



EUROPEAN COMMISSION
DG Competition

***Case M.7726 - COTY /
PROCTER & GAMBLE
BEAUTY BUSINESS***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 16/02/2016

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EUROPEAN COMMISSION

Brussels, 16.02.2016
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.7726 - Coty/Procter & Gamble Beauty Businesses
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

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

² OJ L 1, 3.1.1994, p. 3 ("the EEA Agreement").

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- (1) On 12 January 2016, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Coty Inc. (USA, "Coty") acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of a significant part of the global hair care, colouring and styling, colour cosmetics, and fragrances businesses of The Procter & Gamble Company (USA, "the Target Businesses") by way of purchase of shares ("the Transaction").³
- (2) The Transaction will ultimately be effected by merging a Coty subsidiary with and into a newly formed subsidiary of The Procter and Gamble Company, which will hold the Target Businesses.
- (3) Coty will hereinafter be referred to as the "Notifying Party", and Coty and The Target Businesses collectively as "the Parties".

1. THE PARTIES

- (4) **Coty** is a global beauty products manufacturer. Its main products are fragrances, colour cosmetics and skin & body care products. Coty's product offerings include fragrances marketed under brands such as adidas, Calvin Klein, Chloé, Davidoff, Marc Jacobs and Playboy, and branded colour cosmetics products such as Bourjois, OPI, Rimmel and Sally Hansen. Coty is headquartered in New York and its majority shareholder is JAB Cosmetics B.V., a holding company owned by the JAB Group ("JAB"). The JAB Group is a privately held group focused on long term investments in companies with premium brands in the consumer goods sector.⁴
- (5) **The Procter and Gamble Company ("P&G")** is a global manufacturer of consumer goods, including among others fabric and household care and beauty and health care.
- (6) **The Target Businesses** concerned by the Transaction comprise significant parts of P&G's global beauty business unit:
 - (a) the fragrances marketed under the brands Alexander McQueen, Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond 007, Lacoste, Mexx and Stella McCartney;⁵
 - (b) the colour cosmetic business with the brands Cover Girl and Max Factor; and
 - (c) the professional hair colouring, styling, care (shampoo, conditioner) and perming businesses as well as parts of its retail hair colouring and styling business. Brands include Wella, Clairol, SEBASTIAN, VS, Londa, NIOXIN, and [...].⁶

³ Publication in the Official Journal of the European Union No C 19, 20.1.2016, p. 12.

⁴ Neither JAB nor any of its owners or managers have control or decisive influence in any other beauty business.

⁵ [Business secrets redacted] of Christina Aguilera and Dolce&Gabbana [Business secrets redacted-confirmation that P&G will not transfer Christina Aguilera and Dolce&Gabbana as part of the Transaction].

* Should read: Silvikrin.

2. THE OPERATION

- (7) [...].
- (8) As a consideration for the sale of the Target Businesses, P&G shareholders are expected to receive in total around [...] % of the shares of Coty.⁷ JAB's current majority shareholding in Coty will be diluted by the transaction, but JAB will remain the single largest shareholder of Coty with expected shareholding and voting rights of approximately 36%.⁸ [...] none of P&G's shareholders or any single current minority Coty shareholder is expected to hold more than [0-5] % of the shares of Coty following the Proposed Transaction.
- (9) The Parties submit that following the Transaction neither JAB as the largest shareholder in Coty post-Transaction, nor the various P&G shareholders would be in a position to control Coty post-Transaction.
- (10) On the control situation over Coty post-Transaction, the Commission observes the following.
- (11) On the basis of the information provided by the Parties, it seems that JAB will not have the ability to exercise decisive influence over Coty following the Transaction.⁹ JAB will not control Coty *de jure*. Following the Transaction, with 36% of the shares and of the voting rights, JAB will not have a majority of the shares and votes in Coty. Furthermore, JAB will not have any special rights (through shareholder agreements or special classes of shares) to appoint directors or otherwise influence Coty's conduct, or to veto such actions.¹⁰
- (12) Moreover JAB would not appear to have *de facto* control over Coty. Given JAB's current share of voting rights of 97%, a review of voting or attendance patterns at previous shareholders' meetings would not be informative as to the likely impact of a 36% block of votes. Going forward, there will be a significant influx of new (P&G) shareholders, and very different relative proportions of votes between JAB and others. At this point in time, the Commission cannot predict with any degree of certainty that JAB would have a stable majority of votes at future shareholders' meetings,

⁶ P&G will not retain any retail hair colour brands following the Proposed Transaction. With respect to styling, P&G will retain some retail styling products in the EEA under the Pantene and Aussie brands, which do not form part of the Proposed Transaction. Outside Europe, P&G also has styling products under the following brands that are not in scope of the Transaction: Herbal Essences, Old Spice, and Vidal Sassoon. Besides, the brands Head&Shoulders and Rejoice, which do not offer retail styling products, will also remain with P&G post-Transaction. See Parties' responses to RFI 4 of 28 January 2016 and to RFI 8 of 1 February 2016.

⁷ See Parties reply to RFI 11 of 8 February 2016.

⁸ See Parties reply to RFI 11 of 8 February 2016.

⁹ Paragraph 122 et seq of the Form CO.

¹⁰ Decisions relating to the composition of the board will be taken by a simple vote at the annual general meeting.

as would be required for a finding of *de facto* control by paragraph 59 of the Commission Consolidated Jurisdictional Notice.¹¹

- (13) Likewise, on the basis of the Parties' submissions, it seems that Coty will not be controlled by the P&G's shareholders (individually or collectively) on a *de jure* or *de facto* basis either.
- (14) Firstly, it should be noted that P&G's shareholding currently is and post-Transaction will continue to be highly fragmented. Approximately 89% of P&G's shares are held by institutional investors and mutual funds, with Vanguard Group, Inc. being the largest shareholder with approximately 7% shares.¹² Moreover, the Transaction will not affect the shareholding structure of P&G¹³ and will not give rise to any relevant structural links between competitors.
- (15) Following the Transaction, no single P&G shareholder will hold more than [0-5]% of Coty's shares. Shareholdings of this level in Coty seem not to be sufficient to allow a shareholder on its own to appoint a representative to the board or a Committee. It is therefore not currently envisaged that any P&G shareholder will be represented at Coty's board level or in any relevant committee following the Transaction.¹⁴ In addition, like Coty's shareholders, no shareholder of P&G will have any special rights (through shareholder agreements or special classes of shares) to appoint directors or otherwise influence Coty's or P&G's conduct, or to veto such actions.
- (16) Besides, P&G is not aware of any voting arrangement or agreements in place between P&G shareholders; [Business secrets redacted – information regarding P&G's control]. It appears very unlikely that strong common interests currently exist and will exist post-Transaction between P&G's shareholders to control Coty. The more dispersed the shareholding is, the more remote is the likelihood that the shareholders can pool *de facto* their votes.¹⁵
- (17) In light of the above and of all the available evidence, the Commission concludes that post-Transaction none of the current shareholders of Coty or of P&G will be in a position to exercise any form of decisive influence (solely or jointly) over Coty both on a *de jure* and on a *de facto* basis.¹⁶
- (18) In light of the foregoing, the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

¹¹ The Commission does not consider that the attendance rates at the shareholders' meetings of the current P&G would be informative for assessing whether JAB will control Coty (including the Target Businesses) post-Transaction.

¹² Form CO, paragraph 105 and <http://www.pginvestor.com/institutionalownership.aspx?iid=4004124>

¹³ No shareholder of P&G will hold more than 7% of P&G's shares following the Transaction, see Form CO, paragraph 128.

¹⁴ Form Co, paragraphs 128-130.

¹⁵ Paragraph 76 of the Commission Consolidated Jurisdictional Notice.

¹⁶ [Business secrets redacted – information regarding Coty shareholders' control].

3. EU DIMENSION

- (19) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million¹⁷ (Coty: EUR [Business secrets redacted] million, Target Businesses: EUR [Business secrets redacted]). Each of them has a Union-wide turnover in excess of EUR 250 million (Coty: EUR [Business secrets redacted], Target Businesses: EUR [Business secrets redacted]), but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State.
- (20) The Operation therefore has a Union dimension under Article 1(2) of the Merger Regulation.

4. MARKET DEFINITION

4.1. Introduction

- (21) As apparent from the description of the Parties, the primary overlap between Coty and the Target Businesses is in the production and sale of colour cosmetics and fragrances; the Target Businesses are also active in hair products while Coty has no presence in hair products.
- (22) As part of the fragrances line-up, the Target Businesses include some minor sales of deodorants, shower gel and body care products generated by the Target Businesses as ancillary products. Those products, whether sold independently or as part of gift sets lead to overlaps with Coty but do not give rise to affected markets with the exception of the male deodorants markets in Poland and the Czech Republic and Slovakia.
- (23) The majority of fragrances in the EEA are produced under licence. That is the case for the Parties as well as for the rest of the industry. Fragrance licences are the result of negotiations between brand owners and fragrance manufacturers. The Parties submit that their activities in the acquisition of licences do not form part of a relevant market for competition law purposes. In any event, such a theoretical market would not be affected under EU merger control rules.

4.2. Relevant product markets

4.2.1. *Fragrances*

4.2.1.1. Commission's practice

- (24) Fragrances are liquid products used on the skin either directly or *via* a spray dispenser to impart a chosen scent. They are composed of an aromatic compound dissolved in a solvent, which is typically ethanol or an ethanol and water mixture. Fragrances products supplied by the Parties include perfume (*parfum*), *eau de parfum*, *eau de toilette*, aftershave and *eau de cologne*.¹⁸

¹⁷ Turnover calculated in accordance with Article 5 of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C 95, 16.4.2008, p. 1).

¹⁸ Form CO, paragraph 382.

- (25) In prior Commission decisions involving fragrances, a distinction has been made between mass products and high-quality products sold under prestige brands at high prices (so-called prestige products). The Commission had found at the time that prestige beauty products typically were sold through selective distribution channels and that prices for prestige products were generally set independently from prices for mass products. Also, prestige products were sold in areas separate from mass products; customers often enjoyed extra services or special promotions.¹⁹
- (26) A distinction between male and female fragrances has also been considered relevant in previous Commission decisions dealing with beauty/personal care products, but the Commission has left this question open.²⁰

4.2.1.2. Parties' views

- (27) The Parties consider that the appropriate product market definition in this case is one for all fragrances, without further subdivision by sales channel or gender.

Mass/prestige

- (28) According to the Parties, whereas historically there was a relatively clear distinction in Europe between fragrance products sold through prestige and mass market outlets, this distinction has become increasingly blurred and no longer adequately captures the competitive interaction between fragrances brands.²¹

Female/male

- (29) The Parties consider that fragrance products come in variants targeted at men and women, but a distinction along gender lines is not warranted.²²

¹⁹ M.5068 – *L'Oréal/YSL Beauté*, 2008, recital 10. The question was left open in *M.4193 – L'Oréal/The Body Shop*, recital 11.

²⁰ M.5068 – *L'Oréal/YSL Beauté*, recitals 13, 23–36; M.3149 – *P&G / Wella*, 2003, recitals 9, 40–41. In *M.5658 – Unilever/Sara Lee Body care*, the Commission concluded however that for the purposes of this case male deodorants and non-male deodorants were separate relevant product markets (see section 4.2.3 below).

²¹ The Parties argue that across Europe, traditional prestige outlets have expanded their offerings to include a range of mass fragrances in a bid to broaden their appeal to consumers. Large drug store outlets stock both prestige and mass products. Moreover, mass retailers are increasingly obtaining prestige fragrances brands through grey market channels and stocking a range of these brands at lower prices. The availability of reduced price prestige brands in mass outlets undermines the positioning of those brands and this in turn places severe pressure on traditional prestige outlets; Form CO, paragraphs 300 and following.

²² The Parties argue that female brands can readily extend into the male segment (and *vice versa*) and, as a result, most fragrance brands have both male and female variants (known as "lines"). Some also offer unisex lines (Calvin Klein offers the unisex line CK one). Moreover the Parties submit that they and their customers negotiate at a brand level, rather than separately for male and female targeted fragrances, and therefore pricing pressure will reflect competitive constraints across the combined male and female segments. Besides, the Target Businesses do not have sales of unisex fragrances, and hence there is no overlap in this hypothetical segment; Form CO, paragraphs 302 and following.

4.2.1.3. Commission's assessment

Mass/prestige

- (30) In the Commission's market investigation, a majority of all respondents stated that they distinguished between mass and prestige products.²³
- (31) Moreover, the exclusive distribution channels for both prestige and mass products are still very strong despite some blurring in recent years.²⁴ As to the reasons of this still strong split, one competitor argued that certain retailers distribute exclusively prestige brands because suppliers of prestige brands are not willing to sell their prestige brands to supermarkets *"because in general terms they do not comply with the qualitative selection criteria that each supplier has established for the selection of their distributors"*.²⁵
- (32) Moreover, traditional prestige outlets have only to a limited extent expanded their offerings to include mass products.²⁶ The same can be said of large drug stores²⁷ and mass retailers²⁸ which have likewise expanded their offering to include prestige products to a limited extent only.
- (33) As to the question of whether customers consider some mass products as alternatives to comparable products in the prestige segment, a majority of competitors was opposed.²⁹ One competitor wrote: *"We do not identify some mass products that could be considered as alternatives to some prestige products in the eyes of the final consumers, because the positioning of brands is fundamentally different. Media and digital campaigns in the prestige segment confer a specific image to this category of products, based on luxury, quality and scarcity. In addition, the idea of acquiring a luxury good is linked to prestige rather than consumption of a specific item. The absence of substitutability also results from the difference of distribution channels; selective distribution with specific sale staff for prestige products being very distinctive."*³⁰ However, for some competitors the distinction was not as clear cut and a few references were made in particular to the so-called "masstige" segment of upper mass brands in the mass distribution channels. Customers and distributors were split on the question.³¹

²³ See e.g. replies to Q1 – questionnaire to competitors, question 5; Q2 – questionnaire to customers, question 5; Q5 – questionnaire to distributors, question 5.

²⁴ See e.g. replies to Q1 – questionnaire to competitors, question 6; Q2 – questionnaire to customers, question 6; Q5 – questionnaire to distributors, question 6.

²⁵ One competitor's answer to Q1 – questionnaire to competitors, question 6.

²⁶ See e.g. replies to Q1 – questionnaire to competitors, question 7; Q2 – questionnaire to customers, question 7; Q5 – questionnaire to distributors, question 7.

²⁷ See e.g. replies to Q1 – questionnaire to competitors, question 8; Q5 – questionnaire to distributors, question 8.

²⁸ See e.g. replies to Q1 – questionnaire to competitors, question 9; Q2 – questionnaire to customers, question 8; Q5 – questionnaire to distributors, question 9.

²⁹ See replies to Q1 – questionnaire to competitors, question 11.

³⁰ One competitor's answer to Q1 – questionnaire to competitors, question 11.

³¹ See e.g. replies to Q2 – questionnaire to customers, question 9; Q5 – questionnaire to distributors, question 9.

- (34) Concerning the possibility of switching between the production of mass and prestige products, competitors said that this was relatively easy. While the production process itself does not seem to pose any problems to producers wanting to implement a switch, complications could arise from the fact that marketing and commercial strategies or processes are different (leading to different advertising processes, different distribution channels, etc.).³²
- (35) Overall, a majority of competitors and distributors has rejected the claim that the differences between the mass and prestige markets have started to blur in recent years.³³ A majority of customers, however, stated that there has indeed been some blurring.³⁴
- (36) Based on the assessment of the evidence available to it, including the results of the market investigation, the Commission considers that there are some indications that mass and prestige may still have to be considered as being distinct markets. On the one hand, producers still put high emphasis on the selective distribution channels for prestige products; moreover, marketing, price, consumer perception are all markedly different for prestige products than for mass products. On the other hand, there has been some blurring in recent years: the selective distribution model has not been watertight allowing for some mixing of mass and prestige and the "masstige" segment has progressively become more important.
- (37) However, for the purpose of this Decision it is not necessary to come to a conclusion on the precise definition of the product market in relation to mass and prestige products because the assessment of the Transaction would not differ under any plausible market definition.
- (38) In the competitive assessment, the Parties' positions will therefore be assessed on both segments as well as overall.

Female/male

- (39) In the Commission' market investigation, the majorities of competitors and customers alike said that they distinguished between male and female fragrances.³⁵ As to the reason for this differentiation, different price points, different target audience, different shelf space, different visual appearance, etc. were named. This view was not shared by distributors, a majority of which does not distinguish between male and female fragrances.³⁶
- (40) One competitor expressed the following opinion which seems to have been representative for a majority of competitors: "*Female and male fragrances are not intended for the same consumer target (differences in formulas and marketing, among oth-*

³² See e.g. replies to Q1 – questionnaire to competitors, questions 11 and 12; Q2 – questionnaire to customers, questions 9 and 10; Q5 – questionnaire to distributors, questions 10 and 11.

³³ Q1 – Questionnaire to competitors, questions 12; Q2 – Questionnaire to customers, question 10; Q5 – Questionnaire to distributors, question 11.

³⁴ Q2 – Questionnaire to customers, question 10.

³⁵ See e.g. replies to Q1 – questionnaire to competitors, questions 13; Q2 – questionnaire to customers, question 11.

³⁶ See e.g. replies to Q5 – questionnaire to distributors, questions 12.

ers) and are generally separated on the retailer's shelves."³⁷ By contrast, another competitor said: "Although products are consumed by different target consumers (man vs woman), they are shopped cross gender (as gifting is very important), bought one next to each other and negotiated in the same meeting with the same buyers."³⁸

- (41) Moreover, the majorities of competitors and customers explained that marketing campaigns are organised for male and female fragrances separately.³⁹ Some competitors however argued that prestige fragrances especially evoked the same promotional "universe" for male and female fragrances of the same brand.
- (42) On the other hand, the majorities of all groups of respondents stated that sales of male and female fragrances with customers and distributors were handled together and not separately.⁴⁰ There were equally majorities among all groups of respondents claiming that it was relatively easy for producers of female fragrances to switch to the production of male fragrances and *vice versa*.⁴¹ The success of a switch from male to female or female to male however highly depends on brand image and successful marketing; not all brands lend themselves for launches of both male and female variants.
- (43) Based on the assessment of the evidence available to it, including the results of the market investigation, the Commission considers that there are some indications that male and female fragrances should be considered separately. There are differences in target groups and marketing campaigns, presentation in shelf space and different price points. Although producers could switch easily from the production of one category to the other from a technical standpoint, these differences show that such switches may not always be feasible from a commercial standpoint. In fact, cases where this has actually happened are not common. While it is true that negotiations are held for both categories together, this may be due to the fact that many distributors and customers carry both male and female fragrances and therefore include both in their negotiations by brand.
- (44) However, for the purpose of this Decision it is not necessary to come to a conclusion on the precise definition of the product market in relation to female and male fragrances because the assessment of the Transaction would not differ under any plausible market definition.
- (45) In the competitive assessment, the Parties' positions will therefore be assessed on both segments as well as overall.

³⁷ One competitor's answer to Q1 – questionnaire to competitors, question 12.

³⁸ One competitor's answer to Q1 – questionnaire to competitors, question 12.

³⁹ See e.g. replies to Q1 – questionnaire to competitors, question 13.2; Q2 – questionnaire to customers, question 11.2.

⁴⁰ See e.g. replies to Q1 – questionnaire to competitors, questions 13.3; Q2 – questionnaire to customers, question 11.3; Q5 – questionnaire to distributors, question 12.2.

⁴¹ See e.g. replies to Q1 – questionnaire to competitors, questions 13.4; Q2 – questionnaire to customers, question 11.4; Q5 – questionnaire to distributors, question 12.3.

4.2.1.4. Conclusion

- (46) In view of the above, and considering all evidence available to the Commission, it is not necessary to decide on the exact definition of the product market for fragrances, including the potential delimitation of separate product markets for female and male, or between mass and prestige fragrances.

4.2.2. *Colour cosmetics*

- (47) The Parties define colour cosmetics as products intended to be applied to the human body for altering the appearance without affecting the body's structure or functions, including appliance to lips (e.g. lip colour, lipstick, lip liner), face (e.g. foundations, powder make-up, blushes), eyes (e.g. mascaras, eye shadows, eye liners), nails (e.g. nail polish).⁴²

4.2.2.1. Commission's practice

- (48) The Commission has distinguished in its previous decisions between mass and prestige colour cosmetics.⁴³ This distinction was justified by the fact that prestige cosmetics are typically sold through selective distribution channels and its products prices are generally set independently from prices for mass cosmetics. Moreover, even if some retailers belonging to the selective distribution channel do offer mass products, these are always sold in separate areas and that customers of prestige colour cosmetics often enjoy extra services or special promotions.

- (49) The Commission has also analysed the market for prestige colour cosmetics⁴⁴ and has distinguished between face, lip, eye, and nail.⁴⁵

4.2.2.2. Parties' views

- (50) According to the Parties, the appropriate product market definition in this case is one for all colour cosmetics, without further subdivision by sales channel or product type.

Mass/Prestige

- (51) The Parties note that, just as for fragrances, the historical distinction between mass and prestige products no longer adequately captures the competitive interaction between colour cosmetics brands due to supply side substitutability, a blurring of retail channels for mass and prestige products, and low brand loyalty inducing consumers to switch between mass and prestige products.⁴⁶

⁴² Form CO, paragraph 1992.

⁴³ M.5068 – *L'Oréal/YSL Beauté*, recitals 8–10. There are further Commission precedents where the split between mass and prestige products in the beauty and fragrance sector was also applied, for a merger between retailers see M.3716 – *AS Watson /Marionnaud*, recital 6. In *L'Oréal/The Body Shop*, recital 11, the Commission did not elaborate on a split between mass and prestige products for the market level of cosmetics suppliers, but only for cosmetics retailers where it left open the question whether an additional split between mass and prestige was warranted.

⁴⁴ M.5068 – *L'Oréal/YSL Beauté*, recitals 11–12.

⁴⁵ M.4193 – *L'Oréal/The Body Shop*, recitals 8–10.

⁴⁶ Form CO, paragraphs 241 and following.

