking appliances, namely ovens, hobs and cookers (which consist of both a cooker and one or more ovens).
13. The results of the market investigation confirm that separate markets exist for each of the MDA categories.<sup>9</sup> As regards potential further sub-segmentation, the results of the market investigation overall did not support the notion that such sub-segments constitute separate markets taking account of both supply and demand-side considerations.

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<sup>5</sup> Indesit's total sales to private label and OEM customers amounted to less than EUR [...] million in the EEA in 2013. This is compared to Whirlpool's EEA-sales of around EUR [...] million to private label and OEM customers in 2013.

<sup>6</sup> M.6717 – *Whirlpool / Alno*, paragraph 15, M.5859 – *Whirlpool / Privileg Rights*, paragraphs 11–2, M.2703 – *Merloni / GE / GDA JV*, paragraphs 9–12, and IV/M.458 – *Electrolux/AEG*, paragraph 15.

<sup>7</sup> M.6717 – *Whirlpool / Alno*, paragraph 15, and M.5421 – *Panasonic / Sanyo*, paragraph 151.

<sup>8</sup> According to the Notifying Party, an initial investment of around EUR [...] needs to be made for the appropriate tooling to produce built-in MDAs on a line used to building freestanding MDAs. However, once that initial investment is made, switching costs are minimal.

<sup>9</sup> Replies to questions 6–9 – Questionnaire to MDA competitors; and replies to questions 6 and 7 – Questionnaire to MDA customers.

14. As regards supply-side substitutability, a significant majority of competitors who responded to the market investigation considered that while they in most cases have dedicated one manufacturing plant to the production of a specific category of MDAs, they are able to produce all types of products within that MDA category on the same production line regardless of the MDA's technical specifications or size, including both built-in and freestanding models.<sup>10</sup> Competitors also did not in general consider that further segmentation of the MDA categories was warranted, although a few competitors mentioned that MDAs could be sub-segmented into built-in and freestanding, and that cooking appliances might be sub-segmented into ovens, hobs and cookers.<sup>11</sup>
15. As to demand-side substitutability, respondents to the market investigation expressed different views: while the majority of customers thought no further sub-segmentation was required, a significant minority of customers nevertheless considered that built-in and freestanding models could constitute separate markets due to, for instance, different demand patterns.<sup>12</sup>
16. Nevertheless, as the proposed transaction does not give rise to competition concerns even under the narrowest possible product market definitions, it is not necessary to conclude on the exact scope of the product markets.

#### *Refrigeration compressors*

17. Refrigeration compressors are devices used to lower the temperature of an enclosed space by removing heat from that space and transferring it elsewhere.
18. In the recent Secop / ACC Austria case, the Commission considered the possible segmentation of the refrigeration compressors sector according to a number of criteria, namely: (i) technology (on the one hand, stirling, linear, rotary, semi-hermetic reciprocating, hermetic scroll, semi-hermetic screw, screw open, centrifugal, and hermetic reciprocating, and, on the other hand, fixed and variable speed technologies); (ii) end-use (distinction between compressors for air-conditioning and compressors for refrigeration purposes, and, within the latter category, distinction between compressors for household appliances, light commercial and mobile applications); and (iii) efficiency category. The exact market definition was left open although it was concluded that no segmentation on the basis of efficiency levels was warranted.<sup>13</sup>
19. In the present case, a vertical link only exists between the Parties' activities in two of the MDA categories, namely refrigerators and freezers, as well as their potential sub-segments, and Whirlpool's activities in hermetic reciprocating compressors for household appliances, which is a potential sub-segment of refrigeration compressors.
20. The Notifying Party does not put forward arguments concerning the exact product market definition but has provided market data on the basis of hermetic reciprocating compressors for household appliances, which is the only category creating a vertical link in the present case.

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<sup>10</sup> Replies to questions 7–9 – Questionnaire to MDA competitors.

<sup>11</sup> Replies to question 6 – Questionnaire to MDA competitors.

<sup>12</sup> Replies to questions 6 and 7 – Questionnaire to MDA customers.

<sup>13</sup> M.6996 – *Secop / ACC Austria*, paragraphs 15–24.

21. As the proposed transaction does not give rise to competition concerns with respect to refrigeration compressors even under the narrowest possible product market definitions, it is not necessary to conclude on the exact scope of the product markets.

### **C. Relevant geographic markets**

#### *Major domestic appliances (MDAs)*

22. In previous decisions, the Commission has left it open whether the markets for the categories of MDAs are EEA-wide or national in scope.<sup>14</sup>
23. The Notifying Party submits that the markets are EEA-wide in scope. The Notifying Party supports that view by referring to, for instance the same brands being marketed in numerous countries, production having been centralised to a few locations within the EEA and many of the customers being active in more than one country.
24. The results of the market investigation did not support the Notifying Party's submission. On the contrary, they indicated that the markets have national characteristics with regard to all MDA categories with references to different consumer consumption habits and brand positioning between Member States.<sup>15</sup> Negotiations between MDA suppliers and retailers generally take place on a national level and the price setting for those transactions is largely done on a national level.<sup>16</sup> In addition, prices on the retail level of trade are usually set on a national level, and those prices differ significantly between various EEA countries.<sup>17</sup> These findings are further corroborated by the geographic scope of the Parties' own activities: the Parties' respective market shares differ significantly between different EEA countries and neither of the Parties has a meaningful presence in all of the EEA.
25. Nevertheless, as the proposed transaction does not give rise to competition concerns even under the narrowest possible geographic market definitions, it is not necessary to conclude on the exact scope of the geographic markets.