Nail, lip, face and eye products

- (52) The Parties consider that when looking at demand-side substitution, in relation to a potential segmentation of colour cosmetics into sub-segments such as nail, lip, face and eye products, a distinction between end consumer demand and the market level on which the Parties are active must be made.⁴⁷ End consumers of the Parties' or their competitors' products will not consider nail, lip, face and eye products as interchangeable, as these serve different needs in terms of make-up usage. However, with regard to the market level on which the Parties are active, namely in the sale of colour cosmetics to retailers and distributors, the Parties consider that nail, lip, face and eye products are substitutable from a demand side perspective. The Parties assert that this view is in line with the Commission's previous decision in *L'Oreal/YSL Beauté*.⁴⁸ Distributors source the full range of make-up products per brand, and not on the basis of individual product categories. Moreover, the Parties' direct customers expect their colour cosmetics suppliers to offer the whole range of products and negotiate with suppliers on that basis. Typically, new brands already enter the market with the full range of colour cosmetics products on offer.

4.2.2.3. Commission's assessment

Mass/Prestige

- (53) The Commission's market investigation yielded very similar results for colour cosmetics compared to those for fragrances. Overall, it has found that most respondents in all groups queried distinguish between mass and prestige products for colour cosmetics.⁴⁹
- (54) One retailer wrote: "*Similar to the fragrance market, in colour cosmetics we split the market according to mass and prestige. We are able to distinguish both mass and prestige customers and brands within the colour cosmetics market. However, customers will also buy across both mass and prestige. This means we do also look at both mass and prestige together when appropriate.*"⁵⁰
- (55) Furthermore, as regards the relevance of the exclusive distribution model at present, a majority of competitors said that their retailers or distributors (department stores, supermarkets, perfumeries, etc.) distribute exclusively one of the two categories, prestige products *versus* mass products.⁵¹ Among distributors, only a minority supported this statement and a majority of customers explained that they carried both, mass and prestige colour cosmetics.⁵²
- (56) As to the question of whether there have been some tendencies of, on the one hand, large drug stores or mass retailers to include prestige products in their portfolios and,

⁴⁷ Form CO, paragraphs 279 and following.

⁴⁸ M.5068 – *L'Oréal/YSL Beauté*, recitals 11-12.

⁴⁹ See e.g. replies to Q1 – questionnaire to competitors, question 5; Q2 – questionnaire to customers, question 5; Q5 – questionnaire to distributors, question 5.

⁵⁰ One customer's answer to Q2 – Questionnaire to customers, question 5.2.

⁵¹ See replies to Q1 – questionnaire to competitors, question 6.

⁵² See e.g. replies to Q5 – questionnaire to distributors, question 6; Q2 – questionnaire to customers, question 6.

on the other hand, prestige outlets to include mass products in their offerings, answers were equally mixed. While competitors and distributors said that this was indeed the case,⁵³ customers rejected the claim.⁵⁴

- (57) Furthermore, responses by producers were split on the question of whether they could enter one of the two product categories easily if they were already producing the other category.⁵⁵ While entering into the other product category seems relatively easy from a technical standpoint, many respondents have expressed that actual feasibility may significantly depend on branding and marketing issues as well. In fact, cases where this has actually happened would be rare.
- (58) Concerning the question of whether mass colour cosmetics constitute an alternative to prestige colour cosmetics and *vice versa*, majorities among competitors and customers said that this was indeed true while distributors were rather split on the issue.⁵⁶
- (59) Overall, majorities of competitors and distributors rejected the claim that the differences between mass and prestige colour cosmetics had become blurred in recent years.⁵⁷ However, a majority of customers argued that there had been some blurring of boundaries.⁵⁸
- (60) Based on the evidence available to it, including the results of the market investigation, the Commission considers that there are some indications that mass and prestige colour cosmetics should be looked at separately. Despite some blurring within recent years, selective distribution still goes strong in the market, and different target groups, marketing and pricing may justify a distinction.
- (61) However, for the purpose of this Decision it is not necessary to come to a conclusion on the precise definition of the product market in relation to mass and prestige colour cosmetics because the assessment of the Transaction would not differ under any plausible market definition.
- (62) In the competitive assessment, the Parties' positions will therefore be assessed on both segments as well as overall.

Nail, lip, face and eye products

- (63) Most competitors consider nail, lip, face and eye products separately while distributors do not.⁵⁹ One competitor argued: "*The various products of the color cosmetics*

⁵³ See e.g. replies to Q1 – questionnaire to competitors, questions 7, 8 and 9; Q5 – questionnaire to distributors, questions 7, 8 and 9.

⁵⁴ See replies to Q2 – questionnaire to customers, questions 7 and 8.

⁵⁵ See replies Q1 – questionnaire to competitors, question 10.

⁵⁶ See e.g. replies to Q1 – questionnaire to competitors, question 11; Q2 – questionnaire to customers, question 9.

⁵⁷ See e.g. replies to Q1 – questionnaire to competitors, question 12; Q5 – questionnaire to distributors, question 11.

⁵⁸ See replies to Q2 – questionnaire to customers, question 10.

⁵⁹ See e.g. replies to Q1 – questionnaire to competitors, question 4; Q5 – questionnaire to distributors, question 4.

*category are not always subject to the same manufacturing process. For example, the manufacturing process behind a lip pencil will be different to a nail polish, in that different plants and often third party suppliers will be involved in supplying the finished or semi-finished products to the company."*⁶⁰

- (64) In the same vein, the majorities among all groups of respondents stated that they analysed sales performance of colour cosmetics products, by individual category. Nevertheless, most respondents also stated that they considered in addition to the individual categories the overall product category encompassing all nail, lip, face and eye products.⁶¹
- (65) However, most competitors and distributors said that they did not consider these four categories separately in terms of marketing processes.⁶² A majority of customer that are selling their own retailer-branded products on the contrary do not consider these four categories separately.⁶³
- (66) All groups of respondents confirmed that negotiations usually take place for all four product categories together with the possible exception of the nail segment where separate negotiation may take place under certain circumstances.⁶⁴ Indeed, there are some brands that seem to focus exclusively or predominantly on nail colour cosmetics, such as Coty's own Sally Hansen brand.
- (67) Moreover, the majority of respondents did not evoke the need for any further segmentation beyond the four abovementioned categories.⁶⁵
- (68) Based on the evidence available to it, including the results of the market investigation, the Commission considers that most suppliers are active in the four categories (nail, lip, face and eye) of colour cosmetics and that most customers (retailers) purchase all four categories of products, most often on the basis of the brands. Several competitors and retailers highlight in substance that one given colour cosmetics brand could not really prosper without offering the four categories.⁶⁶ This would point to an overall market containing all product categories. Nonetheless, many market participants do consider that there is a difference between these four categories and also analyse each category on its own.
- (69) For the purpose of this Decision however it is not necessary to come to a conclusion on the precise definition of the product market in relation to nail, lip, face and eye

⁶⁰ One competitor's answer to Q1 – questionnaire to competitors, question 4.

⁶¹ See e.g. replies to Q1 – questionnaire to competitors, question 4; Q2 – questionnaire to customers, question 4; Q5 – questionnaire to distributors, question 4.

⁶² See e.g. replies to Q1 – questionnaire to competitors, question 4.2 ; Q5 – questionnaire to distributors, question 4.1.

⁶³ See replies Q2 – questionnaire to customers, question 4.3.

⁶⁴ See e.g. replies to Q1 – questionnaire to competitors, question 4; Q2 – questionnaire to customers, question 4.1; Q5 – questionnaire to distributors, question 4.2.

⁶⁵ See e.g. replies to Q1 – questionnaire to competitors, question 15; replies to Q2 – questionnaire to customers, question 13. In substance, only a few respondents considered additional splits, such as according to the manufacturing process or for ultra-prestige products.

⁶⁶ This would however not apply to specialised brands like OPI or Sally Hansen, which focus on nail products.

products because the assessment of the Transaction would not differ under any plausible market definition.

- (70) In the competitive assessment, the Parties' positions will therefore be assessed in all segments as well as overall.

4.2.2.4. Conclusion

- (71) In view of the above, and considering all evidence available to the Commission, it is not necessary to decide on the exact definition of the product market for colour cosmetics, including the potential delimitation of separate product markets for mass and prestige products, as well as between nail, lip, face and eye products.

4.2.3. *Deodorants*

- (72) Coty and the Target Businesses both sell deodorants as ancillary products to complement their fragrances brands.⁶⁷

4.2.3.1. Commission's practice

- (73) In *Unilever/Sara Lee Body Care* the Commission held there to be separate markets for male and non-male deodorants, regardless of format.⁶⁸

4.2.3.2. Parties' views

- (74) The Parties believe that the markets should be defined wider than male or non-male deodorants. The Parties submit that the precise market definition can remain open for the purpose of this Form CO, since no competitive concerns arise irrespective of which possible definition of the deodorants market is assumed.⁶⁹

4.2.3.3. Commission's assessment

- (75) For the purpose of the assessment of the Transaction the exact market definition of the deodorants market can be left open because the assessment of the Transaction would not lead to any competition concerns under any plausible market definition.

4.2.3.4. Conclusion

- (76) In view of the above, and considering all evidence available to the Commission, it is not necessary to define the product market for deodorants.

4.2.4. *Shower gels*

- (77) Coty and the Target Businesses both sell shower gels as ancillary products to complement their fragrances and deodorants brands.⁷⁰

⁶⁷ Form CO, paragraph 71.

⁶⁸ M.5658 – *Unilever/Sara Lee Body Care*, recital 142.

⁶⁹ Form CO, paragraphs 313 and following.

⁷⁰ Form CO, paragraph 78.

4.2.4.1. Commission's practice

(78) In *Unilever/Sara Lee Body Care* the Commission held there to be overall product markets for bath and shower products, regardless of format.⁷¹

4.2.4.2. Parties' views

(79) In line with the Commission's product market definition in *Unilever / Sara Lee Body Care*, the Parties believe that bath and shower products constitute a separate product market. A further distinction between bath products and shower products, and a distinction based on gender for shower products can be left open, according to the Parties, for the purpose of this case.⁷²

4.2.4.3. Commission's assessment

(80) For the purpose of the assessment of the Transaction the exact market definition of the shower gels market can be left open because the assessment of the Transaction would not lead to any competition concerns under any plausible market definition.

4.2.4.4. Conclusion

(81) In view of the above, and considering all evidence available to the Commission, it is not necessary to define the product market for shower gels.

4.2.5. *Travel retail*

(82) The travel retail channel is characterised by the presence of travel retail service providers, which distribute the various and diverse products sold in the channel to retail outlets at airports, on-board aircrafts and on-board ships, amongst others. The travel retail service providers have their own stores and/or serve as distributors for third party outlets.

(83) In travel retail, the Parties are mainly active in the sale of fragrances, and primarily within the prestige fragrances market.

(84) Coty's main fragrance brands in travel retail are Calvin Klein, Chloé, Davidoff, Marc Jacobs, and Roberto Cavalli.

(85) The Target Businesses are mainly present in travel retail with the fragrance brands Escada, Gucci, Hugo Boss, and Lacoste.

4.2.5.1. Commission's practice

(86) In its practice regarding travel retail, the Commission has assumed a separate product market for products sold in the travel retail channel. The Commission found that conditions for negotiations were different from the selective distribution channel, as well as packaging and product assortment; end consumers were found to be primarily international travellers.⁷³ Many products purchased at travel retail shops are in-

⁷¹ M.5658 – *Unilever / Sara Lee Body Care*, recitals 1083 and following.

⁷² Form CO, paragraphs 315 and following.

⁷³ M.5068 – *L'Oréal/YSL Beauté*, recital 15.

tended for gift giving, rather than for personal consumption. In another case, the Commission acknowledged the strong role of impulse purchasing behaviour, suggesting a large degree of demand side substitution between different kinds of products.⁷⁴

4.2.5.2. Parties' views

(87) The Parties consider that the travel retail channel constitutes a separate market and beauty products belong to one market together with other products offered in travel retail, such as, e.g., alcoholic beverages. This is primarily because purchases at travel retail shops are based on impulse behaviour and are often intended for gift-giving, resulting in a large degree of demand side substitution between different product categories. Further, due to the limited floor space availability, only a limited range of products are sold in duty free and travel retail shops compared to other channels, including fragrances and cosmetics, spirits, tobacco, confectionary and high-value electrical goods. Accordingly, the Parties perceive their competitors to extend to alcohol, tobacco, and confectionary brands as competition for shelf space occurs with these product categories.

4.2.5.3. Commission's assessment

(88) In the Commission's market investigation, the majorities of competitors and customers have endorsed the Commission's previous market delineation, i.e. that that fragrances sold through travel retail shops (e.g. at airports) should be distinguished from fragrances sold through other channels.⁷⁵ Moreover, a majority of travel retailers shares the view that fragrances sold through travel retail shops should be distinguished from fragrances sold through other channels.⁷⁶

(89) However, travel retailers are split as to whether further distinction (mass and prestige, male and female) between fragrances would be relevant.⁷⁷ Likewise travel retailers responding to the market investigation provided mixed answers as to whether fragrances and colour cosmetics compete with other products featured in the same travel retail store (e.g. tobacco, alcoholic beverages, confectionary, etc.) for the same customers.⁷⁸ However, a majority of competitors thought that fragrances and colour cosmetics indeed compete with such other products.⁷⁹

(90) The Commission considers that the market investigation has not provided conclusive results as to the exact definition of the travel retail market.

(91) For the purpose of this Decision however it is not necessary to come to a conclusion on the precise definition of the travel retail market because the assessment of the Transaction would not differ under any plausible market definition.

⁷⁴ M.7622 – *Dufry/World Duty Free*, recital 15.

⁷⁵ Replies to Q1 – Questionnaire to competitors, question 55; Q3 – Questionnaire to travel retail customers, question 4.

⁷⁶ Replies to Q3 – questionnaire to travel retail customers, question 4.

⁷⁷ Replies to Q3 – questionnaire to travel retail customers, question 6.

⁷⁸ Replies to Q3 – questionnaire to travel retail customers, question 5.

⁷⁹ Replies to Q1 – questionnaire to competitors, question 56.

4.2.5.4. Conclusion

(92) In view of the above, and considering all evidence available to the Commission, it is not necessary to define the product market for travel retail.

4.3. Relevant geographic markets

4.3.1. *Fragrances and colour cosmetics*

4.3.1.1. Commission's practice

(93) In prior decisions, the Commission has left open whether fragrances and colour cosmetics markets are national or EEA-wide in scope⁸⁰ and has considered relevant to look at some country clusters (like the Baltics).⁸¹

4.3.1.2. Parties' views

(94) According to the Parties, the markets for colour cosmetics and fragrances could be considered to be EEA wide for the following reasons:⁸²

- (a) The Parties and most of their main competitors are active all across Europe.
- (b) The Parties' fragrance and colour cosmetics products and those of their competitors are manufactured across the globe and distributed all over Europe.
- (c) The same brands are used across Europe, with minor exceptions. In addition, packaging is the same all across Europe. The language usually does not constitute a barrier to cross-border trade since most beauty products either have multi-language labels or do not require multi-language labels as their packaging or product identity is understood internationally.
- (d) Accordingly, on the demand side, the largest customers are multi-national retailer groups who are active across Europe. They coordinate their purchase of beauty products for all of their European activities or at least grouped by certain regions.

(95) The Parties acknowledge however that the narrowest plausible geographic market definition is national.

(96) Moreover, the Parties submit that the following country clusters would constitute single geographic markets: (i) Czech Republic and Slovakia, (ii) the Baltics (Estonia, Latvia, Lithuania), (iii) Scandinavia (Denmark, Sweden, Norway), and (iv) the UK and Ireland.

(97) The existence of country clusters would result in particular from the following elements, which would be present at varying degrees depending on the clusters:

- (a) location and language (e.g. neighbouring countries, and mutually-intelligible languages),

⁸⁰ See for example M.5068 *L'Oréal/YSL Beauté*, paragraphs 18 and 26.

⁸¹ M.5068 – *L'Oréal/YSL Beauté*, Annex 2.

⁸² Form CO, paragraphs 319 and following.

- (b) spending capacity (e.g. comparable wages and living standards),
- (c) organisational structure and commercial strategy [Business secrets redacted],
- (d) competitors (e.g. the same key competitors operate and constrain the Parties across the cluster; their brands are similar),
- (e) customers and product portfolio (e.g. many of the main customers are identical in both countries, and the retail structure generally is comparable across the cluster. [Business secrets redacted]. Consumer preferences and taste are also very similar),
- (f) pricing (e.g.[Business secrets redacted]),
- (g) media spill-over (e.g. there is some media spill over across the cluster).

4.3.1.3. Commission's assessment

- (98) The Commission's market investigation led to mixed results as to the exact geographic market sizes for fragrances and colour cosmetics. While competitors and distributors were rather split on the question of whether consumer preferences varied from one country to another, a majority of customers stated that there were country-specific differences in consumer preferences.⁸³
- (99) The majorities of all groups of respondents stated that wholesale prices for both colour cosmetics and fragrances were country-specific.⁸⁴ Furthermore, retail prices for colour cosmetics and for fragrances vary significantly from one country to another according to the majority of respondents.⁸⁵ In addition, a majority of competitors said that the structure, importance, etc. of retail or distribution channels vary significantly from a country to another in the EEA; however, distributors were split on the issue.⁸⁶
- (100) In view of the above results, the Commission considers that the organisation of distribution and purchasing along national lines (amongst other factors) suggest that these markets would be national. There are also significant variations in customers' preferences, prices and distribution channels from one country to another.
- (101) The Commission has also investigated whether there are country clusters as suggested by the Parties that should be considered for the assessment of the present Transaction. The Commission's market investigation does not seem to back up this claim however.

⁸³ See e.g. replies to Q1 – questionnaire to competitors, question 16; Q2 – questionnaire to customers, question 14; Q5 – questionnaire to distributors, question 15.

⁸⁴ See e.g. replies to Q1 – questionnaire to competitors, question 17; Q2 – questionnaire to customers, question 15; Q5 – questionnaire to distributors, question 16.

⁸⁵ See e.g. replies to Q1 – questionnaire to competitors, question 18; Q2 – questionnaire to customers, question 16; Q5 – questionnaire to distributors, question 17.

⁸⁶ See e.g. replies to Q1 – questionnaire to competitors, question 19; Q5 – questionnaire to distributors, question 18.

- (102) Majorities among all groups of respondents⁸⁷ rejected that the following countries should be regarded as one single area (e.g. as regard marketing and promotion campaigns, customer preferences, pricing, negotiations with retailers, etc.): (i) Czech Republic and Slovakia; (ii) Estonia, Latvia and Lithuania; and (iii) Denmark, Norway and Sweden. For Ireland and the United Kingdom, results were mixed.
- (103) Likewise majorities among all groups of respondents⁸⁸ stated that the conditions of competition were not sufficiently homogeneous to distinguish the following country clusters from neighbouring geographic areas: (i) Czech Republic and Slovakia; (ii) Estonia, Latvia and Lithuania; and (iii) Denmark, Norway and Sweden. For Ireland and the United Kingdom, results were again mixed.
- (104) Therefore, the Commission considers that the evidence available to it, including the results of the market investigation do not lend support to the conclusion that the geographic scope of the fragrance and colour cosmetics markets extends to country clusters as proposed by the Parties. As a consequence, the Transaction will be assessed on the basis of national markets. Given however that no competition concerns arise on any national markets, concerns can also be excluded on a potential country cluster level. The exact geographic market definition can therefore be left open.

4.3.1.4. Conclusion

- (105) In view of the above, and considering all evidence available to the Commission, the fragrance and colour cosmetics markets appear to be national. The exact geographic market delineation, including the possibility of EEA-wide markets or relevant country clusters, can be left open since no competition concerns arise on any plausible geographic market definition.

4.3.2. *Deodorants*

4.3.2.1. Commission's practice

- (106) In prior decisions, the Commission has found that there are separate national markets for male and non-male deodorants, regardless of format.⁸⁹

4.3.2.2. Parties' views

- (107) The Parties are of the view that the assessment made for colour cosmetics and fragrances is also applicable to deodorants.
- (108) In particular, the Parties refer the Commission to its decision in *Unilever / Sara Lee Body Care*, where it was held that there were separate national markets for male and non-male deodorants, regardless of formats.

⁸⁷ See e.g. replies to Q1 – questionnaire to competitors, question 20; Q2 – questionnaire to customers, question 17; Q5 – questionnaire to distributors, question 19.

⁸⁸ See e.g. replies to Q1 – questionnaire to competitors, question 20; Q2 – questionnaire to customers, question 17; Q5 – questionnaire to distributors, question 19.

⁸⁹ M.5658 – *Unilever/Sara Lee Body Care*, 2010, recital 147.

4.3.2.3. Commission's assessment

(109) For the purpose of the assessment of the Transaction, the exact market definition of the deodorants market can be left open because the assessment of the Transaction would not lead to any competition concerns under any plausible market definition.

4.3.2.4. Conclusion

(110) In view of the above, and considering all evidence available to the Commission, it is not necessary to define the geographic market for deodorants.

4.3.3. *Shower gels*

4.3.3.1. Commission's practice

(111) In prior decisions, the Commission has found that there are national product markets for bath and shower products, regardless of format.⁹⁰

4.3.3.2. Parties' views

(112) The Parties are of the view that the assessment made for colour cosmetics and fragrances is also applicable to shower gels.

4.3.3.3. Commission's assessment

(113) For the purpose of the assessment of the present Transaction the exact market definition of the shower gels market can be left open because the assessment of the Transaction would not lead to any competition concerns under any plausible market definition.

4.3.3.4. Conclusion

(114) In view of the above, and considering all evidence available to the Commission, it is not necessary to define the geographic market for shower gels.

4.3.4. *Travel retail*

4.3.4.1. Commission's practice

(115) In its practice regarding the travel retail market, the Commission has left open whether this market is EEA-wide or global.⁹¹

4.3.4.2. Parties' views

(116) The Parties' brands available through the travel retail channel are positioned and marketed very similarly in all countries throughout the EEA, as is reflected in the internal sales organisation of Coty and the Target Businesses. Trading conditions for travel retail are largely consistent across the EEA.

⁹⁰ M.5658 – *Unilever / Sara Lee Body Care*, recitals 1084 and following.

⁹¹ Case IV/M.782 – *Swissair/Alders International*, recitals 10 and following, and Case M.7622 – *Dufry/World Duty Free*, recitals 19 and following.