#### *Refrigeration compressors*

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<sup>14</sup> M.6717 – *Whirlpool / Alno*, paragraphs 16–9, M.5859 – *Whirlpool / Privileg Rights*, paragraphs 13–6, M.2703 – *Merloni / GE / GDA JV*, paragraph 19. In the early case IV/M.458 – *Electrolux/AEG*, paragraph 15, the market was considered to be Western European in scope.

<sup>15</sup> Replies to question 14 – Questionnaire to MDA competitors; and replies to questions 10 and 11 – Questionnaire to MDA customers.

<sup>16</sup> Replies to question 12 – Questionnaire to MDA competitors; and replies to question 8 – Questionnaire to MDA customers.

<sup>17</sup> Replies to question 11 – Questionnaire to MDA competitors; and replies to question 9 – Questionnaire to MDA customers.

26. The Commission has in the recent *Secop / ACC Austria* decision considered that the relevant geographic market for hermetic reciprocating compressors (and its possible sub-segments) is at least EEA-wide, although the exact market definition was left open.<sup>18</sup>
27. The Notifying Party submits that the relevant geographic market is at least EEA-wide or possibly worldwide.
28. As the proposed transaction does not give rise to competition concerns even under the narrowest possible geographic market definition, it is not necessary to conclude on the exact scope of the geographic markets.

## **D. Competitive assessment**

### **D.I Major domestic appliances (MDAs) – horizontal overlaps**

#### General remarks on the characteristics of the MDA markets

##### Closeness of competition

29. The Parties are both active in all of the MDA categories. In the EEA, Whirlpool sells its MDAs primarily under the brands Whirlpool, Bauknecht, Ignis, Maytag, Laden, Polar and Privileg while Indesit's largest brands are Indesit, Hotpoint / Hotpoint-Ariston and Scholtès.
30. MDAs are differentiated products and Whirlpool and Indesit, like the other major brands, offer a broad range of products within each MDA category. The industry generally tends to consider each MDA category to consist of products offered at entry level, low price level, medium price level and high/premium price level.
31. The Notifying Party submits that the Parties' activities are complementary in that they target different customer groups: Indesit focuses on the low-end of the markets (with the exception of the Scholtès brand that targets the high-end/premium segment) while Whirlpool's main brands Whirlpool and Bauknecht are positioned in the mid-range. Therefore, the Parties would not be each other's closest competitors within any of the MDA categories.
32. To support this claim, the Notifying Party carried out economic analysis by country and affected MDA category to see whether Indesit and Whirlpool systematically win or lose market share to each other. The Notifying Party found no systematic correlation between the two. Indeed, according to the Notifying Party, both Parties, in general terms and across all the MDA categories, have lost market shares in the recent past to the advantage of other competitors (both established firms and new entrants, including private labels).<sup>19</sup>
33. The Notifying Party also submitted an analysis of the Parties' market share evolution per Member State and per MDA over the last five years. This shows that in particular in some countries such as Italy, both Parties' market shares have been in decline.

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<sup>18</sup> M.6996 – *Secop / ACC Austria*, paragraph 28.

<sup>19</sup> The Notifying Party also claims that Indesit and Whirlpool do not compete aggressively for the same shelf space at the same retailers.

34. On the basis of the results of the market investigation and the analysis of pricing data, the Commission considers that although Whirlpool and Indesit may in general focus on different levels of the market in terms of price points, the ranges of products offered by the Parties do overlap in all the MDA categories in which they are both present. That applies in particular to Italy, in respect of which the Commission carried out an economic analysis of the Parties' price points and calculated combined markets shares per price segment. The results of this exercise suggest that the Parties are not as asymmetric as the Notifying Party suggests and that both are present in all price segments.
35. Nevertheless, the Commission's analysis of the economic evidence provided by the Notifying Party also shows that the product ranges of the main competitors (for instance BSH and Electrolux) also largely overlap with the product ranges offered by the Parties. Moreover, the Commission finds that there are many other competitors that have product ranges with a narrower scope than the Parties (in terms of price points covered) and that target specific segments of the market (for instance the low-end segment or the premium segment). Also, the product ranges offered by those competitors overlap with the respective parts of the product ranges offered by the Parties.
36. This suggests that for the different MDAs, and at the different price points, the merger is unlikely to reduce the competitive pressure faced by the Parties in the current market settings. Following the transaction, customers are likely to find several substitute products offered by the Parties' competitors, for all of the MDA categories and at the different price points currently targeted by the Parties.<sup>20</sup>
37. As regards the Notifying Party's analysis of whether a correlation exists between Whirlpool's and Indesit's loss and gain of market shares, the Commission extended this analysis in respect of Italy, Romania and Poland, where the combined market shares tended to be the highest. In particular, the Commission considers that looking at market share development itself is not enough to establish the Parties' closeness of competition as both Parties might have lost market shares to third parties and still be close competitors. The further analysis carried out by the Commission for these three countries suggests that a relative average price increase in the products offered by one of the Parties is not associated with a significant increase in the sales made by the other Party. This evidence, together with the analysis of the evolution of market shares, provides further indication that the Parties are not close competitors.<sup>21</sup>

#### Customer relationships

38. Many of the Parties' customers are large and sophisticated purchasers, including specialised retail store chains or buying groups such as Media-Saturn, Euronics, Expert and GRE, hypermarket chains such as Carrefour or major kitchen manufacturers such as Scavolini. The Parties compete for their orders with all other MDA suppliers. Consequently, the Notifying Party submits that the customers have countervailing

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<sup>20</sup> For instance in Italy, the analysis submitted by the Notifying Party shows that for any MDAs at the different relevant price points there are 7-10 other competitors active.