(117) The Parties consider the relevant geographic scope of the market should be framed as at least EEA-wide if not global. While a framework that is limited to a given airport may be appropriate for assessment of a merger between travel retailers,⁹² the Parties consider it not meaningful for a merger of businesses which operate at the same level of the supply chain as the Parties, namely as manufacturers and wholesalers.

4.3.4.3. Commission's assessment

(118) The Parties' internal documents indicate that the Parties view the travel retail channel as at least Europe-wide in scope. Their commercial strategies, which are developed for this market, are at least Europe-wide.

(119) Besides, the operational structures of the Parties' travel retail divisions are centralised so travel retail account managers interact with travel retailers on a regional basis across Europe in relation to trading terms and conditions. The Parties have also adopted [Business secrets redacted]^{93 94}

(120) In the Commission's market investigation, a majority of competitors held that the geographic scope of the travel retail market was worldwide; a majority of travel retail customers shared this assessment.⁹⁵

(121) Therefore, there was clear support in the market investigation for the view that the travel retail market is at least EEA-wide in scope.

4.3.4.4. Conclusion

(122) In view of the above, and considering all evidence available to the Commission, the geographic size of the travel retail market appears to be at least EEA-wide. However the exact geographic market definition (EEA-wide or worldwide) can remain open since no competition concerns arise on any plausible geographic market definition.

5. COMPETITIVE ASSESSMENT

(123) The assessment of the compatibility of the Transaction with the internal market will essentially focus on non-coordinated horizontal effects in the markets for fragrances, deodorants, shower gels, and colour cosmetics where the Parties' activities overlap.

(124) The Commission will first assess the Parties' proposed methodology for estimating the Parties' and their competitor's market shares (Section 5.1).

(125) Then the Commission will carry out a general assessment of the unilateral horizontal effects of the Transaction that cut across the different EEA countries (Section 5.2) before undertaking a more detailed analysis on a country per country basis in the overall fragrance (Section 5.3) and colour cosmetics markets (Section 5.4), and in each of the plausible sub-segmentations thereof. The Commission will further assess

⁹² See M.7622 *Dufry/World Duty Free*, recitals 19 and following.

⁹³ [...].

⁹⁴ See replies to Q3 – questionnaire to travel retail customers, question 9.

⁹⁵ See replies to Q1 – Questionnaire to competitors, question 57; replies to Q3 – questionnaire to travel retail customers, question 7.

the effects of the Transaction on the deodorants (Section 5.5), shower gels (Section 5.6), and travel retail (Section 5.7) markets.

(126) Finally, the Commission will also assess coordinated effects (Section 5.8) as well as conglomerate effects (Section 5.9) that might be brought about by the Transaction.

5.1. Methodology for calculating market shares

5.1.1. Description of Euromonitor and scanner data

(127) In prior Decisions about consumer goods,⁹⁶ the Commission distinguished the upstream level, where retailers source their products, from a downstream level where the products are sold to the final customer. The same approach is followed in the present case for the beauty products markets and is extended to include distributors on the upstream level.

(128) All fragrance and colour cosmetics manufacturers⁹⁷ sell their products to retailers which, in turn, sell these products to final consumers. Therefore, there are two stages in the supply chain: the upstream level, where fragrance and colour cosmetics are supplied to retailers and the downstream level where retailers supply to end-consumers. Coty and the Target Businesses are only active on the production and supply upstream (to retailers). The Parties use distributors to supply to retailers in a limited number of countries where they do not deal directly *via* their own subsidiaries.⁹⁸

(129) The Parties have calculated market shares on the basis of retail shares as they consider that this approach provides the best available proxy for wholesale shares, which is the actual level at which the Parties are active. The Commission has used such data in previous decisions in the sector⁹⁹ and considers that retail-level market shares are also appropriate for the assessment of the Transaction.

(130) The Parties have submitted two different sets of data to analyse market shares: Euromonitor data, which provides sales data on the basis of publicly available sources and sector experts, and retail scanner data (from Nielsen, NPD, and IRI depending on data availability in each country), which is generally based on electronic point of sales data from retailers of each purchase scanned.

(131) The Commission has previously used data compiled by Nielsen, IRI, and Euromonitor when assessing transactions in the markets for fragrances and colour cosmetics.¹⁰⁰

⁹⁶ See e.g. M.4533 – *SCA/P&G*.

⁹⁷ With the exception of some direct sellers (Avon, Oriflame) that sell their products exclusively online or through mail order.

⁹⁸ See Section 5.2.1 below.

⁹⁹ See e.g. M.5658 – *Unilever / Sara Lee Body Care*; M.6401 – *Waterland / Alychlo / Omega Pharma*.

¹⁰⁰ See e.g. M.3149 – *Procter & Gamble / Wella*, footnote 15.

- (132) The main differences between the two methodologies for gathering market shares are the following:
- (a) geographic coverage: Euromonitor is available for colour cosmetics and fragrances in 26 of the EEA countries, for both mass and prestige segments. Retail scanner data is available for [...] * countries for mass channel colour cosmetics, 14 countries for mass channel fragrances and 5 countries for prestige channel fragrances (and [...] **). The Parties argue that Euromonitor covers the broadest range of countries and is the most comprehensive data set available across the EEA in terms of its coverage of products and sales channels;¹⁰¹
 - (b) channel coverage: direct sales, online sales and several retail outlets (including all own-brand stores) are not covered by retail scanner data, while they are covered by the Euromonitor; and
 - (c) brand coverage: retail scanner data is more exact in the items that it measures but only for the retailers that it covers. This is because each purchase is scanned and is published, thus allowing the monitoring of the performance of brands and items of inventory and Stock Keeping Units ("SKUs").¹⁰² It is also published in shorter intervals, if compared to Euromonitor. However, the Parties submit that its coverage of retailer brands and brands exclusively distributed by one retailer would be limited in several countries such as the UK or the Netherlands.
- (133) The Parties explain that they use Euromonitor data when they need an overall picture of the market, such as for their strategic planning where the inadequacies of scanner data would not allow a correct assessment of the markets and where the tracking of launches or the monitoring of the performance of a single item of inventory is not required.
- (134) The Parties explain that they use retail scanner data to track the sales of their individual products and brands in the different markets as this provides the most timely possibility of controlling their go-to-market strategy. As it is based on the electronic point of sales data from retailers of each purchase scanned and is published in brief intervals of one or two weeks up to two months it allows the monitoring and analysis of the performance of brands and single SKUs.

* Should read: 18.

** Should read: prestige channel data is available for colour cosmetics.

¹⁰¹ The Parties have incorporated in the data provided Euromonitor shares reported at company level. Euromonitor's brand level report excludes a proportion of sales allocated to unattributed brands. The figures include sales attributed by Euromonitor to market players for other unidentified brands which have been added to their shares under "Other" (unless the Parties could exclude that such other unidentified brands exist, notably in Slovakia for the Target Businesses or in Germany and Slovenia more generally).

¹⁰² Stock Keeping Unit: unique warehousing item due to certain qualities (such as brand, size, colour, model) and must be stored and accounted for separate from other items.

- (135) The Parties acknowledge that Euromonitor data may not be as exact as scanner data¹⁰³ and can be slow to react to new trends and market movements as these may not immediately be visible to market observers on whose assessment Euromonitor bases its views. This would be true especially regarding smaller brands where Euromonitor generally may be less accurate. The Parties nevertheless consider Euromonitor data to be best suited for the purpose at hand, which is to use data for an assessment of general market shares rather than tracking of single products or SKUs.
- (136) Numerous competitors contacted during the market investigation questionnaire use both Euromonitor and Scanner data. They also tend to confirm that scanner data may be more accurate than Euromonitor for certain markets while Euromonitor would provide a broader picture of markets.¹⁰⁴ As an example, one competitor mentions that "*Euromonitor is a good source for the size evaluation of the market and global information on the different actors (weakness: they don't provide volume datas) Scanner data can give a precise information at a reference level.*"¹⁰⁵
- (137) The Commission is of the view that the assessment of market shares and market characteristics is best served by the Euromonitor data.
- (138) Therefore, the Commission considers that the identification and initial analysis of affected markets should be undertaken on the basis of Euromonitor data as this is the only data set which provides a homogeneous and comprehensive approach for most countries.
- (139) Besides, the Commission notes the following regarding scanner and Euromonitor data:
- (a) For prestige fragrances, scanner data is not generally available in the various countries. In the only instances when such data is available for affected markets (in Germany, Spain, and the UK), they are globally consistent with Euromonitor data (with less than four percentage points difference when taking into account the rationalisations of differences which will be described below in Section 5.1.2).¹⁰⁶

¹⁰³ The Commission notes that in a number of countries, according to Euromonitor the overall prestige fragrances market share would appear higher than each of male and female prestige fragrances market shares. These differences are explained by the fact that the small amounts of sales of non-male fragrances are not allocated to either the male or female segment by Euromonitor but are included in the overall prestige (and also overall mass) fragrances segment. No separate non-male fragrances data is available for Croatia, Estonia, Latvia, Lithuania and Slovenia. However, the differences between the female/male aggregation and the overall fragrances market for both prestige and mass are consistent with the above explanation in these countries. In any event, these small differences do not lead to any impact on the competitive assessment for these countries and are no longer mentioned in the remainder of this Decision.

¹⁰⁴ Replies to Q1 – questionnaire to competitors, question 25.

¹⁰⁵ Yves Rocher, replies to Q1 – questionnaire to competitors, question 25.1.1.

¹⁰⁶ Furthermore, in Germany and Spain, market shares as indicated by Euromonitor for prestige fragrances are also higher than the ones indicated by scanner data. Hence, using Euromonitor data in the competitive assessment would be conservative in this regard.

- (b) Regarding mass products, significant discrepancies in market shares may appear in some countries between Euromonitor data and scanner data. The Parties have tried to reconcile the market share figures. Scanner data would often be based on a limited coverage of mass product sales: in several countries, there are multiple markets where these sales would represent less than half of the sales reported by Euromonitor.¹⁰⁷

(140) In light of this general description of the available data, the Commission conducted an in-depth assessment of the methodologies used by the Parties to provide market share data, as described in the following sections.

5.1.2. *Assessment of market share data and adjustments*

5.1.2.1. Rationalisation of differences between Euromonitor and scanner data

(141) As previously described, raw Euromonitor and scanner data present certain discrepancies in a number of markets. To take into account the main differences between the two types of datasets, the Parties provided explanations that would allow several adjustments of the scanner data. These adjustments, as applied to scanner data, are essentially: (i) categorisation of prestige brands initially miscategorised as mass brands in the scanner data, (ii) inclusion of direct sales (not registered in scanner data); and (iii) inclusion of sales of certain retailers (e.g. private labels) not covered by scanner data.¹⁰⁸ These adjustments were provided for both fragrances¹⁰⁹ and colour cosmetics.¹¹⁰

(142) The Commission has conducted an in-depth assessment of the methodology used by the Parties for the rationalisation of the differences between Euromonitor and scanner data. In light of the differences between the two datasets as regards channel coverage, the Commission considers all three abovementioned adjustments to be appropriate.

(143) The Commission considers that following these adjustments, the explanations provided lead to rationalisations of the differences between scanner data (Nielsen, IRI and NPD) and Euromonitor to a significant degree for both fragrances and colour cosmetics. In the affected markets, either market shares under Euromonitor shares are superior to the ones in scanner data, or the difference between Euromonitor and the adjusted scanner data becomes small (less than three percentage points). In both cases, using Euromonitor data for the purpose of the competitive assessment is appropriate. The only remaining markets that are affected (according to either Eu-

¹⁰⁷ These countries are: Austria, Belgium, Hungary, Italy, Poland, Romania, and Slovakia for fragrances and Belgium, Hungary, Italy, Norway, Portugal, and Sweden for colour cosmetics. On the contrary, meaningful exceptions in terms of competitive assessment, where the coverage of scanner data remains significant as compared to the coverage of Euromonitor would be the Czech Republic and the Netherlands for fragrances, and the Czech Republic and Hungary for colour cosmetics.

¹⁰⁸ All adjustments affect the shares of all suppliers proportionally. Whereas the impact of the first adjustment could theoretically vary depending on the extent to which a certain supplier's prestige products are sold in the mass channel, the Parties confirm that it is immaterial in the segments concerned. The Commission has verified that the adjustments made equally impact the various companies and are proportional to all suppliers' respective initial Nielsen share. See Parties' response to RFI 14 of 10 February 2016.

¹⁰⁹ Form CO, Annex 7-Frag-General-001-005-Market Share Variations.

¹¹⁰ Annex 7-CoCo-General-001-005-Coty-Euromonitor versus Nielsen - Analysis of divergences.

romonitor or scanner data) and where the Commission is of the view that the Parties' adjustments of scanner data did not suffice to account for the difference between the datasets are:

- (a) Germany (mass, male, and mass male fragrances),
- (b) the Netherlands (mass, mass female, and mass male fragrances), and
- (c) the Czech Republic (mass eye and mass face colour cosmetics).

(144) In these cases, the Commission will take into account both Euromonitor and scanner data, and further details are provided in the respective country sections in the competitive assessment.

5.1.2.2. Transferred or discontinued brands

(145) The Parties also submitted a list of all brands of the Parties that are covered by the Euromonitor market share data but that were or are to be discontinued. [Business secrets redacted regarding discontinuation of brand(s)].

(146) For each of the brands, Table 1 below indicates (a) if it was discontinued by the day of notification of the Transaction, and (b) if it is to be discontinued between the day of notification and the end of the current Coty's financial year. For each of the brand discontinuations, the geographic markets concerned and the date of discontinuation for these markets are also provided.¹¹¹

Table 1: Discontinuations of the Parties' brands

Coty	Discontinued before notification	Discontinued after notification	Markets concerned	Date of discontinuation
Aspen	X		Worldwide	before 2013
Balenciaga	X		Cyprus	end of 2015
Beckham (female lines)	X		Worldwide	12/31/2014
[Business secrets]				
Chipie	X		Worldwide	before 2013
Chopard	X		Europe	12/31/2015
Club Med	X		Worldwide	before 2013
Cobalt	X		Worldwide	before 2013
Coty	X		Worldwide	before 2013
Gwen Stefani	X		Worldwide	before 2013
[Business secrets]				
Indome	X		Worldwide	before 2013
Isa Bella	X		Worldwide	before 2013
Isabella Rossellini	X		Worldwide	before 2013
Jovan	X		The Netherlands	February 2014

¹¹¹ [Business secrets redacted regarding brand(s) to be discontinued] Rather than eliminating all brands which are due to be discontinued at some stage in the future from [Business secret] share figures, brands which will be discontinued after the end of the current financial year (30 June 2016) - such as [Business secret] - remain fully allocated to [Business secret]. Brands which have been/will be discontinued only locally have been treated in the same way by the Parties.

Coty	Discontinued before notification	Discontinued after notification	Markets concerned	Date of discontinuation
Karl Lagerfeld	X		Worldwide	before 2013
Kate Moss	X		Worldwide	6/30/2013
Kenneth Cole	X		Worldwide	before 2013
Kylie Minogue	X		Worldwide	6/30/2014
Masumi	X		Worldwide	before 2013
Miss Sixty	X		Worldwide	before 2013
Miss Sporty	X		The Netherlands	before 2013
Pierre Cardin	X		Worldwide	6/30/2015
Puzzle	X		Worldwide	before 2013
Route 66	X		Worldwide	July 2014
Sarah Jessica Parker	X		Worldwide	6/30/2013
The Healing Garden	X		Worldwide	before 2013
Tonino Lamborghini	X		Worldwide	11/28/2015
Vanilla	X		Europe	before 2013

- (147) The Parties propose to take the discontinuations into account and to adjust the Parties' Euromonitor market shares accordingly.
- (148) First, throughout this Decision, the market shares of the Parties and their competitors are presented by taking into account the brands which have been licensed to the Parties or to their competitors by the date of notification. For example, the market shares of Puma (transferred to L'Oréal in 2014) or of Naomi Campbell (transferred to Designer Parfums in 2014), are already attributed to their respective acquirers in the 2014 market shares used in the present decision.
- (149) The Commission's analysis of internal documents of the Parties shows that none of the discontinuations are related to the Proposed Transaction. The decisions to discontinue the listed brands have been made prior to and independently of the Transaction and most brands are discontinued because the licence is expiring and / or have shown decreasing sales figures within the last years.
- (150) The Commission therefore considers that such adjustments are acceptable as they account for changes in the economic reality of the undertakings concerned and reflect the brand portfolio within the scope of the Transaction at the time of notification.
- (151) Second, some discontinued brands (in particular by Coty which has decided not to renew licenses of these brands when they expired) are not included in the Parties' market shares, while some of these discontinued brands may have had very high market shares (e.g. in the Netherlands, Ireland, Poland, the United Kingdom, and Czech Republic).¹¹²

¹¹² The following discontinued brands have been taken over by competitors and will continue to be sold: the Chopard brand has been taken in-house by Chopard, the Pierre Cardin brand is now licensed to Perfumania Holdings; and the Sarah Jessica Parker brand is now licensed to LDC Holdings. Coty submits that is not currently aware of the arrangements made for the other brands. However, the Parties regard it as likely that [Business secrets – brand name(s) redacted] will be licensed to competitors, which will continue selling the respective fragrances given the enduring appeal and sales volumes of

- (152) The Parties consider that in each of these cases, the sales of the discontinued brands would be captured by rival brands to the Parties and that as such, the allocation of discontinued brands outside the Parties' combined share is appropriate. First, this is because some of these brands were or are likely to be sold to competitors. Second, with respect to brands which will not be taken over by rivals, the Parties are unlikely to recapture a material proportion of their sales, as these are by and large [Business secret – description of brand(s)]. Instead, the sales of these brands are likely to be captured by rivals that will continue to supply rival [Business secret – description of brands with similar brand positioning] going forward.
- (153) Notwithstanding the above, the Parties have considered a scenario where the sales of the brands likely to cease supply after discontinuation would be captured by the Parties in proportion to the Parties' combined market share in each of the relevant markets. The Commission has verified that even in such a scenario, the Parties' combined shares would only increase marginally (by at most [0-5] percentage points in almost all relevant markets¹¹³). Therefore, this would not materially alter the conclusion of the competitive assessment.
- (154) Overall, in light of the above, the Commission considers the two aforementioned adjustments to the scope of brands taken into account when calculating the market shares to be acceptable in light of the dynamic assessment it conducts. In particular, these adjustments are taken into account in order to identify the true resources being concentrated and to better reflect the economic situation of the undertakings concerned.¹¹⁴
- (155) Finally, the Parties indicated that two fragrance brands will be discontinued after the day of notification.¹¹⁵ While throughout this Decision market shares of the Parties and their competitors are presented by taking into account the brands which have been licensed to the Parties or to their competitors by the date of notification only, the impact of these further discontinuations in the affected markets is very limited; indeed the change in market share would not materially affect the assessment of the Transaction.

5.1.2.3. Company-level and brand-level Euromonitor market share data

- (156) With regard to Euromonitor data, the Parties are using shares reported at company level for both fragrances and colour cosmetics, and they argue that this may lead to an overestimate of the Parties' combined share in some countries. In particular, the Parties note that the shares of supply reported by Euromonitor at the company level are higher for a number of suppliers and in a number of countries than the shares of

these brands, while it is less clear whether the remaining discontinued brands will be taken over by a competitor.

¹¹³ The difference in market shares due to reallocation reaches a maximum increase of only [0-5] percentage points in the Netherlands mass female fragrances market, [0-5] percentage points in the Netherlands mass fragrances market and [0-5] percentage points in the UK mass female fragrances market, where the Parties combined share including the reallocations would however be limited to [20-30]%, [20-30]% and [10-20]% respectively. In all other relevant markets, the difference is less than [0-5] percentage points.

¹¹⁴ Commission Consolidated Jurisdictional Notice, paragraph 172.

¹¹⁵ These brands [...].

supply resulting from the aggregation of the brand level shares for those suppliers in those countries.

- (157) These differences seem to relate to sales that Euromonitor allocates to specific suppliers, but is not able to allocate to specific brands.¹¹⁶
- (158) The Parties provide explanations that would indicate that, in the markets for fragrances in Slovakia, Slovenia, and Germany, adding P&G company level's increment¹¹⁷ to the sales of the Target Businesses would overestimate the Parties' combined share.¹¹⁸ The Parties have not undertaken a similarly detailed investigation of this issue for other countries/markets but propose to adjust the Euromonitor company-level shares in certain markets in Slovakia, Slovenia, and Germany to account for the overestimate of the Parties' combined market share.
- (159) The Commission has performed an in-depth, brand by brand analysis of the corresponding raw Euromonitor data in each relevant market and verified that the adjustments proposed by the Parties are in line with the composition of the brand portfolio which is within the scope of the Transaction at the day of notification. Further details are provided in the relevant country sections. As such, the Commission considers that the aforementioned adjustments of the Euromonitor market share data for fragrances in Germany, Slovakia, and Slovenia reflect the economic situation of the undertakings concerned and are acceptable in light of the dynamic competitive assessment the Commission conducts.

5.1.2.4. Other data sources

- (160) In Cyprus and Malta, the Parties have also provided other sources for estimating market shares. Indeed, in these two countries there is no data available from the usual data providers. To give an estimate of market shares, for fragrances, in both Cyprus and Malta, the Parties' distributors therefore provided sell-out data of the largest beauty retailers in the respective markets, which would account for 58% and 65% of the total retail market in Cyprus and Malta respectively. Besides sell-out data, the Parties also provided best estimates from these distributors regarding the mass fragrances markets in Cyprus and Malta.¹¹⁹ For colour cosmetics, for both Cyprus and Malta, the Parties' distributors provided their best estimates which are calculated based on sales data provided by retailers, which maintain computerised records and import statistics.

¹¹⁶ As such, these sales are reported in both the brand level and the company level reports but are allocated differently in each case: (i) in the brand level report Euromonitor allocates these sales to an "Other" supplier category; while (ii) in the company level report Euromonitor allocates these sales to specific suppliers. The latter allocation would be justified in cases where some brands are not covered by the brand-level data.

¹¹⁷ Defined as the difference between the company-level Euromonitor market share data and the sum of brand-level market share data.

¹¹⁸ The Parties indicate that the increment would lead to an overestimate of the Parties' shares if in fact it relates to: (i) brands that are not currently operated by the Parties but still reported by Euromonitor, such as Laura Biagiotti (formerly P&G, but currently marketed by Angelini); (ii) brands that are being discontinued, such as [Business secrets – redacted brand name(s)]; and (iii) brands currently operated by P&G but not part of the Proposed Transaction, such as Christina Aguilera and Dolce & Gabbana. Further details are provided in the relevant country sections.

¹¹⁹ See Parties reply to RFI 12 of 8 February 2016.RFI 12

- (161) Moreover, no individual market share data for the mass and prestige fragrances categories is available for Malta and Cyprus. However, this would not have any bearing on the assessment of the Transaction as described in the country-specific assessment.
- (162) For colour cosmetics, no specific market share data by plausible colour cosmetics markets like eye, face, lip or nail is available for Slovenia, Malta, and Croatia, while only Nielsen data is available for these plausible markets in Estonia.¹²⁰ The Parties have provided their best estimates of their market shares in these plausible-markets, e.g. in Croatia, the Parties have provided market shares for the mass eye, mass lip, mass face, mass nail sub-markets based on sell-out data received through their Croatian distributor Orbico.¹²¹
- (163) Given the fragmented nature of all the above markets and the lack of datasets from the usual third party providers, the Commission considers these data sources to be the best available proxies to estimate the Parties' market shares for the purpose of its competitive assessment.
- (164) As regards deodorants and shower gels, the Parties argue that Nielsen scanner data offers better data quality at segment level. The Parties submit that certain affected markets arise from Euromonitor data only as a result of poor data quality for those particular markets, which would not be reflective of actual market conditions. Nevertheless, the Parties provide market shares for deodorants and for shower gels on the basis of both Euromonitor and Nielsen scanner data.

5.1.2.5. Conclusion

- (165) In view of the above, and considering all evidence available to the Commission, for both fragrances and colour cosmetics, Euromonitor data is the best available proxy to estimate market shares in most affected markets.¹²²
- (166) Furthermore, in the aforementioned markets where the Commission considers the Parties' adjustments of scanner data to be insufficient to account for the difference between scanner data and Euromonitor, or in markets where Euromonitor data is not available,¹²³ the Commission will also consider other data sources in the competitive

¹²⁰ The Parties are not able to provide any further share information even on a best estimates basis; see e.g. Form CO, paragraphs 2307, 2352, 2624 et seq, and 2806.

¹²¹ Orbico estimated these market shares based on calendar year 2015 sell-out data provided by dm, which accounts for around 57% of the mass colour cosmetics market in Croatia and taking into account further market characteristics and relative strength of important brands in different retail outlets; reply to RFI 12 of 8 February 2016, question 4.

¹²² It is noted that during the market investigation, some market participants provided market share data according to Euromonitor and/or scanner data for the Parties in particular in Austria, Croatia, the Czech Republic, Estonia, Germany, the Netherlands, Portugal, Slovakia, and Slovenia, which would appear higher for some markets than the market share percentages submitted by the Parties. The Commission undertook an in-depth analysis of these submissions and reached the conclusion that after taking into account the methodology and applying the adjustments as described in this Section, and in particular taking into account the brands that are not within the scope of the Transaction, the data provided by the market participants are globally consistent with the data provided by the Parties.

¹²³ In Croatia, the Commission notes that Euromonitor market share data in respect of further markets besides mass and all colour cosmetics is not available (Nielsen scanner data is also not available for Croatia for any plausible colour cosmetics market). The Parties were not able to provide any further share information even on a best estimates basis. Both Parties use distributors to serve these countries and therefore argue they have no control over the actual or potential supply of colour cosmetics in this

assessment for the relevant markets. These data sources and the respective markets are:

- (a) Scanner data for countries where the differences between scanner and Euromonitor data were not rationalised: Germany (mass, male, and mass male fragrances), the Netherlands (mass, mass female, and mass male fragrances) and Czech Republic (eye and face colour cosmetics);
 - (b) Scanner data for the eye, lip, face and nail colour cosmetics markets of the colour cosmetics market and the mass colour cosmetics market for Estonia, Latvia and Lithuania, as Euromonitor data on a country basis is not available.
 - (c) Distributor and retailer data: Croatia, Cyprus, Malta, Slovenia.
- (167) Finally, for deodorants and shower gels, the Commission has previously used detailed product level scanner data by Nielsen when assessing transactions in the sector.¹²⁴ Due to the fact that sales of the Parties' deodorants and shower gel products through selective distribution channels are minimal, the Commission considers that scanner data would be an appropriate proxy for estimating market shares of the Parties and their competitors in most markets. Nevertheless, the Commission will also consider Euromonitor data in its competitive assessment for these products.

5.2. Elements common to the country/cluster assessment of fragrances and colour cosmetics

- (168) The Commission has considered several elements, which are relevant for the assessment of the effects of the Transaction across countries and clusters. These elements include the distribution channels used by the Parties and their competitors (Section 5.2.1), how the Parties negotiate commercial terms with retailers (Section 5.2.2), the positioning of brands (Section 5.2.3), brand loyalty (Section 5.2.4), internet sales (Section 5.2.5), direct sales (Section 5.2.6), the grey market (Section 5.2.7), and the barriers to entry or expansion as well as the role of innovation (Section 5.2.8).

5.2.1. Description of distribution channels

- (169) In general, the Parties distribute their fragrance (including deodorants and bath and shower gels sold as ancillary products) and colour cosmetics products through an array of different channels, including brick-and-mortar stores such as drugstores, perfumeries and department stores and through online channels. The importance of each of these channels varies from country to country and between fragrances and colour cosmetics.
- (170) The following Tables provide an overview of the respective proportions of various sales channels across the EEA in most countries where affected markets arise:¹²⁵

country. However, no material concern on the effects of the Transaction was raised by respondents to the market investigation about these markets in Croatia and therefore the competitive assessment will focus on the remaining markets in this country.

¹²⁴ See e.g. M.5658 – *Unilever/Sara Lee Body care*, Technical Annex, paragraph 4.

¹²⁵ The Tables are provided on the basis of Euromonitor data including information per country to the extent available (with regard to both fragrances and colour cosmetics retail channels data is not avail-

Table 2a: Fragrances retail sales channel split across the EEA

Fragrances									
In %	Store based	Perfumeries	Drugstores	Depart. stores	Grocery retailers	Non-store	Direct selling	Home shopping	Internet retailing
Austria	89.4	37.0	30.0	14.5	7.8	10.6	3.2	1.5	5.9
Belgium	92.6	61.6	3.1	16.7	9.1	7.4	3.4	1.0	3.0
Croatia	72.7	39.2	8.9	5.3	19.1	27.3	17.2	-	10.1
Czech Republic	23.3	14.7	4.7	1.1	2.2	76.7	31.5	0.5	44.7
Denmark	86.7	9.9	50.9	11.6	12.3	13.4	1.5	2.1	9.8
Estonia	74.6	33.0	5.9	13.8	20.3	25.4	11.2	-	14.2
Finland	80.4	26.7	-	23.2	27.2	19.6	6.6	-	13.0
Germany	91.9	53.2	23.6	5.7	8.4	8.1	3.4	0.8	3.9
Hungary	63.0	28.5	30.6	0.1	3.5	37.0	25.4	-	11.6
Ireland	92.1	29.6	6.5	30.8	7.6	7.9	4.0	-	3.9
Latvia	60.5	30.0	4.1	9.4	13.5	39.5	27.5	-	12.0
Lithuania	74.5	50.3	4.1	-	15.1	25.5	15.0	-	10.5
Netherlands	97.2	51.8	17.5	20.6	4.3	2.8	0.4	0.2	2.1
Norway	75.7	71.6	-	-	-	24.3	5.5	0.2	18.6
Poland	58.5	24.0	27.2	-	5.5	41.5	25.1	1.3	15.1
Portugal	89.4	49.3	2.6	13.9	20.7	10.6	9.1	0.1	1.4
Romania	61.8	19.2	0.1	-	29.4	38.2	36.1	-	2.2
Slovakia	69.3	38.4	18.3	0.5	12.1	30.7	22.4	0.5	7.8
Slovenia	91.2	30.4	57.7	1.0	2.1	8.8	6.1	-	2.7
Sweden	85.1	30.1	-	43.0	9.6	14.9	7.8	-	7.1
UK	74.5	23.1	8.1	20.1	5.1	25.5	3.4	2.7	19.5

Source: Form CO

able for Cyprus, Croatia, Ireland, Malta, Slovenia and the Baltics; furthermore, in terms of colour cosmetics, data is not available for Austria, Bulgaria and Portugal, and for Finland in terms of fragrances).

Table 2b: Colour cosmetics retail sales channel split across the EEA

Colour Cosmetics									
In %	Store based	Perfumeries	Drugstores	Depart. stores	Grocery retailers	Non-store	Direct selling	Home shopping	Internet retailers
Croatia	75.8	25.0	22.9	1.2	26.7	24.2	12.9	0.2	11.1
Czech Republic	52.3	15.5	23.0	2.4	10.9	47.7	25.8	0.5	21.4
Denmark	85.7	6.9	55.8	7.2	13.5	14.3	2.8	2.0	9.5
Estonia	77.6	15.8	13.1	9.6	37.2	22.4	19.9	-	2.5
Finland	83.8	28.0	-	11.7	38.4	16.2	7.2	1.0	8.0
France	84.4	28.1	5.3	8.6	39.6	15.6	3.7	3.0	8.9
Germany	84.8	27.6	39.3	7.6	6.6	15.2	4.7	3.0	7.6
Hungary	63.4	24.5	27.5	0.1	10.0	36.6	21.8	-	14.8
Ireland	88.4	26.3	5.1	17.6	25.1	11.6	7.5	-	4.1
Italy	84.5	45.2	15.1	1.2	17.1	15.5	9.2	0.2	6.1
Lithuania	76.9	33.7	8.5	-	23.6	23.1	22.9	-	0.2
Netherlands	95.7	27.6	33.5	27.8	0.8	4.3	1.2	1.0	2.2
Norway	71.4	54.0	-	-	7.8	28.6	6.0	0.2	22.5
Poland	63.2	14.7	33.4	-	9.0	36.8	23.6	0.8	12.4
Slovakia	79.1	35.6	28.6	0.3	14.5	20.9	20.3	0.1	0.4
Slovenia	79.9	57.9	20.9	0.1	-	20.1	15.8	-	4.3
Spain	87.0	49.0	0.4	17.1	12.4	13.0	6.2	-	6.8
Sweden	81.5	35.7	0.0	32.2	9.0	18.5	9.1	0.4	8.9
UK	80.4	8.4	40.8	13.3	11.5	19.6	8.3	1.8	9.5

Source: Form CO

(171) Many of the Parties' competitors mainly focus on these channels, but an increasing number of competitors distribute their products directly to end consumers, either in their own stores¹²⁶ or via direct selling (e.g. Avon, Oriflame, Mary Kay and Amway).

¹²⁶ Neither Coty nor the Target Businesses have their own retail outlets in the EEA, apart from Coty's newly acquired Bourjois business, which has four branded outlets in France.

- (172) A large part of the market is characterised by the prevalence of selective distribution arrangements. Generally, all prestige fragrance and prestige colour cosmetics brands are intended to be sold through selective distribution.¹²⁷
- (173) The Parties serve directly some countries in the EEA with own country organisations¹²⁸ whereas they use independent wholesale distributors for others. This is comparable to many competitors.¹²⁹
- (174) The Parties do not deal directly *via* their own subsidiaries but instead use independent distributors in the following affected countries:
- (a) Coty: [Confidential – list of countries in which operations are performed solely by distributors]¹³⁰.
 - (b) The Target Businesses¹³¹:
 - Fragrances: [Confidential – list of countries in which operations are performed solely by distributors]
 - Colour cosmetics: [Confidential – list of countries in which operations are performed solely by distributors].

5.2.2. *Negotiations with retailers*

- (175) In this Section, the Commission assesses how negotiations between manufacturers and retailers take place and to what extent the Transaction will have an impact on the supplier-customer relationship. The Commission's analysis focuses on retailers to assess the impact on final consumers and, in particular, on the scope of negotiations, on the main drivers of commercial decisions, on the scope of rebate/bonus/discount/incentive systems, to establish whether the merged entity would acquire or strengthen a dominant position, especially given its enlarged portfolio of brands within the same product category.

5.2.2.1. Parties' views

- (176) According to the distribution organization in a given country, each of the Parties enters into distribution agreements with wholesale distributors or with retailers. The Parties usually have a separate contract for selective distribution for the prestige

¹²⁷ However, as described in Section 5.2.7, a certain portion of prestige fragrances may end up being sold through mass channels in unauthorised outlets ("grey channel").

¹²⁸ In these cases, Coty takes [Business secrets - information redacted regarding internal decisional practice]. Where [Business secrets - information redacted regarding pricing decisions]. Form Co, paragraph 3313.

¹²⁹ See responses to Q1 – questionnaire to competitors, question 21.

¹³⁰ In a few instances, distributors are used in countries where Coty also negotiates directly with retailers, [Confidential - example countries redacted]. With respect to countries in which Coty only uses distributors, [Confidential - information redacted regarding internal decisional practice]. See reply of the Parties to QP17of 21 January 2016.

¹³¹ The Target Businesses contracts' with wholesale distributors are negotiated [Confidential - information redacted regarding internal decisional practice]. See reply of the Parties to QP17of 21 January 2016.

segment.¹³² With large international retailers, the Parties usually enter into framework agreements setting out the general purchase conditions, which are further negotiated and detailed at local level by national/regional agreements.¹³³ [Confidential information redacted regarding structure of fragrances vs colour cosmetic contracts]¹³⁴ The structure, content and scope of the Parties' distribution agreements can vary significantly depending on the type of customer and the level at which it operates.¹³⁵

- (177) Generally, distribution agreements entered into between the Parties and independent wholesale distributors or with retailers cover multiple brands within the same product category (e.g. all colour cosmetics brands) or within the same product-type category (e.g. all mass fragrances) or a selection thereof. They generally last from [Confidential – information redacted regarding typical term of contracts].
- (178) The Parties claim that negotiations with their customers take place essentially at brand level and that the width of the brand portfolio does not play a major role in negotiations with customers. To support this claim they submit that (i) negotiations are based on brand-specific presentations, [Business secrets redacted – information regarding negotiations with customers];¹³⁶ (ii) negotiations with retailers for the supplier's existing brand selection, for the listing of new product launches and promotion slots allocation are essentially driven by the overall expected profitability of a given brand.¹³⁷ [Business secrets redacted – information regarding negotiations with customers] Therefore, terms and conditions can vary significantly between the different brands.¹³⁸

¹³² Selective distribution agreements contain provisions relating to quality requirements of stores (e.g. location and furnishing), in-store services to be rendered, professional qualifications of the beauty consultants, as well as limitations in terms of the on-sale outside the network of selected retailers. See Annex 8-005 Retailer distribution contracts to the Form CO and Parties' response to Commission QP17 of 4 January 2016.

¹³³ More specifically, national/regional agreements contain trade investments, such as rebates and discounts terms. These terms vary by retailer, product category and country. The main features of each of the Parties rebate schemes are as follows. [Business secrets - details of Coty's rebate schemes redacted]. The Target Businesses [Business secrets - details of the Target Businesses' rebate schemes redacted]. See Form CO, paragraph 3374.

¹³⁴ Distribution contracts for colour cosmetics products present however some specificities mainly relating to beauty bars (e.g. the presentation of the products - the focus being on length and positioning of the beauty bar rather than "shelf space" and "shelf visibility" - , the allocation of costs for beauty bars, the design and lay-out thereof). In addition, colour cosmetics distribution contracts focus less on brand launches and more on campaigns for the introduction of product innovations. See Annex 8-005 Retailer distribution contracts to the Form CO.

¹³⁵ [Confidential - information redacted regarding contractual arrangements of the Parties with retailers in the UK]. Form CO, paragraph 3374.

¹³⁶ See Form Co paragraph 591 and Annex 7-Frag-General-001-037-038– P&G to the Form CO.

¹³⁷ The main criteria to assess brand's profitability are (i) the overall brand equity, which needs to be consistent with the equity and positioning of the store; this also takes into account the positioning of the other fragrances brands sold in the respective store; (ii) brand productivity, based on the retailer's expectations in terms of margin gains, and the generation of volume through customer traffic at the point of sale; and (iii) degree of innovation depending on new trends that may be of interest for the retailer's shopper profile. See Form CO, paragraph 3351.

¹³⁸ In some cases, [Confidential – information redacted regarding structure of contracts]. See Form CO, paragraph 590.

- (179) [Confidential – information regarding contractual terms]¹³⁹ However, [Confidential – information regarding contractual terms].¹⁴⁰
- (180) In addition, retailers' decisions on de-listing are also linked to the performance of a given brand.¹⁴¹ This implies that a strong performance in one of the Parties' brands does not prevent the regular de-listing of the Parties' non-performing brands.
- (181) Besides, having a wide portfolio of brands would not *per se* give a supplier any significant advantage when negotiating with its customers, given that negotiations are brand-driven and retailers' major decisions (such as listing, allocation of promotional slots and de-listing) are taken on the basis of a performance of a given brand. The Transaction would not change this dynamic and would not strengthen the Parties' position *vis-à-vis* their retailers, and as a consequence *vis-à-vis* their competitors.
- (182) Finally, the Parties argue that in negotiations they mainly face large international retailers that have the power to constrain them. The retail sector is highly concentrated across the EEA, with the largest part of the Parties' sales generated with a small number of retailers in each country.¹⁴² According to the Parties, the fragrances and colour cosmetics markets are highly fragmented and retailers can choose from a wide array of alternative products. Retailers would be thus in a position to constrain suppliers in three different ways: (i) as gatekeepers, controlling the access to shelf-space, promotional slots and setting retail prices; (ii) as customers of the Parties with power to delist; (iii) as well as competitors with their own private label brands.

5.2.2.2. Commission's assessment

- (183) Respondents to the market investigation indicated that negotiations and distribution agreements between suppliers and retailers comprise a wide range of arrangements, whose scope may significantly vary depending on the country, the size and geographic footprint of the customers as well as the portfolio of the supplier.
- (184) [Confidential – information redacted regarding dealings with customer].¹⁴³
- (185) In addition, major commercial decisions relating to listing, de-listing and allocation of promotional slots are driven by the performance of a given brand, taking into account key performance indicators, such as the brand's sales in value and in quantity, the stock rotation and profitability. Retailers do not in general discriminate suppliers

¹³⁹ See Form CO, paragraph 3374 and the Parties' response to QP14 of 22 December 2015.

¹⁴⁰ See the Parties' response to QP14 of 22 December 2015 and to RFI 3 of 26 January 2016.

¹⁴¹ For example, [Confidential – information redacted regarding dealings with customer]. Form CO, paragraph 594.

¹⁴² The top five retailers for colour cosmetics products account for 60%-80% of overall colour cosmetics in the EEA. In particular, the top three retailers account for almost 60% of the colour cosmetics segments in Germany and Austria. The top five retailers for fragrances products account for approximately 60-80% of the retail market for overall fragrances in the Czech Republic, Germany, the Netherlands, Poland, and Sweden. See Form CO, paragraph 3342. In the present footnote, "retailers" include online retailers, not only necessarily store based retailers.

¹⁴³ See responses to Q1 – questionnaire to competitors, questions 22.1 and 22.2. See responses to Q5 – questionnaire to distributors, questions 20.1 and 20.2. Discussions may also involve fragrances/colour cosmetics together with other beauty products (such as colour cosmetics/fragrances, skin care, hair care, see responses to Q2 – questionnaire to customers, questions 19.1 and 19.2.

according to the mere size of their brand portfolios¹⁴⁴ and stated that a large portfolio comprising brands across different product markets (beauty markets or other) would not give a supplier an advantage when negotiating with retailers.¹⁴⁵

- (186) This implies that a strong performance in one of the Parties' brands does not *per se* encourage the listing or prevent the de-listing of the Parties' less-performing brands. As a result, a strategy of leveraging the size of the Parties' range of brands within the same market or within the same product-type category (e.g. fragrances or mass fragrances) or the performance of individual brands to avoid de-listing or to encourage listing of lower performing brands would be unlikely.¹⁴⁶
- (187) Likewise, the key precondition for the allocation of a promotional slot¹⁴⁷ is that the retailer expects the promotion of a certain brand to generate higher sales. A majority of respondents to the market investigation indicated that if more than one supplier requested a promotional slot for a similar product on the same period of the year, the retailer decides to give higher priority (for example, in terms of timing and quality of the space allocation) to the brand with the higher expected profitability.¹⁴⁸ In that context, it seems that every supplier is given the opportunity to "buy" a promotional slot for the fragrance or colour cosmetics brand it wishes to promote, irrespective of its market share and the size of its total fragrances offering.
- (188) An important element in the negotiations between suppliers and retailers is the rebate/bonus/discount/incentive systems, which play a key role in the commercial strategy of retailers, since they may help retailers to obtain a competitive advantage over their competitors. Through these rebate/bonus/discount/incentive systems the merged entity could in theory offer e.g. better terms to retailers in exchange for foreclosing its competitors. For that reason, it is important to assess the scope and structure of the Parties' rebate/bonus/discount/incentive systems to establish whether the Transaction would lead to the creation or strengthening of a dominant position, for example because of the merged entity's enlarged portfolio of brands.

¹⁴⁴ See responses to Q2 – questionnaire to retailers, questions 19.7.1 and 19.7.2. Competitors and distributors have a different opinion and consider that having a broad portfolio of brands covering many fragrances or colour cosmetics brands and/or covering brands belonging to other product categories may favour a supplier in negotiations with retailers. See responses to Q1 - questionnaire to competitors, questions 22.5.1 and 22.5.2 and Q5 – questionnaire to distributors, questions 20.5.1 and 20.5.2.

¹⁴⁵ Some retailers however mentioned that if a supplier has a large portfolio of healthy brands they may discuss a more strategic relationship, which is less focussed on a particular brand. See responses to Q2 – questionnaire to retailers, questions 19.7.1 and 19.7.2.

¹⁴⁶ Furthermore, a bundling strategy that entails sacrificing sales of successful brands in order to push sales of less successful brands within the fragrances market seems unlikely, since it may give rise to concerns from the licensors of the more successful brands and lead them to switch their licence to rival suppliers. See Parties' responses to RFI 3 of 25 January 2016.