<sup>21</sup> The Commission's analysis focused on the countries with the highest overlap between the Parties and found that Whirlpool and Indesit are not close competitors. This indicates that also in the countries in which the overlap is lower, the Parties are not likely to be each other's closest competitors.



purchasing power and are able to counteract any attempts by the merged entity to raise prices.

39. It could also be noted that the Parties cooperate with the retailers and offer various incentives, rebate and bonus schemes to them based on a variety of factors. However, the Notifying Party submits that such schemes are not unique to the Parties but similar schemes are also offered by competing suppliers. Moreover, the Notifying Party further submits that the Parties' brands are not 'must-have' brands for the retailers but the retailers have numerous alternatives between which they are free to choose.
40. To this effect, the Commission notes that there are a number of MDA suppliers active across all MDA categories in the EEA, offering a wide product portfolio. In the market investigation, the majority of customers also confirmed the Notifying Party's claims in that the Parties' brands are not 'must-have' brands,<sup>22</sup> supporting the argument that retailers enjoy the possibility of switching to alternative suppliers.

#### Assessment of specific markets

41. While the Parties' activities are largely complementary in geographic terms, the proposed transaction nonetheless results in affected markets with respect to numerous MDA categories, their potential sub-segments and Member States. The markets in each of the Member States where at least one of the MDA categories or their potential sub-segments is affected are discussed in the following.<sup>23</sup>

#### *Austria*

42. The proposed transaction results in an affected market in Austria with respect to washing machines (combined [20-30]% in volume and [10-20]% in value). In addition, the potential sub-segment of freestanding washing machines would also be affected (combined [20-30]% in volume and [10-20]% in value).
43. The merged entity's combined market share in Austria is limited. Moreover, numerous competitors remain in Austria, including in the potential freestanding washing machine segment such as BSH ([10-20]% in volume [20-30]% in value) Miele ([10-20]% in volume and [20-30] in value), Gorenje, ([10-20]% in volume and [5-10]% in value), Electrolux ([10-20]% in volume and [10-20]% in value), Arcelik ([5-10]% in volume and [5-10]% in value), Samsung [0-5]% in volume and [0-5]% in value), Candy ([0-5]% in volume and [0-5]% in value) and LG ([0-5]% and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to MDA markets in Austria.
44. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in Austria.

#### *The Czech Republic*

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<sup>22</sup> Replies to questions 12 and 13 – Questionnaire to MDAs customers.

<sup>23</sup> All markets shares provided by the Notifying Party are based on the GFK Retail and Technology Panel.

45. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in the Czech Republic:

**Table 1 - The Czech Republic (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Dishwashers	[10-20]	[0-5]	[10-20]	[10-20]	[5-10]	[20-30]
Washing machines	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[30-40]
Microwave ovens	[10-20]	[0-5]	[20-30]	[5-10]	[0-5]	[10-20]
Built-in refrigerators	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in dishwashers	[10-20]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in washing machines	[20-30]	[0-5]	[30-40]	[30-40]	[0-5]	[30-40]
Freestanding washing machines	[10-20]	[5-10]	[20-30]	[10-20]	[10-20]	[30-40]
Built-in microwave ovens	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[30-40]

*Source: The Notifying Party*

46. The merged entity's combined market share in the Czech Republic is limited in most MDA categories and potential sub-segments except in the potential sub-segment of built-in microwave ovens, the market for washing machines and its potential sub-segments, the sub-segment for of built-in washing machines resulting in the highest combined market share of [30-40]% by volume; however, the market share increment brought by the transaction in that segment is modest, less than [0-5]% points. Moreover, numerous competitors remain in the Czech Republic, including in the built-in washing machines segment such as Electrolux ([20-30]% in volume and [30-40]% in value), Fagor-Brandt ([5-10]% in volume and [5-10]% in value), Candy ([5-10]% in volume and [5-10]% in value), Arcelik ([5-10]% in volume and [0-5]% in value), BSH ([0-5]% in volume and [5-10]% in value) and Miele ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to MDA markets in the Czech Republic.
47. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in the Czech Republic.

*Estonia*

48. The proposed transaction only results in an affected market in Estonia with respect to washing machines (combined [20-30]% in volume and [10-20]% in value).
49. The merged entity's combined market shares in Estonia is limited. Moreover, numerous competitors remain in Estonia, including Electrolux ([20-30]% in volume and [20-30]% in value), Samsung ([10-20]% in volume and [10-20]% in value), LG ([10-20]% in volume and [10-20] in value), BSH ([5-10]% in volume and [5-10]% in value), Arcelik ([5-10]% in volume and [0-5]% in value), Candy ([0-5]% in volume and [5-10]% in value), and Fagor-Brandt ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to washing machines in Estonia.
50. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in Estonia.

France

51. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in France:

Table 2 – France (2013)

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Washing machines	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Tumble dryers	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Built-in refrigerators	[10-20]	[5-10]	[20-30]	[10-20]	[5-10]	[20-30]
Built-in ovens	[10-20]	[5-10]	[10-20]	[10-20]	[5-10]	[20-30]
Built-in washing machines	[10-20]	[20-30]	[30-40]	[10-20]	[20-30]	[40-50]
Freestanding washing machines	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Freestanding tumble dryers	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Built-in microwave ovens	[10-20]	[0-5]	[20-30]	[10-20]	[5-10]	[20-30]