¹⁴⁷ Promotion slots are decided by retailers on the basis of a proposal by a supplier generally during the yearly negotiations. Retailers usually have defined prices for promotion slots, which may be of different quality depending on the in-store location, the size of the space allocated to the promotion materials and the number of places in the stores where the promotion materials are present, which form the basis for negotiations. For example, promotional slots including preferable in-store locations (special placements), larger gondolas or increased visibility (e.g. a larger display window) are valued highly.

¹⁴⁸ See responses to Q1 - questionnaire to competitors, question 48, Q5 – questionnaire to distributors, question 43 and Q2 – questionnaire to retailers, question 42.

- (189) Suppliers use an array of rebate/bonus/discounts to incentivise retailers to list, promote and market their products. [Confidential – information redacted regarding dealings with customer].
- (190) A majority of competitors indicated that rebate/bonus/discount/incentive schemes are generally based on the performance of a given brand.¹⁴⁹ Some retailers mentioned that rebates and discounts may refer to all brands within the same product market or may apply across brands of a supplier.¹⁵⁰ However, a majority of retailers referred also that the rebate/bonus/discount/incentive systems that they negotiate with each of the Parties is similar to that offered by other suppliers of fragrances and colour cosmetics and that in negotiations the Parties are treated similarly to their competitors.¹⁵¹ Finally, a majority of retailers do not expect any material changes in their rebate/bonus/discount/incentive schemes as a result of the Transaction.¹⁵²
- (191) In relation to the rebate/bonus/discount/incentive systems of the Parties, the Commission notes the following.
- (192) The [Confidential information redacted regarding contractual terms] of the Parties' rebate/bonus/discount/incentive systems are [Confidential information redacted regarding contractual terms] and in any event they are [Confidential information redacted regarding contractual terms].¹⁵³
- (193) The rebates applying to sales across multiple brands relate essentially to savings in costs that are common to the supply of the different brands, [Confidential information redacted regarding costs taken into account], but are not contingent on portfolio size, nor are they conditional upon a multi-brand purchase. In particular, [Confidential information redacted regarding specific rebates agreed with retailers]. Such incentives represent a [Confidential] of the overall rebates and discounts offered by each of the Parties.¹⁵⁴
- (194) Coty's [Confidential information redacted regarding specific rebates] various brands within the same market. However, the fact that prior to the Transaction Coty already markets a large number of fragrances without bundling them seems to indicate that there would be no "portfolio effects" amongst different brands within the same market. Also, during the market investigation retailers were not concerned about the effects of the Transaction on their relationship with the merged entity.¹⁵⁵
- (195) Further, the change in the portfolio size of the Parties resulting from the Transaction does not appear sufficiently important to suggest that the merged entity, or the retailers would modify their commercial strategies.

¹⁴⁹ See responses to Q1 - questionnaire to competitors, question 22.4; this was also confirmed by distributors, Q5 – questionnaire to distributors, question 20.4.

¹⁵⁰ See responses to Q2 – questionnaire to retailers, question 19.4.

¹⁵¹ See responses to Q2 – questionnaire to retailers, questions 19.4 and 19.5.

¹⁵² See responses to Q2 – questionnaire to retailers, question 19.5.

¹⁵³ See Parties' responses to QP14, question 13 of 18 January 2016, to RFI 3 of 25 January 2016 and to RFI 6 of 29 January 2016.

¹⁵⁴ See Parties' responses to RFI 3 of 25 January 2016 and to RFI 6 of 29 January 2016.

¹⁵⁵ See responses to questionnaire Q2 – questionnaire to retailers, questions 53 to 56.

- (196) Finally, the Parties face some strong rivals (see e.g. Section 5.2.3) which have comparable (if not larger) brand portfolios, comprising successful brands which are comparable to the highest selling brands of the Parties. Therefore, as regards the size and the composition of their portfolio of brands and their relationship with their customers, the Parties do not seem to be in a unique position compared to that of their competitors in both the fragrances and colour cosmetics markets.¹⁵⁶
- (197) As regards the countervailing buyer power¹⁵⁷ of retailers, respondents to the market investigation indicated that retailers have the power to decide on the allocation of shelf-space.¹⁵⁸ Retailers undertake regularly category review (at least twice a year for both fragrances and colour cosmetics¹⁵⁹) and that they have the power to delist brands from their shelves.¹⁶⁰ However, the market investigation has not provided clear elements as to what extent retailers have made use of de-listing as a bargaining tool to off-set any possible anti-competitive strategy of the Parties.¹⁶¹ In any event, for the purposes of this case, it is not necessary to conclude on the existence and the degree of countervailing buyer power of retailers, since, as explained in this section, the Transaction does not seem to strengthen the Parties' negotiating position vis-à-vis retailers to a significant extent.

5.2.2.3. Conclusion

- (198) In view of the above, and considering all evidence available to the Commission the Transaction does not have a significant impact on the way the Parties negotiate with their retailers in both fragrances and the colour cosmetics markets in the EEA.

5.2.3. *Closeness of competition - Positioning of brands*

- (199) Fragrances and colour cosmetics are differentiated products. Within a relevant market, products may be differentiated such that some products are closer substitutes

¹⁵⁶ In the present case, the Commission considers category management to be of little relevance. Category management is a management method used in modern retail business in order to optimise the retailers' product portfolio and to enable them to better meet the shoppers' demand (M.3732 – *Procter & Gamble/Gillette*, recital 134). Category management is much more limited for fragrances than for other consumer goods, since retailers organise and assess fragrances by brands rather than by category and given that the fragrances category is highly fragmented. In the EEA, category managers are present only at certain large retailers in Germany and to lesser extent in the United Kingdom. In the colour cosmetics sector, category management does not exist and retailers do not formally appoint category managers or advisers for colour cosmetics. Whilst category management may be more relevant in hair care, it is not likely that this would lead to anti-competitive effects given the limited relevance of category management in the other markets (and Coty is not present in hair care pre-Transaction).

¹⁵⁷ Countervailing buyer power in this context should be understood as the bargaining strength that the buyer has vis-à-vis the seller in commercial negotiations due to its size, its commercial significance to the seller and its ability to switch to alternative suppliers (Horizontal Merger Guidelines ("HMG"), paragraph 64).

¹⁵⁸ See responses to Q1 - questionnaire to competitors, questions 43.1 and 43.2, Q5 – questionnaire to distributors, questions 39.1 and 39.2 and Q2 – questionnaire to retailers, questions 39.1 and 39.2.

¹⁵⁹ For colour cosmetics the category review may also take place more frequently (i.e. quarterly) due to the rapid changes in fashion trends.

¹⁶⁰ See responses to Q1 - questionnaire to competitors, questions 44 and 45, Q5 – questionnaire to distributors, questions 40 and 41 and Q2 – questionnaire to retailers, questions 40 and 41.

¹⁶¹ See responses to Q1 - questionnaire to competitors, questions 41 and 44.3, Q5 – questionnaire to distributors, questions 37 and 40.3 and Q2 – questionnaire to retailers, questions 38 and 40.3.

than others. The higher the degree of substitutability between the merging firms' products, the more likely it is that the merging firms will raise prices significantly. For example, a merger between two producers offering products which a substantial number of customers regard as their first and second choices could generate a significant price increase. Thus, the fact that rivalry between the merging firms has been an important source of competition on the market may be a central factor in the analysis. Besides, it is less likely that a merger will significantly impede effective competition, in particular through the creation or strengthening of a dominant position, when there is a high degree of substitutability between the products of the merging firms and those supplied by rival producers.¹⁶²

5.2.3.1. *Overview of competitors and brands*

- (200) The competitive landscape in the fragrances markets is characterised by a high number of strong global players, which are active across the EEA and in most of the national affected markets.
- (201) In the colour cosmetics markets, the competitive landscape is characterised by a lower number of strong global players than in fragrances, although some of them are present in both categories with significant market positions.
- (202) **L'Oreal** is the largest beauty group in the world and is present in 130 countries, with around 30 brands. The L'Oréal Group's product range includes hair care, skin care, sun protection, colour cosmetics, perfume and hair colour. In fragrances, it holds well-known prestige (Lancôme, Giorgio Armani, Cacharel, Diesel, Yves Saint Laurent) as well as mass brands (Puma, Vanderbilt, Daniel Hechter, The Body Shop). The L'Oréal Group's mass colour cosmetics brands are L'Oréal Paris, Maybelline New York, and essie (specialised in nail products). L'Oréal has also recently acquired NYX. The Parties consider that L'Oréal is the strongest player across Europe in both the colour cosmetics market and the mass segment.¹⁶³
- (203) **Chanel** is a privately held fashion and cosmetics company headquartered in France. Its products include clothes, fragrances, eyewear, skincare, makeup, handbags and jewellery. Chanel is one of the few prestige fashion houses which commercialises fragrance products (under the Chanel brand) itself rather than licensing its brand to another company.
- (204) **LVMH** is a luxury goods conglomerate headquartered in France. Its products include wines and spirits, fashion goods, perfumes and colour cosmetics as well as watches and jewellery. It is vertically integrated through its beauty retailer chain Sephora. Its main prestige fragrances brands include Guerlain, Dior, Givenchy and Kenzo.
- (205) **Puig** is a family-managed fashion and fragrances business headquartered in Spain. The brand range for fragrances considered "prestige" currently include Prada, Valentino Parfums, Comme des Garçons, Nina Ricci and Paco Rabanne. As of 1 January 2016, Puig has taken inhouse the Jean Paul Gaultier fragrance from Shiseido. Mass brands include Antonio Banderas and David Bustamante.

¹⁶² HMG, paragraph 28.

¹⁶³ Form CO, e.g. paragraphs 2078 and 2079.

- (206) US-based **Elizabeth Arden's** fragrance brands, which have traditionally been considered "prestige" brands, include Elizabeth Arden and Juicy Couture. In addition, the company is active in the mass fragrances with celebrity brands Britney Spears or Taylor Swift.
- (207) **Estée Lauder** is a cosmetics and fragrances company also headquartered in the US. The company's fragrances traditionally considered "prestige" include AERIN beauty, Aramis, Donna Karan Cosmetics, Estée Lauder, Michael Kors, Tom Ford and Tommy Hilfiger.
- (208) **Avon** is a manufacturer of beauty and related products and one of the world's largest direct sellers. The company's fragrance brands include its Avon brand fragrances and Fergie Outspoken. Avon markets its mass colour cosmetics products under the Avon brand.
- (209) **Oriflame** is a manufacturer and distributor of beauty and related products, present in more than 60 countries through its direct sales distribution network (a sales force of approximately 3.6 million independent consultants, who together create annual sales exceeding EUR 1.5 billion). In some countries, the company offers over 100 different fragrance products, including brands such as Architect, Amber Elixir and Eclat. Oriflame's mid-priced colour cosmetics are geared towards different target groups.
- (210) **Cosnova** is a fast-growing cosmetics company that reported a worldwide turnover of above EUR 300 Million in 2015. More than 90% of the Cosnova business relates to colour cosmetics, the rest being skin care and fragrance. In colour cosmetics, the company is active exclusively in the mass segment with two low-price brands essence and Catrice. The primary markets of both brands are Germany but they are also developing throughout the EEA. Cosnova sells its products through drugstores, food retailers, perfumeries, department stores and fashion retailers.
- (211) **Kiko Milano** is an Italian brand established in 1997. Kiko, whose business is mainly focused on retail sales of cosmetics, make up and, skin care, distributes exclusively through its own boutiques and online sales. KIKO's turnover of around EUR 250 million is mainly (90%) based on retail sale on 650 monobrand stores in 14 countries, with over 1000 products.
- (212) **Unilever** is one of the world's largest companies engaged in the production and marketing of fast-moving consumer goods in the nutrition, hygiene and personal care product categories. The company's fragrance brands, all sold in the mass channel, include Axe, Lynx, Ego, Fabergé and Brut.
- (213) **Mäurer & Wirtz** is a manufacturer of fragrances and body care products with a main presence in Germany, the Benelux countries, Austria and Switzerland. The company's mass fragrance brands include TNT, S'Olivern, Betty Barclay, Otto Kern and Tabac.
- (214) **Inter Parfums** is a fragrance and beauty manufacturer, marketer and distributor, which is headquartered in New York. The European operations primarily represent the sale of prestige brand name fragrances such as Montblanc, Lanvin, Jimmy Choo, Rochas, Karl Lagerfeld and Paul Smith.
- (215) **Revlon** is a global company active in colour cosmetics, hair colour, beauty tools. Revlon's products are distributed in over 100 countries. Revlon's global colour cos-

metics brands include Revlon, Almay, SinfulColors, and Pure Ice. In 2014, Revlon had net sales of approximately USD 2 billion.

- (216) Although the strength and the relevance of these brands may vary across countries, it appears that a number of these players and brands are present in the countries covered by the Commission's market investigation.
- (217) Moreover, some more local competitors are also strong in some affected countries (as described below, e.g. in the country-specific sections).
- (218) At company level, considering e.g. global, commercial and financial performance, the Parties do not appear to focus their benchmarking on each other.
- (219) For instance, Coty in its "industry benchmarking" assesses performance of [Business secrets – a number of large international players are named] regarding growth rates of net sales and Coty Beauty position vs competition. Regarding market shares of colour cosmetics, Coty appears to benchmark at least [Business secrets – a number of large international players are named as well as private labels]. For fragrances, Coty appears to benchmark at least [Business secrets – a number of large international players are named]. Coty's ambition appears to be to [Business secret regarding commercial strategy].¹⁶⁴
- (220) Similarly, in its high level "Business strategy review" of [Confidential], relating to prestige products, P&G only mentions Coty as a possible purchaser for some assets to be divested (among a list of other possible purchasers), while benchmarking its performances against key players ([Business secrets – a number of large international players are named]). In other documents benchmarking financial performances, P&G lists [Business secrets – a number of large international players are named].¹⁶⁵

5.2.3.2. Parties' views

- (221) First, the Parties note that their respective brands and products are generally subject to similar market positioning across Member States. Whilst consumer purchasing patterns and motivations may to some extent differ between relevant countries, the Parties aim to make their brands occupy a distinct but consistent position relative to competing brands in the mind of the consumers. This is undertaken through coherent marketing communication and price-points.

5.2.3.2.1. Fragrances

- (222) The Parties argue that competition in the fragrance market takes place at the level of brands and sub-brands. In line with general industry standards, closeness of competition in the overall fragrances market is analysed by taking into account the key drivers of competition such as brand image (which often corresponds with the image of the respective licensor), marketing and, to some extent, price.
- (223) Brand message and the image that consumers wish to identify with (e.g. seductive, cool, energetic, feminine, classic, etc.) are decisive factors of their purchasing decision. Fragrances suppliers create and promote a brand image and ensure that the im-

¹⁶⁴ See e.g. Annex 5-4-050 Coty Beauty FY 2016 of Form CO, dated May 2014, and Annex 5-4.061 Board strategic plan 18 June 2015.

¹⁶⁵ Annex 7-4-034-P&G Global prestige competitive intelligence Newsletter December 2014.

age is kept in consumers' minds. The price positioning of certain brands is often a part of their overall brand positioning (luxury fashion brands are generally positioned in a higher price range than an edgy sports brand targeting younger users)

- (224) With respect to brand image, the Parties claim that they are not particularly close competitors neither in relation to their entire product range nor in relation to their individual brands. Generally the Parties' brands are positioned at different levels within the fragrances segment in terms of overall "prestige" status and brand message, target group and pricing.
- (225) For example, whereas Calvin Klein and Davidoff, Coty's [Confidential information redacted regarding brand performance] [Business secret] brands (accounting for [Confidential information redacted regarding brand performance] of Coty's fragrances turnover) are positioned at the entry level of prestige fragrances, the Target Businesses' brands Lacoste and Hugo Boss have a clear focus on the mid- and luxury range of the segment, whereas Gucci is considered to be a more prestigious, haute couture brand. Although Coty also has some presence in the "ultra-prestige" end of the market with its brands Marc Jacobs and Chloé, these account for [Confidential information redacted regarding brand performance].¹⁶⁶
- (226) Moreover, the Parties consider that there are always a number of third party products competing at least as closely as the Parties' products compete with each other. For example, within the ultra-prestige range there are several competing third party brands. Apart from Coty's Chloé and Marc Jacobs and the Target Businesses' Gucci, Dior (LVMH), Chanel, YSL and Armani (the latter two both L'Oréal) are also present in this segment.
- (227) Usually in their internal documents, the Parties benchmark their own brands with other brands that have a similar or close brand image. In Table 3 below, the Parties have summarised, for their brands, the other brands that are typically used as comparisons in their internal documents.

Table 3: Typical benchmarks used for the Parties' fragrance brands

("P" is for prestige brands, "M" for mass brands)

	Brands ¹⁶⁷	Typically benchmarked against	Further benchmarks
Coty	Adidas (M)	[Business secrets – benchmarking information removed]	
	Balenciaga (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Bottega Veneta (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]

¹⁶⁶ Form CO, paragraphs 483 and 484.

¹⁶⁷ The classification of the Parties' brands is done according to the Form CO.

	Brands ¹⁶⁷	Typically benchmarked against	Further benchmarks
	Beyoncé (M)	[Business secrets – benchmarking information removed]	
	Calvin Klein (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Cerruti (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Chloé (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Chopard (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	David Beckham (M)	[Business secrets – benchmarking information removed]	
	Davidoff (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Guess (M)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Jil Sander (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Joop! (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Katy Perry (M)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Marc Jacobs (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	MiuMiu (P)	[Business secrets – benchmarking information removed]	

	Brands ¹⁶⁷	Typically benchmarked against	Further benchmarks
	Playboy (M)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed] ¹⁶⁸
	Roberto Cavalli (P)	[Business secrets – benchmarking information removed] ¹⁶⁹	[Business secrets – benchmarking information removed]
	Vera Wang (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
Target Businesses	Bruno Banani (M)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Escada (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Gabriela Sabatini (M)	[Business secrets – benchmarking information removed]	
	Gucci (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Hugo Boss (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	James Bond (M) ¹⁷⁰	[Business secrets – benchmarking information removed]	
	Lacoste (P)	[Business secrets – benchmarking information removed]	[Business secrets – benchmarking information removed]
	Mexx (M)	[Business secrets – benchmarking information removed]	
	Stella McCartney (P)	[Business secrets – benchmarking information removed]	

¹⁶⁸ Sarantis is a European group active in the production and trade of cosmetics, household use products and parapharmaceutical items. In 2014, its turnover was EUR 248 million (45% of which in cosmetics and fragrances). Sarantis has put on sales 182 new SKUs and 27 SKU relaunches in the flagship products within the category of Fragrances (STR8, BU, C-THRU) since 2009.

¹⁶⁹ EuroItalia manufactures and distributes fragrances and cosmetics. It is the worldwide licensee for brands such as Versace, Moschino, Missoni, Richmond.

¹⁷⁰ In the UK, James Bond is considered as a low end prestige brand.

- (228) As regards pricing, pricing to end consumers and the recommended sales prices (RSP) are taken into account in relation to prestige fragrances as a reflection of the overall brand positioning and the consumer group targeted by a particular brand or line. For example, the positioning of a prestige fragrances brand in the "ultra-prestige" range within the segment often corresponds with resale prices of EUR 55 and more for a 30 ml bottle, whereas fragrances aiming at more "entry level" consumers will be sold at prices between approximately EUR 20 – EUR 40 for a 30ml bottle.¹⁷¹
- (229) The Parties argue that for the most part, their brands are not the closest to each other on the pricing spectrum, and even where some brands are closely positioned, there are plenty of other brands priced at around the same level. This can be documented in price ladders, which show the average retail pricing and segment shares of brands in national or country cluster markets. Price ladders will be assessed where relevant in Section 5.3.3. In the markets where price ladders are assessed, the Commission has verified that the coverage of the underlying scanner data in terms of number of items sold is substantial for each brand.¹⁷²
- (230) Finally, the Parties submit that some switching studies carried out by Kantar, notably in the UK, indicate that the Parties' largest brands in that market cannot be considered as close substitutes and that they face competition from a range of other brands.

5.2.3.2.2. Colour cosmetics

- (231) The Parties submit that in the beauty industry, a variety of factors are available to determine closeness of competition. As for fragrances, brand image, product characteristics and price are the most relevant criteria. In combination these factors allow for a broad and basic distinction to be drawn between brand messaging of "*make-up artistry, glamorous and expensive*" that targets older women and brand messaging of "*colourful, young and value for money*" targeting teenagers and young women. Whilst a brand's position might differ on a country by country or on a regional basis, a number of factors are quite constant across Europe.
- (232) First, brand image and messaging is especially important to indicate of closeness of competition in the beauty industry. The choice of products by customers is mostly driven by their perception of a brand as the products form part of the customers' self-expression. Brands convey different key messages through advertising, in store rendering, and general marketing.
- (233) Additionally, colour cosmetics are very fashion driven. The trends being followed can also be used as a factor to distinguish brands in "younger" and "older". Add-ons in products, such as SPF (sun protection factor), anti-aging ingredients or direct/semi direct benefits, and moisturiser, can also help to determine the perception of a brand and targeted core customers.

¹⁷¹ Form CO, paragraph 491.

¹⁷² In some national markets (Czech Republic, Netherlands), the Commission also took into account nominal price data submitted by the Parties as regards prestige brands. However, the Commission notes that such data covers only prestige fragrance units sold through mass channels, and therefore the number of units for such brands as covered by scanner data is on occasions limited.

- (234) Second, as is the case for all consumer goods, price is a factor for product positioning. This is underlined by the fact that sales in the colour cosmetics segment are mostly driven by promotions.
- (235) The overlap between the Parties in mass colour cosmetics is limited to the Target Businesses' brand Max Factor. Across the EEA, the Parties submit that the closest competitor to Max Factor in all affected markets is L'Oréal with its L'Oréal Paris brand. The Parties add that Coty's brands do not form part of the "*make-up artistry, glamorous and expensive*" brand positioning that L'Oréal Paris and Max Factor represent. Rather, each of Coty's brands fall within the "*colourful, young and value for money*" brand positioning. This is illustrated in Table 4 below.

Table 4 – Positioning of the Parties and their Competitors

"colourful, young and value for money"		"make-up artistry, glamorous and expensive"	
Brand	Supplier	Brand	Supplier
Parties' brands			
Rimmel	Coty	Astor	Coty
Manhattan	Coty	Max Factor	Target Businesses
Bourjois	Coty	OPI	Coty
Sally Hansen	Coty		
Cover Girl	Target Businesses		
Main competitor brands			
Maybelline	L'Oréal	L'Oréal Paris	L'Oréal
Barry M	Barry M	Revlon	Revlon
Essence	Cosnova	Boots No. 7	Boots
Avon	Avon		
Kiko	Kiko		
Debby	Deborah	Deborah Milano	Deborah
Yves Rocher	Yves Rocher		
Entry prestige brands			
		MAC	Estée Lauder
		Bobby Brown	Estée Lauder
		Smashbox	Estée Lauder
		Nars	Shiseido
		Bare Minerals	Shiseido
		Urban Decay	L'Oréal
		Benefit	LVMH
		Makeup Forever	LVMH
		Too Faced	LVMH

Source: Form CO

- (236) In addition, the Parties submit that brand demographics are also different. Based on age demographics, more than [Confidential statistics] of Max Factor consumers are

aged [Confidential statistics] (compared to about [Confidential statistics] for Rimmel) whereas Rimmel is stronger in the consumer group of women aged [Confidential statistics] (about [Confidential statistics] for Rimmel versus just [Confidential statistics] for Max Factor). L’Oreal Paris is positioned between Max Factor and [Confidential statistics] brands such Rimmel.¹⁷³

- (237) Regarding price as another factor for brand positioning, the Parties are of the view that price ladders at country level (see Section 5.4.3) show that the price positioning of the Parties’ brands indicate i.a. that:
- (a) Coty's Rimmel is priced at the mid-range whereas Max Factor is at the top price range of the mass segment.
 - (b) Coty's Bourjois is at the high-end price range of the mass segment and positioned closer to Max Factor but the strongest brand within that price bracket is L’Oréal Paris.
 - (c) Although Astor share some similarities with Max Factor, Coty's Astor is also positioned differently to Max Factor as the average price of Astor products in a number of countries is materially below that of Max Factor.
 - (d) Coty’s other brands Miss Sporty and NYC are priced at the very low end of the price range, being the opposite end of the pricing spectrum to Max Factor.
- (238) For product assortments, the Parties consider that they have an assortment of roughly the same breadth and depth as their main competitors. A comparison of the colour cosmetics product assortment of Coty and the Target Businesses against its key competitors pre- and post-Transaction¹⁷⁴ shows that the largest branded manufacturer competitors and the largest manufacturer brands are present in all sub-segments of eye, face, lip and nail in fairly similar proportions (even if with some individual strengths in some sub-segments in some markets).

5.2.3.3. Commission's assessment

5.2.3.3.1. Fragrances

Relevance of brands

- (239) The majority of respondents to the market investigation have indicated that brands play a paramount role as a driving force for competition in the fragrances markets.¹⁷⁵
- (240) This is particularly the case in the prestige segment, where brand name appears to be the most relevant factor that explains competitive success. As explained by one competitor "*In terms of prestige we consider that building Brand is the most important criteria to have success in EEA*". Likewise a major retailer pointed out that

¹⁷³ Form CO, paragraph 2123. These results are related to a Kantar study concerning the UK but they are in general valid for other countries of the EEA.

¹⁷⁴ The comparison is based on Nielsen/NPD/IRI data as available for the following countries: the UK, Germany, Spain, Italy and France.

¹⁷⁵ See responses to Q1 - questionnaire to competitors, questions 26 and 29, Q2 – questionnaire to retailers, questions 22 and 25.

"For Prestige, dynamism of the market and of the competition is due to the launches of new products and to the marketing support/communication done by the brands".¹⁷⁶

- (241) Also in the mass segment, brand appears to be particularly important in the choice of consumers although their price and availability on shelves also matter. One competitor put forward in that regard that *"the mass segment is influenced by brand together with price"*. A mass retailer submitted that *"As we operate through hypermarkets all kinds of marketing-related drivers are important and price are important. Still, most important is brand"*. For another retailer *"It's all about brand and brand experience. Consumers buy a fragrance, but they also buy an experience"*.
- (242) Whilst respondents consider brands as one of the most relevant factors in the fragrance business, the majority of respondents does not consider that Coty or the Target Businesses hold stronger positions than other players with respect to brand equity and awareness.¹⁷⁷ In particular, the majority of customers do not view Coty or the Target Businesses as the most important players in the fragrances markets as regards brands strength, be it in prestige or mass segments. As explained by a Polish retailer *"The market is competitive enough not to allow anyone have a major advantage"*. A Romanian retailer pointed out that *"Generally there are no specific advantages noted. Coty is a professional supplier with quality standards in line with other suppliers"*. Finally as explained by a major department store *"I think Coty has more or less the same inputs as other big groups, they manage well know make up brands and also Fragrances, as other big suppliers do"*.¹⁷⁸
- (243) Given the importance of brands in the competitive process, the Commission has sought to verify whether there are any must-carry brands in the fragrances markets (meaning brands that retailers have to keep on shelves otherwise they would lose a significant part of the turnover of the category) and whether Coty and the Target Businesses own some of these brands, the combination of which would help create or strengthen a dominant position.
- (244) Evidence from the market investigation indicates that there are indeed some brands which are considered by a majority of retailers as key because they are widely requested by consumers and shoppers.¹⁷⁹ In that regard, a retailer explained that *"There are many important brands, well known international brands, that mean a big amount of our sales, which are a must have for us"*. This is also confirmed by a Czech retailer *"We have to have the bestsellers on stock. If we wouldn't have bestsellers our sales would be lower. Our turnover would be lower. We would have less orders"*.¹⁸⁰
- (245) However, when asked about names of these must-have brands, retailers mention in general numerous brands, some of them belonging to the Parties but also to a number

¹⁷⁶ See responses to Q1 - questionnaire to competitors, question 29, Q2 – questionnaire to retailers, questions 25.

¹⁷⁷ See responses to Q1 - questionnaire to competitors, questions 27 and 28. Q2 – questionnaire to retailers, questions 23 and 24.

¹⁷⁸ See responses to Q2 – questionnaire to retailers, questions 23 and 24.

¹⁷⁹ See responses to Q2 - questionnaire to retailers, questions 26-1.

¹⁸⁰ See responses to Q2 - questionnaire to retailers, questions 26-1

of competitors.¹⁸¹ For example, references were made to Calvin Klein (Coty) and Hugo Boss (the Target Businesses) in the prestige segments, as well as to Adidas (Coty), Playboy (Coty) and Bruno Banani (the Target Businesses) in the mass segments. Yet market players also noted that several third Parties brands such as Chanel, Dior, and Armani in the prestige segments, as well as Puma (L'Oreal) and Str8 (Sarantis) in the mass segment should also be considered as must-have. One Czech retailers explained that "*There will be more than 50 brands in each line*".¹⁸²

- (246) Therefore, the Commission considers that although brand names play a very important role in the competitive process and the merged entity will own several strong brands, some of them being considered as must-have, this is also the case for several of their major competitors and it does not appear that the merged entity will enjoy any particular advantage linked to brand strength or relevance for retailers.

Closeness of competition between the Parties' fragrances brands

- (247) A majority of respondents to the market investigation have indicated that Coty's brands would not be closer substitutes to the Target Businesses' brands in terms of price, innovation, promotion or range of products if compared with other brands available on the market.¹⁸³
- (248) In that respect, prestige brands are benchmarked against prestige, and mass against mass (as clearly shown in the Table with benchmarks). This implies that the competitive constraints for any prestige brand would essentially stem from other prestige brands. The same holds true for mass products.
- (249) Looking at the prestige brands of Coty (and in particular the 5 largest prestige brands of Coty in terms of sales volume in, the EEA), from the results of the market investigation¹⁸⁴ it appears that for Calvin Klein (Coty), Hugo Boss (Target Businesses) is the most often mentioned alternative followed closely by Paco Rabanne (Puig) and a number of other brands among which Diesel (L'Oreal), Lacoste (Target Businesses), Gucci (Target Businesses) and DKNY (Estée Lauder). The same substitution pattern can be observed for Davidoff and Joop (Coty). As regards Jil Sander Chloé (Coty), the market investigation has not revealed any clear alternative as respondents have mentioned many brands.
- (250) The Target Businesses hold two major prestige brands in the EEA in terms of sales volume, namely Hugo Boss and Gucci. With respect to Hugo Boss (Target Businesses), Calvin Klein (Coty) appears to be the most relevant alternative but it is closely followed by Armani (L'Oreal). As regards Gucci (Target Businesses), Armani (L'Oréal) and Calvin Klein (Coty) appear to be the closest substitutes but again, many brands were mentioned.

¹⁸¹ See responses to Q2 - questionnaire to retailers, questions 26-4.

¹⁸² See responses to Q2 - questionnaire to retailers, questions 26-4.

¹⁸³ See responses to Q1 - questionnaire to competitors, questions 31. See responses to Q2 - questionnaire to retailers, questions 27.

¹⁸⁴ See responses to Q1 - questionnaire to competitors, questions 31. See responses to Q2 - questionnaire to retailers, questions 27.

- (251) The picture is even more fragmented in the mass market in the light of the large number of brands available. [Confidential information redacted regarding the relative size of own brands in terms of sales]. As regards Adidas (Coty), Axe and Puma (respectively Unilever and L'Oreal) appear to be the most relevant alternatives. The same is true for Playboy (Coty), notably with respect to Axe.
- (252) The Target Businesses' largest brands in mass products are Mexx and Bruno Banani. As regards Mexx, the market investigation has not revealed any clear alternative as respondents have mentioned many brands. Finally, the most relevant alternative as regards the Target Business brand Bruno Banani appears to be Playboy (Coty) but Axe (Unilever) and many other brands are also mentioned.
- (253) These substitution patterns are also reflected to a meaningful extent in the Parties' internal documents, in particular switching studies that the Parties purchase for market information purposes and which provide insight into the Parties' own perception of the closeness of their various brands. These documents are relevant as they appear to be indicative of how pricing decisions are made by the Parties.
- (254) The Parties have for instance provided Kantar switching studies¹⁸⁵ indicating that the main competition for Coty's [Confidential] brand appears to come from brands including [Confidential – various brands mentioned]. Additional studies demonstrate that [Confidential – third party competitor brand named] and the [Confidential – third party competitor brand named] brand show higher levels of switching to Coty's [Confidential] than the brands held by the Target Businesses. Coty's [Confidential] brand is shown to compete with a range of other brands, a consistent pattern of a high level of switching being observed vis-a-vis [Confidential – third party competitor brand named]. Regarding switching to the Target Businesses' [Confidential] brand, consistently high levels of switching occur vis-a-vis [Confidential – third party competitor brand named].
- (255) Therefore, taking into account all the evidence available to it, the Commission considers that Coty and the Target Businesses' products are not closer substitutes to each other, than with the products of their competitors. Likewise, the strength and relevance of their brands do not distinguish in the Commission's view Coty and the Target Businesses from other significant competitors.

5.2.3.3.2. Colour cosmetics

Relevance of brands

- (256) The majority of respondents to the market investigation have indicated that brands play a very significant role as a driving force for competition in the colour cosmetics markets.¹⁸⁶
- (257) Brand building appears to be a very relevant factor in mass colour cosmetics although price and access to shelves also matter. One major colour cosmetics player put forward that "*For mass colour cosmetics, price is more of a key competitive factor whilst brand and innovation are stronger drivers of competitiveness*". According to another colour cosmetics player "*For the Mass CoCo industry in general, priori-*

¹⁸⁵ Form CO, paragraphs 501–505.

¹⁸⁶ See responses to Q1 - questionnaire to competitors, questions 26 and 29, Q2 – questionnaire to retailers, questions 22 and 25.

ties are usually rather set in securing POS¹⁸⁷ space and in building brand through advertising".¹⁸⁸

- (258) These views are shared by colour cosmetics retailers. For instance, one customer explained that "*Our clients associate quality with brands for most of colour cosmetics and they want to be able to choose from a large range of colours, interesting innovative products that have good prices*". A retailer put forward that "*The brand is one of the most important decision criterion in the buying behaviour of colour cosmetics*". This was confirmed by a large retailer. "*Brand is a very important factor in customer decision-making and the strength of advertising is important due to its reach to customers*".¹⁸⁹
- (259) Whilst respondents consider brands as one of the most relevant factor in the colour cosmetics business, the majority of respondents does not consider that Coty or the Target Businesses hold stronger positions than other players with respect to brand equity and awareness.¹⁹⁰ Although the strong position of Coty in nail products was mentioned in the market investigation, respondents in general consider that the Parties have strong brands but that this is also the case of other players (notably L'Oreal). This holds also true for the Target Businesses. As explained by a large retail chain "*We do not consider at present any of the Target Business colour cosmetic brands to be leading cosmetics brands within any country in the EEA in which we operate. The Target Business fragrance brands are desired, but amongst lots of choice*".¹⁹¹
- (260) Given the importance of brands in the competitive process in colour cosmetics, the Commission has sought to verify whether there are any must-have brands in the colour cosmetics markets and whether Coty and the target Businesses own some of these brands, the combination of which would help create or strengthen a dominant position for the merged entity.
- (261) Evidence from the market investigation indicates that there are indeed some brands which are considered by a vast majority of retailers as key because they are widely requested by consumers and shoppers. In that regard, a retailer explained that "*We would need to list certain market-leading brands to satisfy our customers' needs*". This is also confirmed by another retailer "*Clients expect to find the main colour cosmetics brands in our shops. There are clients that are devoted to specific brands and we don't want to loose them*".¹⁹²
- (262) When asked about names of these must-have brands, retailers mention in general L'Oreal brands (notably L'Oreal and Maybelline) but also some of the Coty brands (in particular Rimmel) and Max Factor, the main target Businesses' colour cosmetics

187 Point of sales.

188 See responses to Q1 - questionnaire to competitors, questions 28.

189 See responses to Q2 – questionnaire to retailers, questions 23 and 24.

190 See responses to Q1 - questionnaire to competitors, questions 27 and 28. Q2 – questionnaire to retailers, questions 23 and 24.

191 See responses to Q2 – questionnaire to retailers, questions 24-1.

192 See responses to Q2 – questionnaire to retailers, questions 26-3 and 26-4.

brand. Some references were also made to Cosnova's brands, essence and Catrice, though less often.¹⁹³

- (263) Therefore, the Commission considers that although brand names play a very important role in the competitive process and the merged entity will own several strong brands, some of them being considered as must-have, this is also the case for at least one of its major rivals (L'Oreal) and it does not appear that the merged entity will enjoy any particular advantage linked to brand strength or must-carry status of the Parties' brands for retailers.

Closeness of competition between the Parties' colour cosmetics brands

- (264) Respondents to the market investigation have not generally indicated that Coty's brands would be closer to the Target Businesses' brands in terms of price, innovation, promotion or range of products than other brands available on the market. Quite the contrary, it appears that competitors' (notably L'Oreal's) brands are even closer from one of the Parties' brands than brands belonging to the other Party.
- (265) Looking at the colour cosmetics brands of Coty, it appears that for Rimmel, the largest brand carried by Coty in the EEA, the closest alternative is Maybelline (L'Oreal) followed by L'Oreal Paris (L'Oréal) and Max Factor (Target Businesses). As regards Bourjois (Coty), L'Oreal Paris appears to be the closest substitute followed by Max Factor (Target Businesses) and Maybelline (L'Oréal). The only Coty brand for which Max Factor (Target Businesses) seems to be a close substitute is Astor, although L'Oreal Paris and Maybelline have also been mentioned as close substitutes.¹⁹⁴
- (266) As regards Max Factor, which is the main brand of the Target Businesses in colour cosmetics, most customers consider the closest alternative to be L'Oreal Paris followed by three Coty brands Astor, Rimmel and Bourjois and another competitor brand Revlon.
- (267) Therefore, the Commission considers that although Coty and the Target Businesses' colour cosmetics products are close competitors, L'Oreal's colour cosmetics brands offerings appear to constitute the most relevant alternative to the main Parties' brands, Rimmel and Max Factor. Likewise, the strength and relevance of their brands do not distinguish in the Commission's view Coty and the Target Businesses from other significant competitors

5.2.3.3.3. Conclusion

- (268) Therefore, the Commission concludes that at company level Coty is not a closer competitor to the Target Businesses (and vice versa) than to other significant competitors.
- (269) Moreover, the Parties' brands do not compete more closely with each other than they do with third party brands. This conclusion applies in all countries covered by the market investigation, with some specificities that are discussed further below, in particular in the country-specific sections.

¹⁹³ See responses to Q2 – questionnaire to retailers, question 26-4.

¹⁹⁴ See responses to Q2 – questionnaire to retailers, question 28-1.

5.2.4. Consumer brand loyalty

5.2.4.1. Parties' views

- (270) According to the Parties, the fragrances markets enjoy poor consumer brand loyalty. This feature of the market would be explained by the relatively long lifespan of a fragrance (reflected in an average purchase frequency of approximately two occasions per year), frequent new launches and the high percentage of sales for gifting other people (the Parties' research indicates that around 50% of fragrances purchases are intended for gifts).¹⁹⁵ The absence of consumer brand loyalty, boosted by changing trends and the variety of brands and lines available, entails that there is a constantly renewed pool of potential purchasers for whom suppliers with a smaller number of brands than the Parties could successfully compete.
- (271) Colour cosmetics would also be affected by low levels of brand loyalty¹⁹⁶, with frequent switches said to occur especially in terms of mass colour cosmetics and within the same cluster of brands. Colour cosmetics consumers would buy on average 5-7 brands per year, and often try new products from both the mass and prestige segments.

5.2.4.2. Commission's assessment

- (272) In the course of the Commission's market investigation, it appeared clearly that consumers' brand loyalty varies between prestige and mass beauty product markets.
- (273) First, in relation to fragrances, the majority of the respondents indicated that, in the prestige segment, brand loyalty is medium or high.¹⁹⁷ In contrast, brand loyalty in the mass fragrances segment is considered low by a majority of the respondents to the market investigation.¹⁹⁸
- (274) For instance, a competitor indicated: *"In the case of prestige products, the degree of brand loyalty of the consumers is medium (as opposed to mass products where the degree of brand loyalty is low since the price is the key driver). This is probably due to all the innovation (launches) and the investments made in building up a brand and maintaining awareness of it. All these efforts by suppliers result in the consumer being "attached" to the same brand".*¹⁹⁹
- (275) Secondly, regarding colour cosmetics products, prestige colour cosmetics enjoy a medium level of brand loyalty²⁰⁰ whereas in the mass colour cosmetics segment, the

¹⁹⁵ Form CO, paragraphs 506 et seq.

¹⁹⁶ E.g. Form CO, paragraph 2001.

¹⁹⁷ Q1 – Questionnaire to competitors, question 53.1. Q2 – Questionnaire to customers, question 46.1 Q4-questionnaire to consumer associations, question 30.1. Q5 – Questionnaire to distributors, question 47.1.

¹⁹⁸ Q1 – Questionnaire to competitors, question 53.2. Q2 – Questionnaire to customers, question 46.2 Q4-questionnaire to consumer associations, question 30.2. Q5 – Questionnaire to distributors, question 47.2.

¹⁹⁹ A respondent to Q1 - Questionnaire to competitors, question 53.1.

²⁰⁰ Q1 – Questionnaire to competitors, question 54.1. Q2 – Questionnaire to customers, question 47.1 Q4-questionnaire to consumer associations, question 31.1. Q5 – Questionnaire to distributors, question 48.1.

majority of the respondents to the market investigation considered that the level of brand loyalty is low.²⁰¹

5.2.4.3. Conclusion

(276) In light of all evidence available to it, the Commission considers brand loyalty of consumers to be low for mass fragrances and mass colour cosmetics products whereas it considers brand loyalty in relation to prestige products to be medium or high. Switches between different brands are therefore more likely to occur for mass than for prestige products, allowing for easier entry of new competing mass brands than prestige brands.

5.2.5. *Internet sales*

5.2.5.1. Parties' views

(277) The Parties claim that online sales are a serious and increasing competitive constraint on the supply of colour cosmetic and fragrance products to stores, and an increasing trend. As online retailers have lower costs for service personnel and need not rent stores they can offer fragrances at cheaper prices than brick-and-mortar stores which has led to a strong downward pricing pressure on conventional retailers.²⁰²

(278) The Parties also provide market penetration rates of internet sales across the EEA and several internal documents to indicate that these channels are growing and pose an increasing competitive constraint on the Parties.²⁰³ Countries with very large online percentages of sales are the Czech Republic and the United Kingdom [(40-50)% for fragrances and [20-30]% respectively).²⁰⁴

5.2.5.2. Commission's assessment

(279) First, in relation to the fragrances markets, the results of the market investigation regarding the competitive constraint exerted by online sale -mainly of pure internet players- were not fully conclusive. Whereas the majority of the competitors who responded to the market investigation consider that online sales compete only to a limited extent or do not compete with the fragrances products of the Parties,²⁰⁵ a number of customers of the Parties and distributors indicated that online sales compete significantly with the Parties' fragrances.²⁰⁶ It appeared nonetheless from the market in-

²⁰¹ Q1 – Questionnaire to competitors, question 54.2. Q2 – Questionnaire to customers, question 47.2 Q4-questionnaire to consumer associations, question 31.2. Q5 – Questionnaire to distributors, question 48.2.

²⁰² Form CO, paragraphs 249 and 1141.

²⁰³ Form CO, market definition tables 2 and 3, and Annex 6-037-Coty-Europe Internet Retailing-July 2015.

²⁰⁴ The Parties note however that sales of Czech online retailers are allocated to the Czech Republic, even if the respective products are bought by customers located in Slovakia, exaggerating the discrepancy. Form CO, footnote 120.

²⁰⁵ Q1 – Questionnaire to competitors, question 36.1.