Source: The Notifying Party

52. The merged entity's combined market share in France is limited in most MDA categories and potential sub-segments except in the potential sub-segment of built-in washing machines where the merged entity will achieve a combined market share of [40-50]% in volume and [30-40]% in value.
53. However, numerous competitors remain in France, including in the built-in washing machines sub-segment, such as Fagor-Brandt ([10-20]% in volume and [10-20]% in value), Electrolux ([10-20]% in volume and [10-20]% in value), BSH ([10-20]% in volume and [10-20]% in value), Candy ([5-10]% in volume and [5-10]% in value), Arcelik ([5-10]% in volume and [5-10]% in value) and Miele ([0-5]% in volume and [5-10]% in value). Moreover, market participants indicated in the market investigation that the Parties are generally not each other's closest competitors in France. According to customers and competitors, the closest competitor to Whirlpool is BSH, and also Fagorbrandt, Electrolux and Samsung were generally seen to be closer competitors to Whirlpool than Indesit.<sup>24</sup> Concerning Indesit, market participants most often considered Beko to be its closest competitor, and also competitors such as Electrolux and Candy were mentioned to be closer competitors to Indesit than Whirlpool.<sup>25</sup>
54. Therefore, the competitive pressure exerted by the Parties on each other is likely to be less than that suggested by the combined market share and the market share increments. In fact, as confirmed by the results of the market investigation, each of Whirlpool and Indesit has so far most directly competed with other suppliers and the merged entity would continue to be constrained by those suppliers even after the proposed transaction.

<sup>24</sup> Replies to question 23 – Questionnaire to MDA competitors; and replies to question 18 – Questionnaire to MDA customers.

<sup>25</sup> Replies to question 24 – Questionnaire to MDA competitors; replies to question 19 – Questionnaire to MDA customers.

55. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in France.

*Hungary*

56. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in Hungary:

**Table 3 – Hungary (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Dishwashers	[10-20]	[5-10]	[20-30]	[10-20]	[5-10]	[20-30]
Washing machines	[20-30]	[10-20]	[30-40]	[20-30]	[10-20]	[30-40]
Built-in refrigerators	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in cooking appliances	[10-20]	[0-5]	[10-20]	[10-20]	[0-5]	[20-30]
Built-in hobs	[10-20]	[0-5]	[20-30]	[10-20]	[0-5]	[20-30]
Built-in dishwashers	[20-30]	[0-5]	[20-30]	[20-30]	[5-10]	[20-30]
Freestanding dishwashers	[10-20]	[5-10]	[20-30]	[10-20]	[5-10]	[20-30]
Built-in washing machines	[10-20]	[5-10]	[20-30]	[20-30]	[5-10]	[30-40]
Freestanding washing machines	[20-30]	[10-20]	[30-40]	[20-30]	[10-20]	[30-40]
Built-in microwave ovens	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]

*Source: The Notifying Party*

57. The merged entity's combined market share in Hungary is limited in most MDA categories and their potential sub-segments, except for the market for washing machines and its potential sub-segments. The highest combined market share of [30-40]% in volume and [30-40]% in value is reached in freestanding washing machines.
58. However, numerous competitors remain in Hungary, including in the freestanding washing machine sub-segment, such as Electrolux ([20-30]% in volume and [20-30]% in value), Samsung ([10-20]% in volume and [10-20]% in value) BSH ([0-5]% in volume and [5-10]% in value) Arcelik ([0-5]% in volume and [0-5]% in value), Fagor-Brandt ([0-5]% in volume and [0-5]% in value), and Gorenje ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to the MDA markets or their potential sub-segments in Hungary.
59. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in Hungary.

Italy

60. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in Italy:

Table 4 – Italy (2013)

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Refrigerators	[10-20]	[10-20]	[30-40]	[10-20]	[10-20]	[30-40]
Freezers	[30-40]	[5-10]	[30-40]	[30-40]	[0-5]	[30-40]
Cooking appliances	[10-20]	[20-30]	[40-50]	[10-20]	[20-30]	[40-50]
Dishwashers	[10-20]	[10-20]	[30-40]	[10-20]	[20-30]	[30-40]
Washing machines	[10-20]	[20-30]	[30-40]	[10-20]	[20-30]	[40-50]
Tumble dryers	[5-10]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Microwave ovens	[40-50]	[0-5]	[40-50]	[20-30]	[0-5]	[20-30]
Built-in refrigerators	[10-20]	[20-30]	[40-50]	[10-20]	[20-30]	[40-50]
Freestanding refrigerators	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[30-40]
Built-in freezers	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[20-30]
Freestanding freezers	[30-40]	[5-10]	[30-40]	[30-40]	[0-5]	[30-40]
Built-in cooking appliances	[10-20]	[20-30]	[40-50]	[10-20]	[20-30]	[40-50]
Built-in hobs	[10-20]	[20-30]	[40-50]	[10-20]	[20-30]	[40-50]
Ovens	[10-20]	[20-30]	[30-40]	[10-20]	[20-30]	[30-40]
Built-in ovens	[10-20]	[20-30]	[40-50]	[10-20]	[20-30]	[40-50]
Built-in dishwashers	[10-20]	[10-20]	[30-40]	[10-20]	[20-30]	[30-40]
Freestanding dishwashers	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[30-40]
Built-in washing machines	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[30-40]
Freestanding washing machines	[10-20]	[20-30]	[30-40]	[10-20]	[20-30]	[40-50]
Freestanding tumble dryers	[5-10]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Built-in microwave ovens	[30-40]	[5-10]	[40-50]	[30-40]	[5-10]	[30-40]

Source: The Notifying Party

61. The Commission notes that the merged entity would achieve some relatively high market shares with respect to a number of MDA categories and their potential sub-segments. The highest combined market share is reached in built-in microwaves ([40-50]% in value).
62. Nonetheless, the merged entity would continue to face competition in Italy from notable suppliers, including in the built-in microwave sub-segment, such as BSH ([10-20]% in volume and [10-20]% in value), Samsung ([5-10]% in volume and [5-10]% value),

Electrolux ([5-10]% in volume and [5-10]% in value), as well as other smaller players such as Candy and LG.

63. Many market participants also indicated that particularly Electrolux and BSH were closer competitors to each of the Parties than what the Parties were to each other. In addition, during the market investigation, a number of other suppliers were also mentioned to be close competitors to the Parties, including players such as Candy.<sup>26</sup> The views expressed are thus in line with the Commission's assessment of the economic evidence on closeness of competition between the Parties discussed in paragraphs 34–37.
64. Therefore, the competitive pressure exerted by the Parties on each other is likely to be less than that suggested by the combined market share and the market share increments. In fact, as confirmed by the results of the market investigation, each of Whirlpool and Indesit has so far most directly competed with other suppliers and the merged entity would continue to be constrained by those suppliers even after the proposed transaction.
65. It should also be noted that the Parties, and in particular Indesit have been losing market share in Italy. In many MDA categories, Indesit lost up to [5-10]% points of market share from 2009 to 2013.
66. As regards new entry, according to the Notifying Party and market participants<sup>27</sup>, Samsung has been extremely aggressive in Italy (as in many other Member States) in particular in terms of marketing efforts and has generally managed to double its market share over the last 5 years. Samsung's growth is even more pronounced when looking at specific segments, for example the refrigerators market segment where its market share in value increased from [5-10]% in 2009 to [10-20]% in the first quarter of 2014.
67. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in Italy.

#### *Latvia*

68. The proposed transaction only results in an affected market in Latvia with respect to washing machines (combined [20-30]% in volume and [20-30]% in value).
69. The merged entity's combined market share in Latvia is limited. Moreover, numerous competitors remain in Latvia, including Electrolux ([30-40]% in volume and [30-40]% in value), Samsung ([10-20]% in volume and [10-20]% in value), Arcelik ([5-10]% in volume and [5-10]% in value), BSH ([0-5]% in volume and [5-10]% in value), LG ([0-5]% in volume and [0-5]% in value), and Candy ([0-5]% in volume and value) and. In addition, customers did not raise any concerns during the market investigation with respect to washing machines in Latvia.
70. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in Latvia.

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<sup>26</sup> Replies to questions 23 and 24 – Questionnaire to MDA competitors; and replies to questions 18 and 19 – Questionnaire to MDA customers.

<sup>27</sup> See, e.g. minutes of a call with a customer on 27 August 2014 and minutes of a call with a customer on 28 August 2014.

*The Netherlands*

71. The proposed transaction only results in an affected market in the Netherlands with respect to washing machines (combined [20-30]% in volume and [10-20]% in value), its potential sub-segment of freestanding washing machines (combined [20-30]% in volume and [10-20]% in value) as well as the potential sub-segment of built-in microwave ovens (combined [20-30]% in volume and [20-30]% in value).
72. The merged entity's combined market share in the Netherlands is limited. Moreover, numerous competitors remain in the Netherlands, including Miele, Electrolux, BSH and Samsung. In addition, customers did not raise any concerns during the market investigation with respect to freestanding washing machines in Netherlands.
73. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in the Netherlands.

*Poland*

74. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in Poland:

**Table 5 – Poland (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Refrigerators	[10-20]	[5-10]	[20-30]	[10-20]	[10-20]	[20-30]
Freezers	[20-30]	[5-10]	[30-40]	[30-40]	[5-10]	[30-40]
Dishwashers	[5-10]	[10-20]	[10-20]	[5-10]	[10-20]	[20-30]
Washing machines	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[30-40]
Freestanding refrigerators	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Built-in dishwashers	[5-10]	[5-10]	[10-20]	[5-10]	[10-20]	[20-30]
Freestanding dishwashers	[5-10]	[10-20]	[20-30]	[10-20]	[10-20]	[20-30]
Built-in washing machines	[20-30]	[20-30]	[40-50]	[30-40]	[20-30]	[50-60]
Freestanding washing machines	[10-20]	[10-20]	[20-30]	[10-20]	[10-20]	[30-40]
Built-in microwave ovens	[10-20]	[0-5]	[10-20]	[20-30]	[0-5]	[20-30]

*Source: The Notifying Party*

75. The merged entity's combined market share in Poland is limited in most MDA categories and their potential sub-segments except for the markets for freezers and washing machines (including potential sub-segments of washing machines).
76. In particular, the merged entity would achieve its highest market shares with respect to the potential sub-segment of built-in washing machines, [40-50]% in value and [50-60]% in volume. However, the size of this segment is notably small: out of the total [...] washing machines the Parties sold in Poland in 2013, only [...] were built-in models. Consequently, it is likely that the market shares in the potential sub-segment of built-in washing machines are highly volatile and may be affected by singular supply agreements due to the small volume of the market. This is also confirmed by the fact that while



Arcelik's shares have experienced a remarkable growth from less than [0-5]% in 2010 to approximately [10-20]% in the first quarter of 2014, Bosch has lost market shares in the last 5 years from [10-20]% in volume in 2009 to [0-5]% in volume in 2013

77. Numerous competitors also remain in Poland, including in the built-in washing machine segment, such as Electrolux ([20-30]% in volume and [20-30]% in value), Arcelik ([10-20]% in volume and [10-20]% in value), Bosch ([0-5] in volume and [5-10] in value) and Candy ([0-5]% in volume and [0-5]% in value). Furthermore, the Commission's assessment of the economic evidence on closeness of competition between the Parties discussed in paragraphs 34–37 shows that the Parties are not each other's closest competitors. Therefore, the competitive pressure exerted by the Parties on each other is likely to be less than that suggested by the combined market share and the market share increments. In fact, based on the results of the market investigation, each of Whirlpool and Indesit has so far most directly competed with other suppliers and the merged entity would continue to be constrained by those suppliers even after the proposed transaction.<sup>28</sup> In addition, customers did not raise any concerns during the market investigation with respect to MDA markets or their potential sub-segments in Poland.
78. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in Poland.