²⁰⁶ Q2 – Questionnaire to customers, question 34.1. Q5 – Questionnaire to distributors, question 32.1.

vestigation that the importance of online sales is increasing over time and expected to follow this trend in the coming years.²⁰⁷

- (280) It was also put forward by several respondents to the market investigation that online sales are probably more relevant for repeated purchases, but end consumers prefer to try new fragrances in the shops.²⁰⁸ A customer responding to the market investigation indicated in that regard that *"in particular, for established brands where consumers are already familiar with the fragrance and are just replenishing, online is a significant competitor as the differentiator becomes price"*.²⁰⁹
- (281) Secondly, with regard to internet sales of colour cosmetics products, the majority of the respondents to the market investigation indicated that they compete only to a limited extent with the products of the Parties²¹⁰.
- (282) Internet sales appear mainly as an extension of the physical distribution systems (through the websites of distributors and manufacturers). In this sense, a competitor put forward that *"online shops mostly offer the same brands that can be found offline. Successful brands that were initially launched only in online channels tend to expand quickly to an offline distribution. Accordingly, the online channel is not a competitor from the brand point of view, but it is rather a different way of reaching the same consumer with the same brand. Whether the consumer buys the brand online or offline depends on many factors, such as convenience, need to test first, pricing, etc."*²¹¹

5.2.5.3. Conclusion

- (283) Although the competitive constraints exerted by pure online players appear to be somewhat limited, their importance is expected to increase in the coming years. The competitive position of such players would nonetheless be relevant in a number of countries with high penetration of internet sales and will be taken into account in the competitive assessment of the country sections below, such as for the Czech Republic or for Slovakia.

5.2.6. Constraint exercised by direct selling companies

5.2.6.1. Parties' views

- (284) The Parties consider that producers of fragrances and colour cosmetics products active in direct selling, such as Avon, Oriflame or Yves Rocher, exert significant competitive pressure.

²⁰⁷ Q2 – Questionnaire to customers, question 34.1.1. Q5– Questionnaire to distributors, question 32.1.1

²⁰⁸ Q1 – Questionnaire to competitors, question 36.1 and to Q2 – Questionnaire to customers, question 34.1.

²⁰⁹ A respondent to Q2 - Questionnaire to customers, question 34.1.

²¹⁰ Q1 – Questionnaire to competitors, question 36.2. Q2 – Questionnaire to customers, question 34.2 Q4 - questionnaire to consumer associations, question 24.2. Q5 – Questionnaire to distributors, question 32.2.

²¹¹ A respondent to Q1 - Questionnaire to competitors, question 36.2.

- (285) The Parties are of the view that direct sellers are relevant competitors since they sell the same type of fragrances and colour cosmetics products to the same end customers, and thus compete for the same consumer spend. The only distinction between direct sellers and the Parties activities would lie in the use of a different distribution channel: instead of distributing via third party retailers, direct sellers sell directly to consumers, either through their own stores, or through an online shopping site, mail order or door-to-door selling.²¹²
- (286) Furthermore, the Parties put forward that the increasing importance of online sales by traditionally indirect resellers further blurs the direct selling sales channel distinction.
- (287) Then, in relation to fragrances, the Parties point out that the mass market is characterised by competitive pressure exerted by direct selling brands such as Avon or Mary Kay²¹³.
- (288) With regard to colour cosmetics products, the Parties consider direct sellers as strong competitors, and claim in particular that [Confidential – third party competitor brand named], given its important competitive force in mass colour cosmetics²¹⁴.
- (289) Finally, the Parties highlight that the relevance of direct sales would vary from country to country, being particularly strong in Central Eastern European countries (Czech Republic, Slovakia, Hungary, Poland) due to historical reasons, and is said to be also important in the United Kingdom, Ireland, and Spain.²¹⁵

5.2.6.2. Commission's assessment

- (290) The Commission's investigation in this regard aimed at assessing the extent to which direct sales of colour cosmetics and fragrances products exert competitive pressure on the Parties.
- (291) In the course of the market investigation, a majority of the respondents indicated that direct selling brands compete only to a limited extent or do not compete with the fragrances and colour cosmetics products of the Parties.²¹⁶ For instance, a competitor indicated that "*direct selling brands of all sorts (including door-to-door and branded retail) do not compete with the Parties' products because: (i) they form specific distribution channels, different from the distribution channels used by the Parties and (ii) they are very different in terms of price level, depth of assortment (mono-brand vs multi-brand) and level of service/advice to consumers*".²¹⁷
- (292) The market features appear to be particular in a number of countries where direct sellers enjoy important competitive positions, generally explained by historical reasons. In the words of a competitor: "*The main historical reason for being of direct*

²¹² Form CO, inter alia, paragraphs 58, 193 to 195, 460 and 463.

²¹³ Form CO, paragraph 767.

²¹⁴ Form CO, paragraph 2091.

²¹⁵ Form CO, paragraph 58, 340.

²¹⁶ Q1 – Questionnaire to competitors, question 35. Q2 – Questionnaire to customers, question 32. Q4-questionnaire to consumer associations, question 23. Q5 – Questionnaire to distributors, question 31.

²¹⁷ A respondent to Q1 - Questionnaire to competitors, question 35.1

sale brands is the lack of accessible and cost-efficient modern distribution in certain regions of certain countries, so they compete in a substitution sense (i.e., they cease to exist or lose in importance when modern retailers open shop and develop in that region), but not in a consumer sense (i.e., both brands are not available to the same consumer at the same time)"²¹⁸.

(293) In this regard it is noted that several respondents to the market investigation pointed to the popularity of direct sellers' brands for fragrances and colour cosmetics products in a number of Member States in Eastern and Central Europe (e.g. Czech Republic, Slovakia, Poland, and Hungary).²¹⁹ Direct sellers, most notably Avon, Mary Kay or Oriflame, are essentially active in the mass market for fragrances and colour cosmetics.²²⁰

5.2.6.3. Conclusion

(294) Whereas direct sellers brands do not appear to be a strong competitive constraint at EEA level, there are a number of countries where they compete effectively with the Parties. This issue will be addressed individually in the competitive assessment of the countries concerned, together with the information on market shares of the relevant direct sales operators.

5.2.7. Grey market

(295) Although the Parties distribute their beauty products through an array of different channels, a large part of these markets is characterised by the prevalence of selective distribution arrangements. Generally, all prestige fragrance and prestige colour cosmetics brands are intended to be sold through selective distribution. A certain portion of prestige products appears to be distributed through mass channels without the relevant authorisation of the product manufacturers (through the so-called "grey channel").

5.2.7.1. Parties' views

(296) The Parties claim that although generally prestige beauty brands are intended to be sold exclusively through selective distribution channels, a relevant portion of prestige products is distributed through grey channels, being sold outside of selective distribution outlets without the authorisation of the manufacturers.²²¹

²¹⁸ A respondent to Q1 – Questionnaire to competitors, question 35.

²¹⁹ Respondents to Q2 – Questionnaire to customers, question 32.

²²⁰ Form CO, paragraphs 442, 2090; see also Annex 7-Frag-General-001-007 Direct sellers, paragraph 1.1.

²²¹ The term grey channel distribution can also refer to two other different phenomena, such as the trade of counterfeit products -which are manufactured without the original manufacturer's consent-, and trade of illegally imported products, imported into the European markets without the manufacturer's consent. The Parties indicated that when referring to the grey channel in their submission and quantifying the percentage of grey market sales, they unavoidably included also counterfeit and illegally imported goods which are impossible to quantify precisely. Estimates of the quantity of grey sales provided by the Parties are generally based on the recording of prestige fragrance sales in mass channels by IRI/Nielsen data which does not record the source of the goods concerned. The Parties anticipate nonetheless that the largest share of grey sales recorded by these data represents products sourced within Europe or elsewhere but sold in unauthorized channels of distribution. See Parties' response to RFI 4 of 22 January 2016.

- (297) While every geographic market in the EEA may be affected to some extent by grey market sales, the size of the total grey market in each country appears difficult to determine.²²² According to the Parties, unauthorised sales through the grey channel reach up to [Confidential percentage of sales]% of the overall sales with different percentages applicable depending on the Member State concerned. The level of grey market sales is said to be particularly high [Confidential – geographic description].²²³
- (298) Furthermore, it is estimated that online sales account for approximately [Confidential percentage of sales] of the grey market sales. Although no specific data on the share of grey market sales online was presented, the Parties estimate that the ratio of these unauthorised sales over total sales is higher with respect to online sales, than it is with brick and mortar sales.
- (299) The Parties argue that this significant proportion of sales through grey channels leads to two pricing effects affecting in particular prestige fragrance brands.²²⁴
- (a) On the one hand, traditional selective outlets would put pressure on the Parties' own pricing on the prestige products that others can source via the grey market and resell at considerably cheaper prices. In particular, the Parties mention discounts of [Confidential percentage of sales]% on fragrances sold in the unauthorised online channel as compared to prestige channel sales. Retailers would therefore be keen to lower the retail prices – and demand corresponding reductions in manufacturer prices – of the prestige products to remain competitive compared to the grey market products.
- (b) On the other hand, mass retailers that also source prestige products via the grey market can put the Parties under pressure in terms of available space and advertising opportunities.
- (300) According to the Parties, the sale of prestige fragrances through unauthorised outlets is a phenomenon which concerns all players active in the segment and is not specific to the Parties.²²⁵

5.2.7.2. Commission's assessment

- (301) A majority of respondents to the market investigation indicate that unauthorized retail channels compete to a significant extent with the products of the Parties²²⁶.
- (302) Furthermore, no cogent elements indicating that the Transaction would have an effect in changing the competitive pressure exerted by sales in the grey channel were raised in the course of the market investigation.²²⁷

²²² While Euromonitor would include grey market sales, it does not explicitly split them out in a separate "grey market" category. Nielsen and IRI data also do not split out grey market sales, and do not cover the online channel.

²²³ Form CO, paragraphs 197, 300 to 306, and 566.

²²⁴ Form CO, paragraphs 17, 252 and 307.

²²⁵ Form CO, paragraph 564.

²²⁶ Q1 – Questionnaire to competitors, question 38. Q2 – Questionnaire to customers, question 35. Q4- questionnaire to consumer associations, question 25. Q5 – Questionnaire to distributors, question 34.

5.2.7.3. Conclusion

- (303) Whereas a certain effect in the pricing of prestige fragrances might be caused by grey channel sales, the Commission concurs with the Parties' views that the sale of prestige fragrances in unauthorised outlets is a phenomenon which concerns all players active in the fragrance prestige segment and is not specific to them.

5.2.8. *Barriers to entry or expansion – innovation*

5.2.8.1. Parties' views

- (304) The Parties put forward that in addition to the competition exerted by the proliferation of existing competitors marketing well-known brands, the fragrances and colour cosmetics markets face low barriers to entry, leading to the likelihood of new entry and also expansion of existing market positions.

5.2.8.1.1. **Fragrances**

- (305) The Parties claim that there are no material barriers to entry or expansion in the fragrances market. This is the case with regard to the overall fragrances market and would also hold true for prestige and mass fragrances separately. In particular, the Parties consider that (i) necessary inputs are easily accessible, and there are no regulatory barriers or any particular patent protection schemes; (ii) brands can easily be licensed and the limited duration of licence agreements further facilitate entry; (iii) entry is possible through vertical integration; and (iv) even small or new competitors can easily gain shares on a brand level by acquiring a licence.
- (306) There are several examples of recent market entry and expansion across the EEA, including Eden Parfums in the UK and Ireland, Angelini (which acquired the licence for Laura Biagiotti), SA.G Distribution Group (which launched Helene Fischer in Germany), or Parlux (which belongs to Perfumania Holding and launched Jay-Z Gold).
- (307) The Parties also argue that the high frequency of innovations acts as an effective competitive constraint on the Parties as they constantly have to adapt to changing trends and consumer preferences. In particular, the Parties submit that: (i) if they were to deteriorate their offer or to reduce their efforts in innovation and line launches, they would expect to lose sales not only to existing lines, but also to new lines launched by rivals aiming to exploit a business opportunity; (ii) the launch of new brands or new lines of established brands is key to winning shelf space and customer attention; (iii) there is fierce competition among all fragrances suppliers for special placements of their launches at the retailers during popular time slots for product launches; and (iv) innovation is an equally important business driver for mass fragrances as is the case at the prestige end of the spectrum.
- (308) The Parties submit that fragrance markets are therefore characterised by a high number of new launches every year, essentially consisting of launches of new lines or spin-off variants of existing brands, by both large and small manufacturers. In this context, the Parties provide data on launches (both completely new lines and new

²²⁷ Q1 – Questionnaire to competitors, question 39. Q2 – Questionnaire to customers, question 36. Q4 – questionnaire to consumer associations, question 27. Q5 – Questionnaire to distributors, question 35.

flankers) for several countries²²⁸; while the number of launches varies across countries, this data would show that there is a high and sustained level of launching activity in all countries over the years in which data is available.

5.2.8.1.2. Colour cosmetics

- (309) The Parties argue that the markets for colour cosmetics face low barriers to entry, leading to the likelihood of new entry and also expansion of existing market positions. Examples provided by the Parties include Cosnova (launched in 2002 with two brands, "essence" and "Catrice"), Kiko Milano (launched in 1997 and distributing exclusively through its own boutiques and online sales), retailer launches of their own branded products (No7 and No 17 by Boots, Deliplus by Mercadona, and own brands of Sephora, Douglas, dm and Marionnaud), and the possibility to launch a brand online before going to brick-and-mortar shops (NYX Cosmetics, acquired in 2014 by L'Oréal).
- (310) Novelty is also an important factor in the marketing of colour cosmetics. Many marketing campaigns focus on launches of new products. Even established brands need to constantly replace old products with new launches to retain customer attention. As for fragrances, the Parties provide data on launches for several countries²²⁹ to support the argument that there is a high and sustained level of launching activity in all countries over the years in which data is available.

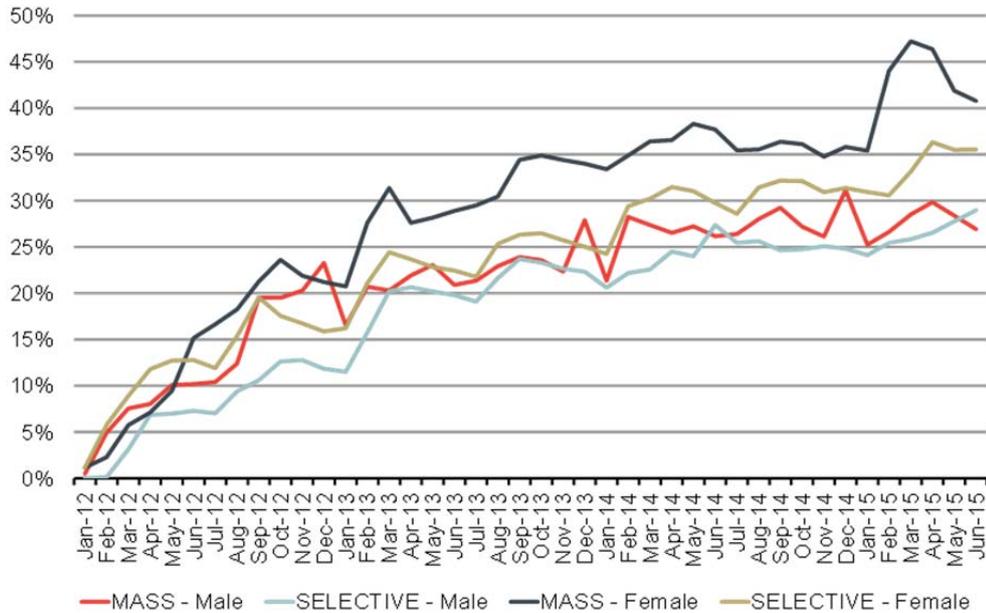
5.2.8.2. Commission's assessment

- (311) The Commission first considers that the fragrances market is characterised by a high degree of innovation and frequent product launches, which are a key driver of competition in the fragrances market. Each year there is a very large number of line launches coming from a wide variety of suppliers. Without these launches, many brands would observe a decline in their shares as previous lines become less trendy or popular with time.
- (312) Figure 1 below shows the shares of the various fragrances market segments attributable to lines launched since January 2012 in the German market. The proportion as at June 2015 ranges from over 30% (male prestige) to almost 50% across (female mass), illustrating that launches are a major part of market dynamics across all segments of the market.

²²⁸ Czech Republic, Germany, and the United Kingdom.

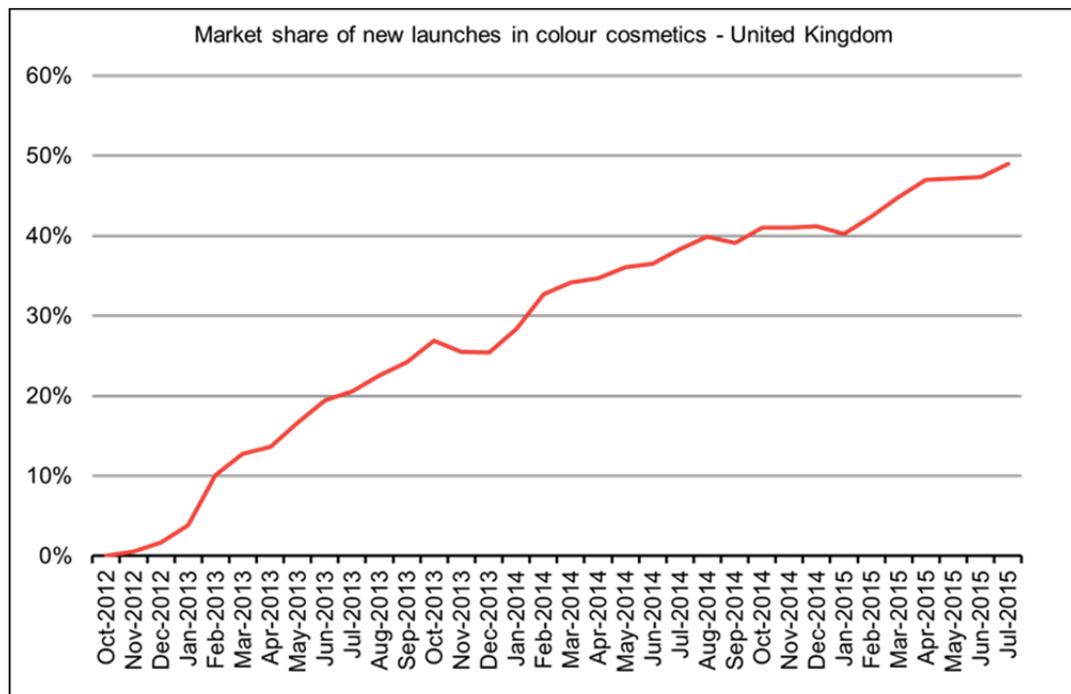
²²⁹ Czech Republic, Germany, Hungary, Italy, the Netherlands, Poland, and Spain.

Figure 1: Proportion of sales accounted for by launches in Germany



(313) Novelty also is an important factor in the marketing of colour cosmetics. Many marketing campaigns focus on launches of new products. Even established brands need to constantly replace old products with new launches to retain customer attention. The proportion of sales of new colour cosmetics products in the UK between October 2012 and June 2015 is shown in Figure 2 below.

Figure 2: Proportion of sales accounted for by launches in the UK



(314) Beyond the examples provided above, new launches and innovations appear significant in sales values or volumes across all affected countries, even if figures may differ on a country/country basis.

(315) A majority of respondents to the market investigation indicated that in general, to launch a new fragrance or colour cosmetic product would only be moderately diffi-

cult, with less effort required to launch variants of existing products (so-called "flankers") than a totally new product.²³⁰ In particular, some competitors highlight the investments required by the needed marketing effort, especially with respect to a new product, in the light of higher development time, higher investment to launch, higher risk and more difficult negotiation to conquer shelf space.). In colour cosmetics specifically, although launching new SKUs in the space allocated by the retailer to the brand is an on-going business, launching an SKU successfully depends on the ability to innovate and foresee fashion trends.

- (316) Conversely, other competitors put forward that entering a new geographic market within the EEA would be quite easy provided the right partner and distribution network can be found.²³¹ Moreover, on aggregate, a majority of respondents to the market investigation claim that retailers are willing to give new concepts and brands test slots in a limited number of outlets before commercialising new products (both fragrances and colour cosmetics); such testing may also be conducted online.²³² In addition, a majority of respondents confirmed that new opportunities are offered by the digital space which would facilitate entry or expansion in the relevant markets.²³³
- (317) Finally, the market investigation revealed for both fragrances and colour cosmetics that a number of entry or expansion projects would take place in the EEA in the coming 2–3 years by competitors and retailers.²³⁴ Moreover, retailers²³⁵ and most competitors²³⁶, which indicated that they have plans to launch new products or enter new markets in the coming 2–3 years, also said that their plans would not change because of the Transaction.

5.2.8.3. Conclusion

- (318) Considering all evidence available to it, the Commission notes that a number of fragrance and colour cosmetics launches occurred in the EEA over the past years. This indicates that it is feasible to overcome the potential barriers to entry and expansion. Moreover, the level of innovation ensures that the fragrances and colour cosmetics markets remain dynamic.
- (319) Likely and timely entry or expansion by competitors would continue to act as a significant competitive constraint on the merged entity post-Transaction in the fragrance and colour cosmetics markets in the EEA countries.

²³⁰ See Replies to Q1 - questionnaire to competitors, questions 49.1 and 49.2.

²³¹ Replies to Q1 - questionnaire to competitors, questions 49.1 and 49.2; and Q5 - questionnaire to distributors, question 44.1 and 44.2.

²³² Replies to Q1 - questionnaire to competitors, question 50; Q2 – questionnaire to customers, question 43; and Q5 - questionnaire to distributors, question 45.

²³³ Replies to Q1 - questionnaire to competitors, question 51; Q2 – questionnaire to customers, question 44; and Q5 - questionnaire to distributors, question 46.

²³⁴ Replies to Q1 - questionnaire to competitors, question 52; Q2 – questionnaire to customers, question 45.

²³⁵ Replies to Q2 – questionnaire to customers, question 45.2.

²³⁶ Replies to Q1 - questionnaire to competitors, question 52.2

5.3. The fragrances markets

5.3.1. Introduction and affected markets

- (320) The total retail sales values generated with fragrances in 2014 within the EEA amounted to EUR 10 billion, of which around EUR 7 billion related to prestige fragrances and EUR 3 billion to mass fragrances.
- (321) The fragrances market has generally experienced limited but steady growth in the last few years with sales decreases in Southern and Eastern European countries counterbalanced by sales increases in Nordic and Western European countries. The Parties expect this situation to continue in the foreseeable future. In particular, the mass segment has experienced a higher growth rate than the average fragrance growth rate while the prestige segment has shown a slight decline in some of the affected markets.²³⁷
- (322) Taking into account the methodology and adjustments described in Section 5.1, Table 5 below provides an overview of the Parties' individual and combined shares in retail sales in the EEA and in each affected market according to Euromonitor data on an all fragrances market basis.