*Portugal*

79. The proposed transaction results in affected markets with respect to the following MDAs categories, and their potential sub-segments, in Portugal:

**Table 6 – Portugal (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Refrigerators	[0-5]	[10-20]	[20-30]	[0-5]	[10-20]	[20-30]
Washing machines	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[20-30]
Tumble dryers	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]	[30-40]
Freestanding refrigerators	[0-5]	[20-30]	[20-30]	[0-5]	[10-20]	[20-30]
Built-in washing machines	[5-10]	[10-20]	[10-20]	[5-10]	[10-20]	[20-30]
Freestanding washing machines	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[20-30]

*Source: The Notifying Party*

80. The merged entity's combined market share in Portugal is limited in most MDA categories and their potential sub-segments, except for the market for tumble dryers resulting in the highest combined market share of [30-40]% in volume and [30-40]% in value.
81. However, market share increments brought by the transaction are also modest; with respect to tumble dryers the increment is at most [0-5] %-points in volume. Moreover, numerous competitors remain in Portugal, including, Electrolux ([20-30]% in volume

<sup>28</sup> Replies to questions 18 and 19 – Questionnaire to MDAs customers.

and [20-30]% in value), BSH ([10-20]% in volume and [10-20]% in value), Candy ([5-10]% in volume and [5-10]% in value), Arcelik ([5-10]% in volume and [0-5]% in value), Fagor-Brandt ([0-5]% in volume and [0-5]% in value) and Miele ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to MDA markets or their potential sub-segments in Portugal.

82. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in Portugal.

*Romania*

83. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in Romania:

**Table 7 – Romania (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Dishwashers	[30-40]	[10-20]	[40-50]	[30-40]	[10-20]	[40-50]
Washing machines	[20-30]	[10-20]	[30-40]	[10-20]	[10-20]	[30-40]
Built-in refrigerators	[40-50]	[20-30]	[60-70]	[40-50]	[20-30]	[60-70]
Built-in cooking appliances	[20-30]	[5-10]	[30-40]	[20-30]	[5-10]	[20-30]
Built-in hobs	[20-30]	[5-10]	[30-40]	[20-30]	[5-10]	[30-40]
Built-in ovens	[20-30]	[5-10]	[20-30]	[10-20]	[5-10]	[20-30]
Built-in dishwashers	[40-50]	[10-20]	[50-60]	[40-50]	[10-20]	[50-60]
Freestanding dishwashers	[20-30]	[10-20]	[30-40]	[20-30]	[10-20]	[30-40]
Built-in washing machines	[30-40]	[10-20]	[50-60]	[40-50]	[10-20]	[50-60]
Freestanding washing machines	[20-30]	[10-20]	[30-40]	[10-20]	[10-20]	[30-40]
Built-in microwave ovens	[50-60]	[5-10]	[50-60]	[40-50]	[0-5]	[50-60]

*Source: The Notifying Party*

84. The Commission notes that the merged entity would achieve some relatively high market shares with respect to a number of MDA markets and their potential sub-segments. The market shares are particularly high with respect to the potential sub-segments of built-in refrigerators, dishwashers, washing machines and microwave ovens.
85. However, the sizes of the potential built-in segments are notably small: only [...] units of built-in refrigerators, [...] units of built-in dishwashers, [...] units of built-in washing machines and [...] units of built-in microwave ovens were sold in Romania in 2013. Given the small size of these built-in sub-segments, every unit sold has a large effect on the market share with market shares being affected by singular supply agreements. Indeed, for example, in the built-in washing machine sub-sub-segment, while Electrolux market share has experienced a remarkable growth from approximately [5-10]% in 2009 to approximately [30-40]% in the first quarter of 2014, Whirlpool has lost market shares in the last 5 years (from [60-70]% in 2009 to [30-40]% in the first quarter of 2014). Similarly, in the built-in dishwasher segment, while Arcelik market share has

experienced an increase from approximately [0-5]% in 2009 to approximately [10-20]% in the first quarter of 2014, Electrolux has lost market shares in the last 5 years (from approximately [20-30]% in 2009 to [10-20]% in the first quarter of 2014).

86. Moreover, the merged entity would continue to face competition in Romania from large suppliers including in all built-in segments, such as Arcelik ([10-20]% in volume and [10-20]% in value in built-in dishwashers, Electrolux ([30-40]% in volume and [30-40]% in value in washing machines), Amica ([10-20]% in volume and [5-10]% in value) in built-in microwave and Gorenje ([5-10]% in volume and [5-10]% in value in built-in refrigerators). Many market participants also indicated that particularly Arcelik but also Electrolux were closer competitors to each of the Parties than the Parties were to each other.<sup>29</sup> The views expressed are thus in line with the Commission's assessment of the economic evidence on closeness of competition between the Parties discussed in paragraphs 34–37.
87. Therefore, the competitive pressure exerted by the Parties on each other is likely to be less than that suggested by the combined market share and the market share increments. In fact, based on the results of the market investigation, each of Whirlpool and Indesit has so far most directly competed with other suppliers and the merged entity would continue to be constrained by those suppliers even after the proposed transaction. In addition, the majority of customers did not raise any concerns during the market investigation with respect to MDA markets or their potential sub-segments in Romania.
88. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA market or their potential sub-segments in Romania.

#### *Slovakia*

89. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in Slovakia:

**Table 8 – Slovakia (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Refrigerators	[10-20]	[5-10]	[10-20]	[10-20]	[5-10]	[20-30]
Cooking appliances	[10-20]	[0-5]	[10-20]	[10-20]	[0-5]	[10-20]
Dishwashers	[10-20]	[0-5]	[20-30]	[10-20]	[5-10]	[20-30]
Washing machines	[20-30]	[5-10]	[30-40]	[20-30]	[5-10]	[30-40]
Built-in refrigerators	[20-30]	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]
Built-in cooking appliances	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in hobs	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in ovens	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in dishwashers	[20-30]	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]
Built-in washing machines	[30-40]	[0-5]	[30-40]	[40-50]	[0-5]	[40-50]
Freestanding washing	[20-30]	[5-10]	[30-40]	[20-30]	[5-10]	[30-40]

<sup>29</sup> Replies to questions 23 and 24 – Questionnaire to MDAs competitors; and replies to questions 18 and 19 – Questionnaire to MDAs customers.

machines						
Built-in microwave ovens	[20-30]	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]

Source: *The Notifying Party*

90. The merged entity's combined market share in Slovakia is above [20-30]% with respect to washing machines, its potential sub-segments and with respect to the potential sub-segments of built-in refrigerators and built-in microwave ovens. The merged entity would achieve the highest combined market share in the segment for built-in washing machines ([30-40]% in value and [40-50]% in volume).
91. The market share increments brought by the transaction are, however, generally modest due to Indesit's limited market presence in Slovakia. In addition, the potential sub-segment of built-in washing machines where the merged entity would have [40-50]% of the market in volume, but where the increment would be only [0-5]%, is notably very small in volume: only [...] out of the total [...] washing machines the Parties sold in Slovakia in 2013 were built-in models. Consequently, it is likely that the market shares in the potential sub-segment of built-in washing machines are highly volatile and may be affected by singular supply agreements due to the small volume of the market.
92. Moreover, numerous competitors remain in Slovakia, including in the built-in washing machine segment such as BSH ([0-5]% in volume and [10-20]% in value), Arcelik ([10-20]% in volume and [5-10]% in value), Electrolux ([20-30]% in volume and [30-40] in value), and Candy ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any concerns during the market investigation with respect to MDA markets or their potential sub-segments in Slovakia.
93. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in Slovakia.

*The United Kingdom*

94. The proposed transaction results in affected markets with respect to the following MDA categories, and their potential sub-segments, in the United Kingdom:

**Table 9 – The United Kingdom (2013)**

Category / potential sub-segment	Market share (%) – value			Market share (%) – volume		
	WP	Indesit	Total	WP	Indesit	Total
Refrigerators	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[20-30]
Freezers	[0-5]	[10-20]	[20-30]	[0-5]	[10-20]	[10-20]
Cooking appliances	[0-5]	[10-20]	[10-20]	[0-5]	[20-30]	[20-30]
Dishwashers	[0-5]	[10-20]	[10-20]	[0-5]	[10-20]	[20-30]
Washing machines	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]	[30-40]
Tumble dryers	[0-5]	[30-40]	[30-40]	[0-5]	[30-40]	[30-40]
Built-in refrigerators	[0-5]	[10-20]	[10-20]	[5-10]	10-20]	[20-30]
Freestanding refrigerators	[0-5]	[20-30]	[20-30]	[0-5]	[20-30]	[20-30]
Built-in cooking appliances	[0-5]	[10-20]	[10-20]	[0-5]	[10-20]	[20-30]
Built-in hobs	[0-5]	[10-20]	[10-20]	[0-5]	[10-20]	[20-30]
Ovens	[0-5]	[10-20]	[10-20]	[0-5]	[20-30]	[20-30]
Built-in ovens	[0-5]	[10-20]	[10-20]	[0-5]	[10-20]	[20-30]
Freestanding dishwashers	[0-5]	[10-20]	[20-30]	[0-5]	[20-30]	[20-30]
Built-in washing machines	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]	[30-40]
Freestanding washing machines	[0-5]	[20-30]	[30-40]	[0-5]	[30-40]	[30-40]
Freestanding tumble dryers	[0-5]	[30-40]	[30-40]	[0-5]	[30-40]	[30-40]

*Source: The Notifying Party*

95. The merged entity's combined market share in the United Kingdom is limited in most MDA categories and potential sub-segments, except for the market for washing machines and tumble dryers as well as their potential sub-segments. The merged entity would achieve the highest combined market share in the freestanding tumble dryers sub-segment ([30-40]% in value and [30-40]% in volume).
96. However, the increments are minor due to Whirlpool's limited market presence in the United Kingdom. With respect to the potential market for freestanding tumble dryers where the merged entity would achieve its highest market share, that is [30-40]% in volume, the market share increment is less than [0-5]%. Moreover, numerous competitors remain in the United Kingdom, including in free standing tumble dryers such as Arcelik ([10-20]% in volume and [10-20]% in value), Candy ([5-10]% in volume and [5-10]% in volume), Electrolux ([5-10]% in volume and [5-10]% in value), BSH ([5-10]% in volume and [10-20]% in value), and Miele ([0-5]% in volume and [0-5]% in value). In addition, customers did not raise any substantiated concerns during the market investigation with respect to MDA markets or their potential sub-segments in the United Kingdom.
97. The Commission thus concludes that the transaction does not raise competition concerns with respect to any MDA markets or their potential sub-segments in the United Kingdom.

## D.II Major domestic appliances – conglomerate effects

98. The Parties are both active in all of the categories of MDAs and generally also in their potential sub-segments with a number of brands. However, the Parties' relative strengths vary depending on the MDA category in question. Generally, the merged entity achieves its highest market shares in washing machines, and potential sub-segments thereof, in a number of EEA countries.
99. Some market participants, particularly those located in France and Italy, raised some concerns in the market investigation that the merged entity could use its wide product and brand portfolio to gain more shelf space at retailers and slowly squeeze competitors out of the market.
100. The Notifying Party submits that the proposed transaction does not result in any portfolio effects and that the merged entity would not be in a position to force its rivals out of shelf space at retail stores. The Notifying Party supports that position by referring to, for example, the fact that (i) many other suppliers also offer the full range of products; and (ii) many of the Parties' own brands are small and thus the Parties' main portfolio only really consists of a small number of brands such as the main brands of *Whirlpool* and *Indesit*. Furthermore, the Notifying Party notes that certain market participants, and in particular Samsung, have succeeded in substantially increasing their market shares and have thus not been constrained by any possible present portfolio strengths of the Parties.
101. The results of the market investigation confirmed the arguments put forward by the Notifying Party, notably that other competitors and in particular Samsung, are likely to continue growing also after the proposed transaction.<sup>30</sup> Moreover, market participants pointed out that companies such as LG and Samsung can spread their negotiation across many different product categories and utilise their strong position in, for example, mobile phones, to gain space at retailers for their MDAs.
102. The Commission notes that many of the Parties' main competitors, including BSH and Electrolux, indeed offer products in all the MDA categories and generally also in their potential sub-segments. Moreover, a number of those competitors also operate under numerous brands, e.g. BSH operates under the brands *Siemens* and *Bosch*<sup>31</sup> while Electrolux operates under the brands *Electrolux* and *AEG*<sup>32</sup>, to name but a few. A number of competitors are thus in a similar position as the merged entity would be.
103. Moreover, the results of the market investigation did not support the view that the proposed transaction would make the merged entity's position significantly stronger from what each of the Parties' may have in certain Member States. This finding is also supported by the geographic complementarity between the Parties activities and the fact that the market share increments brought by the transaction are modest in many countries.

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<sup>30</sup> See, e.g. the confirmed minutes of a conference call with a customer on 27 August 2014 and the confirmed minutes of a call with a customer on 28 August 2014.

<sup>31</sup> See, e.g. [www.bsh-group.com/index.php?102573](http://www.bsh-group.com/index.php?102573), last retrieved on 1 October 2014.

<sup>32</sup> See, e.g. <http://group.electrolux.com/en/category/about/brands/>, last retrieved on 1 October 2014.

104. On balance and in light of the above, the Commission considers that the proposed transaction does not raise competition concerns with respect to conglomerate effects.

### D.III Refrigeration compressors – vertical link

105. The transaction results in a vertical link between (i) the freezers and refrigerators produced by the Parties and (ii) the hermetic reciprocating compressors produced by Whirlpool's subsidiary Embraco since the compressors are used as an input in the production of freezers and refrigerators.
106. The Notifying Party estimates Embraco's market share in hermetic reciprocating compressors for household use to remain below 30% both in volume and in value. Alternative suppliers include Secop, Huayi/Jiaxipera, LG, Donper, Samsung and Wanbao. The vertical link could nonetheless potentially result in affected vertical markets due to the merged entity's market shares in refrigerators and freezers as well as their potential sub-segments.
107. The Notifying Party submits that the merged entity would have neither the ability nor the incentive to engage into input or customer foreclosure. In particular, the Notifying Party submits that a number of alternative compressor suppliers will remain on the market and that Embraco is no longer the market leader [...].<sup>33</sup> As to customer foreclosure, the Notifying Party submits that the merged entity does not have the scale to be able to foreclose its upstream competitors as the merged entity would only account for [10-20]% of the customer base in the EEA. Moreover, Whirlpool is even at present sourcing around [...] of its compressor requirements in the EEA from third-party suppliers as that has been the most efficient business model.
108. In the Secop / ACC decision, the Commission concluded that a significant share of the market is captive and that numerous refrigerator and freezer producers have their own internal compressor production.<sup>34</sup> That limits the merged entity's ability to engage in input foreclosure, as those competitors could increase the use of their captive compressor production should the merged entity try to foreclose them. In addition, some of those competitors, such as Secop, are also independent and do not have their own downstream operations in refrigerators or freezers and thus have all the incentives to sell their compressors to all interested customers. It is therefore unlikely that the merged entity would have the ability to foreclose its downstream competitors.
109. When it comes to customer foreclosure, it should first be noted that the merged entity's share of the compressors consumed in the EEA remains modest. A number of major potential customers, such as Electrolux and BSH would remain on the market. [...]. Therefore, if the merged entity were to supply all of its downstream activities with internal compressor production, it would be likely that it would need to forego sales to other customers. On balance, it appears thus unlikely that the merged entity would have the ability or incentive to engage in customer foreclosure.

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<sup>33</sup> It should be noted that in the case *Secop / ACC Austria*, Embraco's market share for 2012 was established to be 30–40% in volume and 40–50% in value. The outcome of the Commission's assessment of the competition effects of the proposed transaction would nonetheless not be affected regardless of which of the figures were used.

<sup>34</sup> M.6996 – *Secop / ACC Austria*, paragraph 36.



110. Finally, a clear majority of both upstream compressor competitors and downstream refrigerator and freezer competitors confirmed the absence of foreclosure concerns related to the proposed transaction.<sup>35</sup>
111. Therefore, the Commission concludes that the vertical links created by the proposed transaction do not raise competition concerns.

## **V CONCLUSION**

112. For the above reasons, the 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 and Article 57 of the EEA Agreement.

*For the Commission*  
*(Signed)*  
*Joaquín ALMUNIA*  
*Vice-President*

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<sup>35</sup> Replies to questions 29 and 30 – Questionnaire to MDAs competitors; and replies to questions 10 and 11 – Questionnaire to compressor competitors.