Table 5: Affected markets in All Fragrances market (2014)

Country/ Country cluster	Coty share	Target Businesses share	Combined share
Austria	[10-20]%	[10-20]%	[30-40]%
Cyprus	[20-30]%	[5-10]%	[30-40]%
Czech Republic/Slovakia	[20-30]%	[10-20]%	[30-40]%
Czech Republic	[10-20]%	[10-20]%	[30-40]%
Slovakia	[20-30]%	[5-10]%	[30-40]%
Estonia ²³⁸	[5-10]%	[10-20]%	[20-30]%
Finland	[10-20]%	[5-10]%	[20-30]%
Germany	[10-20]%	[5-10]%	[20-30]%
Hungary	[10-20]%	[5-10]%	[20-30]%
Malta	[20-30]%	[5-10]%	[30-40]%
The Netherlands	[10-20]%	[5-10]%	[20-30]%
Poland	[20-30]%	[0-5]%	[20-30]%
Slovenia	[10-20]%	[10-20]%	[20-30]%

²³⁷ Form CO, paragraphs 3324 and 3326.

²³⁸ The Baltics as a cluster are not affected.

Country/ Country cluster	Coty share	Target Businesses share	Combined share
Scandinavia (Denmark, Norway, Sweden)	[10-20]%	[10-20]%	[20-30]%
Denmark	[10-20]%	[10-20]%	[20-30]%
Norway	[10-20]%	[10-20]%	[20-30]%
Sweden	[10-20]%	[10-20]%	[20-30]%
UK/Ireland	[10-20]%	[5-10]%	[20-30]%
Ireland	[20-30]%	[5-10]%	[20-30]%
UK	[10-20]%	[5-10]%	[20-30]%
EEA	[10-20]%	[5-10]%	[20-30]%

Source: Frontier Economics using Euromonitor data.

- (323) Further affected markets arise when considering various market segmentations (between mass/prestige and male/female fragrances). Shares for the relevant affected markets (including under all segmentations in each national market), as well as details on the competitive assessment, are provided in each country section below.

5.3.2. EEA-wide assessment

5.3.2.1.1. Parties' activities

- (324) Coty's fragrances brands offered for sale in the EEA are the following: !Ex'Cla.Ma'Tion, Adidas, Adrenaline, Balenciaga, Beckham, Beyoncé, Bottega Veneta, Bourjois, Calvin Klein, Céline Dion, Cerruti, Chanson, Chloé, Chopard, Crossmen, Davidoff, Enrique Iglesias, Esprit, Guess, Halle Berry, Jacq'S, Jennifer Lopez, Jil Sander, Joop!, Jovan, Katy Perry, Lady Gaga, Lancaster, Love2Love, Marc Jacobs, Miss Sporty, Miu Miu, Nautica, Nikos, Philosophy, Playboy, Prêt-à-Porter, Roberto Cavalli, Tonino Lamborghini, Varon Dandy, Vera Wang, Vespa, and Vivienne Westwood. As described in Section 5.1.2, certain brands are due to be discontinued [Business secrets redacted] or have already been discontinued in the entire EEA or worldwide.

- (325) The Target Businesses' fragrances brands offered for sale in the EEA are the following: Alexander McQueen, Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste, Mexx, Stella McCartney.²³⁹

5.3.2.1.2. Commission's assessment

- (326) On an EEA-wide basis, the fragrances and mass fragrances markets are affected, with limited combined market shares of respectively [20-30]%, and [20-30]%. The prestige fragrances market is not affected, with a combined share of [10-20]%. As described in Table 6 below, the male fragrances, mass male, mass female, and the prestige male markets are also affected:

²³⁹ [Business secrets redacted].

Table 6: EEA – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[10-20]%	[5-10]%	[20-30]%
<i>All</i>	<i>Male</i>	[10-20]%	[5-10]%	[20-30]%
<i>Mass</i>	<i>All</i>	[10-20]%	[0-5]%	[20-30]%
<i>Mass</i>	<i>Male</i>	[10-20]%	[0-5]%	[20-30]%
<i>Mass</i>	<i>Female</i>	[10-20]%	[0-5]%	[20-30]%
<i>Prestige</i>	<i>Male</i>	[10-20]%	[10-20]%	[20-30]%

- (327) The market shares of the merged entity would remain limited, and not higher than [20-30]%, on all the above markets.
- (328) In addition, the increment brought upon by the Transaction in mass, mass male, and mass female fragrances would be limited, so that so that there would be no material Transaction-specific effect in these markets.
- (329) Moreover, significant competitors would remain, including L'Oréal, LVMH and Chanel (having e.g. market shares in the overall fragrances market of respectively [10-20]%, [10-20]% and [5-10]%). In the prestige male fragrances market, where the Parties' combined market share is highest, L'Oréal, LVMH and Chanel market shares would still be material, at respectively [10-20]%, [10-20]% and [5-10]%, with Puig also reaching [10-20]% in this market. All competitor market shares do not vary significantly from one market segment to another (i.e. between all, mass and prestige and male or female).
- (330) While some respondents alleged that through the Transaction Coty would increase its market power across the EEA, the majority of respondents to the Commission's market investigation raised no material concern on the effects of the Transaction about fragrances at EEA level.²⁴⁰
- (331) Overall the Commission considers that given the low combined market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to lead to any significant competition concerns in the fragrances market on the EEA-level.

5.3.2.1.3. Conclusion

- (332) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the EEA, under any plausible product market definition.

5.3.3. Country/Cluster assessment

5.3.3.1. Austria

5.3.3.1.1. Parties' activities

- (333) Coty supplies fragrances under the following brands: adidas, Beckham, Beyoncé, Bottega Veneta, Calvin Klein, Cerruti, Chloé, Chopard, Davidoff, Enrique Iglesias,

²⁴⁰ See e.g. replies to Q1 – questionnaire to competitors, section VII; replies to Q2 – questionnaire to customers, section VI; replies to Q5 – questionnaire to distributors, section VI.

Esprit, Guess, Jennifer Lopez, Jil Sander, Jovan, Joop!, Katy Perry, Lady Gaga, Lancaster, Marc Jacobs, Miu Miu, Nikos, Playboy, Roberto Cavalli, Tonino Lamborghini, Verspa, Vera Wang and Vivienne Westwood.²⁴¹

- (334) The Target Businesses' fragrance brands include: Bruno Banani, Escada, Gabriela Sabatini, Hugo Boss, James Bond, Lacoste, Mexx, Gucci and Stella McCartney.

5.3.3.1.2. Commission's assessment

- (335) In Austria, the fragrances, prestige fragrances, and mass fragrances markets are all affected. As described in Table 7 below, a further split of the fragrances market and the prestige fragrances and mass fragrances markets into male and female markets would result in further affected markets:

Table 7: Austria – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[10-20]%	[30-40]%
All	Male	[10-20]%	[10-20]%	[30-40]%
All	Female	[10-20]%	[10-20]%	[30-40]%
Mass	All	[10-20]%	[10-20]%	[20-30]%
Mass	Male	[10-20]%	[10-20]%	[20-30]%
Mass	Female	[5-10]%	[10-20]%	[20-30]%
Prestige	All	[20-30]%	[10-20]%	[30-40]%
Prestige	Male	[20-30]%	[10-20]%	[30-40]%
Prestige	Female	[20-30]%	[10-20]%	[30-40]%

- (336) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on all the above markets.
- (337) Moreover, significant competitors would remain, including L'Oréal and LVMH (having e.g. market shares in the overall fragrances market of respectively [10-20]% and [5-10]% and in the prestige fragrances market of respectively [10-20]% and [10-20]%). In the prestige male fragrances market, where the Parties' combined market share is highest, L'Oréal and LVMH's market shares would stand at a level of respectively [10-20]% and [10-20]%. Market shares would be largely similar for the Parties and their competitors in the other affected markets, such as all female and all male fragrances as well as all and female prestige fragrances.
- (338) While a small number of respondents to the market investigation mentioned that the merged entity would become very strong in mass fragrances in particular because of the Parties' combined market shares; the majorities among competitors and customers were of the opinion that there would still be sufficient competition post-Transaction to prevent the Parties from raising prices.²⁴²
- (339) Overall, given the moderate market shares of the Parties, the presence of significant competitors and the fact that a majority of respondents to the market investigation

²⁴¹ [Business secrets redacted].

²⁴² Responses to Q1 – Questionnaire to competitors, question 61; responses to Q2 – questionnaire customers, question 52.

expect sufficiently strong competition to prevent the merged entity from raising prices, the Commission considers that the Transaction is unlikely to lead to any significant competition concerns in the Austrian fragrance market.

5.3.3.1.3. Conclusion

(340) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Austria, under any plausible segmentation.

5.3.3.2. Country cluster the Baltics – Estonia, Latvia and Lithuania

5.3.3.2.1. Parties' activities

(341) In the Baltics, Coty supplies fragrances under the following brands: Balenciaga, Beckham, Beyoncé, Calvin Klein, Cerruti, Chloé, Davidoff, Enrique Iglesias, Guess, Joop!, Katy Perry, Marc Jacobs, Miu Miu and Roberto Cavalli.²⁴³ Coty distributes its fragrances in the Baltics via two distributors: Fragrances International (for prestige fragrances) and Kruzas NPD (for mass fragrances).²⁴⁴

(342) The Target Businesses' supply fragrances under the following brands: Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste and Mexx. The Target Businesses operate via two distributors in the region belonging to the [Business secret – name of distributors].

5.3.3.2.2. Commission's assessment

(343) At country level,²⁴⁵ the following markets are affected:

5.3.3.2.2.1. Estonia

(344) The fragrances market, prestige fragrances segment and mass fragrances segment are all affected. As described in Table 8 below, a further split of the fragrances market and the prestige fragrances and mass fragrances markets into male and female markets would result in further affected markets:

Table 8: Estonia – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[5-10]%	[10-20]%	[20-30]%
All	Male	[10-20]%	[20-30]%	[30-40]%
All	Female	[5-10]%	[10-20]%	[20-30]%
Mass	All	[10-20]%	[0-5]%	[20-30]%
Mass	Male	[20-30]%	[0-5]%	[20-30]%
Prestige	All	[5-10]%	[20-30]%	[20-30]%
Prestige	Male	[5-10]%	[20-30]%	[30-40]%
Prestige	Female	[5-10]%	[10-20]%	[20-30]%

²⁴³ All brands are sold across the Baltic States.

²⁴⁴ Kruzas recently acquired Renalko (one of Coty's previous distributors in the region). Kruzas is thus now responsible for all mass fragrance distribution in the Baltics.

²⁴⁵ At country level, Lithuania would not have any affected market. See Form CO, paragraph 895.

- (345) Therefore, market shares would remain moderate, and not higher than [30-40]%, on all the above markets.
- (346) In addition, the increment brought about by the Transaction is very limited (below [0-5]%) in the mass and mass male fragrances markets, so that so that there would be no material Transaction-specific effect in these markets.
- (347) Moreover, significant competitors would remain in all affected markets. In particular, in the all male fragrances market, L'Oréal and LVMH market shares would stand at a level of respectively [10-20]% and [10-20]%. In prestige male fragrances where the Parties' market shares would be highest, the merged entity would continue to face significant competitors like LVMH with [10-20]% and L'Oreal with [10-20]%. In the other affected markets in Estonia competitor market shares would be similarly strong and the Parties' position generally somewhat weaker.
- (348) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Estonia.²⁴⁶
- (349) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to lead to any significant competition concerns in the Estonian fragrances markets.

5.3.3.2.2.2. *Latvia*

- (350) Only the prestige fragrances and the male prestige fragrances markets are affected:

Table 9: Latvia – fragrances (2014)

Fragrances	Coty's share	Target's share	Combined share
<i>Prestige All</i>	<i>[5-10]%</i>	<i>[10-20]%</i>	[20-30]%
<i>Prestige Male</i>	<i>[5-10]%</i>	<i>[10-20]%</i>	[20-30]%

- (351) The Parties' combined market shares in these segments would be low at respectively [20-30]% and [20-30]%.
- (352) Moreover, other strong competitors would remain. In particular, in the prestige male fragrances market, L'Oréal and Puig market shares would stand at a level of respectively [10-20]% and [5-10]%.
- (353) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Latvia.²⁴⁷
- (354) Given in particular the overall low market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to lead to any significant competition concerns in the Latvian fragrances markets.

²⁴⁶ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

²⁴⁷ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

5.3.3.2.3. Conclusion

(355) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Estonia, Latvia and Lithuania, neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

5.3.3.3. Belgium

5.3.3.3.1. Parties' activities

(356) In Belgium, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beyoncé, Bottega Veneta, Calvin Klein, Cerruti, Chloé, Chopard, David Beckham, Davidoff, Guess, Jennifer Lopez, Jil Sander, Joop!, Katy Perry, Lancaster, Marc Jacobs, Miu Miu, Playboy, Roberto Cavalli, and Vera Wang.

(357) The Target Businesses supply fragrances under the brands Bruno Banani, Escada, Gabriela Sabatini, James Bond, Gucci, Hugo Boss, Lacoste and Mexx.

5.3.3.3.2. Commission's assessment

(358) In Belgium, only the mass, the mass male and the mass female fragrances markets are affected, with combined market shares of respectively [30-40]%, [40-50]% and [20-30]%.

(359) However, these markets are only technically affected when considering the Target Businesses actual sales data, which shows that the Target Businesses have some very limited presence in Belgium in these markets. Indeed, the Euromonitor data only provides the abovementioned market shares for Coty and reports [0-5]% shares for the Target Businesses. The increment brought about by the Transaction is therefore in any event very limited, so that so that there would be no material Transaction-specific effect in these markets.

(360) Moreover, significant competitors would remain, including L'Oréal and Unilever (having market shares in mass fragrances of respectively [20-30]% and [10-20]%, while in mass female fragrances L'Oréal has a share of [20-30]% with Yves Rocher being another major competitor at [20-30]%). In the mass male fragrance market, where Coty's market share is highest, L'Oréal and Unilever market shares would be respectively [20-30]% and [10-20]%.

(361) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Belgium.²⁴⁸

(362) Overall, the Transaction brings about a limited increment; significant competitors are present in the Belgian fragrance market; no material competition concerns were raised with regard to Belgium in the market investigation. Therefore, the Commission considers that the Transaction is unlikely to lead to any significant competition concern in the Belgian fragrances market.

²⁴⁸ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

5.3.3.3.3. Conclusion

(363) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Belgium, under any plausible segmentation.

5.3.3.4. Croatia

5.3.3.4.1. Parties' activities

(364) The fragrance brands of the Parties in Croatia are the following:

- (a) Coty: Balenciaga, Beckham, Beyoncé, Calvin Klein, Cerruti, Chloé, Chopard, Davidoff, Guess, Jennifer Lopez, Jil Sander, Joop!, Kate Perry, Marc Jacobs, Miu Miu, and Roberto Cavalli. Coty distributes its prestige and mass fragrances via the distributor [*Business secret – name of distributor*].
- (b) Target Businesses: Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste, and Mexx. P&G distributes its fragrances via the distributor [*Business secret – name of distributor*].

5.3.3.4.2. Commission's assessment

(365) In Croatia, the prestige fragrances market as well as the male and the prestige male fragrances markets are affected, with combined market shares of respectively [20-30]%, [20-30]% and [30-40]% as described in Table 10 below:

Table 10: Croatia – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	Male	[10-20]%	[10-20]%	[20-30]%
Prestige	All	[5-10]%	[10-20]%	[20-30]%
Prestige	Male	[5-10]%	[30-40]%	[30-40]%

(366) The Parties' combined market shares would remain moderate, at most 39% or significantly lower, on all the above markets.

(367) Post-Transaction, in each of the affected markets, the merged entity will continue to face strong competition from a number of major international fragrances houses. In particular, in the prestige male fragrances market, where the Parties' combined market share is the highest, Puig and LVMH's market shares would remain significant, at respectively [10-20]% and [10-20]%. Similarly, in the overall male fragrances market, LVMH ([5-10]%) and Puig ([5-10]%) are also strong competitors.

(368) While a few respondents argued that the Parties would have significant market shares in the fragrances market and in the prestige male fragrances market in particular, the majorities among all groups of respondents expressing an opinion said that the merged entity would face sufficient competitive pressure post-Transaction to keep it from raising prices.²⁴⁹

²⁴⁹ Responses to Q1 – Questionnaire to competitors, question 61; responses to Q2 – questionnaire customers, question 52; responses to Q5 - Questionnaire to distributors, question 52.

(369) Overall, the combined market shares of the Parties are moderate; significant competitors are present in the Croatian market; and a majority of the respondents to the market investigation stated that there would be sufficient competition to prevent the merged entity from raising prices. Therefore, the Commission considers that the Transaction is unlikely to lead to any significant competition concern in the Croatian fragrances market.

5.3.3.4.1. Conclusion

(370) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Croatia, under any plausible segmentation.

5.3.3.5. Cyprus

5.3.3.5.1. Parties' activities

(371) In Cyprus, Coty supplies fragrances under the following brands: adidas, Calvin Klein, Cerruti, Chloé, Chopard, Davidoff, Guess, Joop!, J.Lo, Lancaster, Love2Love, Marc Jacobs, MiuMiu, Nikos, Playboy, Roberto Cavalli and Vespa.

(372) The Target Businesses are active with their brands Escada, Gucci, Hugo Boss, James Bond and Lacoste.

(373) The Parties are not active in this market directly but use distributors to serve them.

5.3.3.5.2. Commission's assessment

(374) In Cyprus, the overall fragrances market as well as both the male and female fragrances markets are affected,²⁵⁰ with combined market shares of respectively [30-40]%, [30-40]% and [30-40]% as described in Table 11 below:

Table 11: Cyprus – fragrances (2014)

Fragrances	Coty's share	Target's share	Combined share
<i>All All</i>	[20-30]%	[5-10]%	[30-40]%
<i>All Male</i>	[20-30]%	[5-10]%	[30-40]%
<i>All Female</i>	[20-30]%	[5-10]%	[30-40]%

(375) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]% on all of the affected markets.

(376) The Parties note that there is no distinction between a mass and a prestige distribution channel in Cyprus. The concept of drugstores which are the main channel for mass fragrances in most other European countries does not exist as such in Cyprus. Furthermore, there are extremely limited sales of mass fragrances in supermarkets. Supermarkets tend to focus on body sprays and deodorants with mass fragrances merely being an ancillary offering. Therefore, brands which are considered to be mass brands in other countries are also sold at perfumeries in Cyprus.²⁵¹

²⁵⁰ For Cyprus, there is no data available from Euromonitor or Scanner data. The Parties estimate the total market size to amount to below EUR [Confidential – market size] million in retailer sales.

²⁵¹ Form CO, paragraph 1033.

- (377) The market investigation did not provide conclusive evidence as to the Parties' claim that there would not be a distinction between mass and prestige fragrances in Cyprus.²⁵² However, given that the Target Businesses would only have a very limited presence in mass fragrances in Cyprus through its James Bond brand²⁵³, the Transaction would not have any material impact on the mass market in any event. For this reason, it is not necessary to reach a conclusion on whether the Cypriot fragrances market should be split between mass and prestige products. Furthermore, the assessment of the Transaction can be based on overall market shares encompassing both mass and prestige products as the impact on mass fragrances would likely be insignificant and the main impact would concern prestige fragrances.
- (378) Overall, strong competitors, including LVMH, L'Oréal and Chanel, would remain in the affected markets (having e.g. market shares in the all fragrances market of respectively [10-20]%, [10-20]% and [10-20]%, and in the female fragrances market of [10-20]%, [10-20]% and [10-20]%). In the male fragrances market, where the Parties' combined market share is highest, LVMH, L'Oréal and Chanel market shares would also be significant, at respectively [10-20]%, [10-20]% and [10-20]%. In general, all of these competitors are competing strongly with the Parties in the prestige market.
- (379) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Cyprus.²⁵⁴
- (380) Overall the Commission considers that, in particular in light of the moderate combined market shares and the presence of significant competitors, the Transaction is unlikely to lead to any significant competition concerns in the Cypriot fragrances markets.

5.3.3.5.3. Conclusion

- (381) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Cyprus, under any plausible segmentation.

5.3.3.6. Country cluster - Czech Republic and Slovakia

5.3.3.6.1. Parties' activities

- (382) The fragrance brands of the Parties in the Czech Republic and Slovakia are the following:
- (a) Coty: adidas, Balenciaga, Beyoncé, Bottega Veneta, Calvin Klein, Cerruti, Chloé, Chopard, David Beckham, Davidoff, Enrique Iglesias, Esprit, exclamation!, Guess, Jil Sander, Joop!, Katy Perry, Lady Gaga, Marc Jacobs, Miss

²⁵² Responses to Q1 – Questionnaire to competitors, question 5; responses to Q2 – questionnaire customers, question 5; responses to Q5 - Questionnaire to distributors, question 5.

²⁵³ The James Bond brand generated [Business secrets] net outside sales in fiscal year 2014/15 in Cyprus, at EUR [20000-30000]. The Target Businesses would have a [0-5]% market share in the male mass fragrances market and a [0-5]% share in the female mass fragrances market. See parties' reply to RFI 12 of 8 February 2016.

²⁵⁴ Responses to Q1 – Questionnaire to competitors, question 61; responses to Q2 – questionnaire customers, question 52; responses to Q5- Questionnaire to distributors, question 52.

Sporty, Nautica, Nikos, Playboy, Prêt-a-Porter, Roberto Cavalli, Tonino Lamborghini, and Vespa.²⁵⁵

- (b) Target Businesses: Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste, and Mexx.

5.3.3.6.2. **Commission's assessment**

(383) At the country level, the following markets are affected:

5.3.3.6.2.1. *Czech Republic*

Market shares

(384) The Parties' market shares in the affected fragrance markets in the Czech Republic amount to the following figures in 2014:

Table 12: Czech Republic – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[10-20]%	[30-40]%
All	Male	[10-20]%	[5-10]%	[20-30]%
All	Female	[10-20]%	[10-20]%	[30-40]%
Mass	All	[10-20]%	[10-20]%	[20-30]%
Mass	Female	[10-20]%	[10-20]%	[30-40]%
Prestige	All	[20-30]%	[10-20]%	[30-40]%
Prestige	Male	[20-30]%	[10-20]%	[30-40]%
Prestige	Female	[20-30]%	[10-20]%	[30-40]%

(385) Therefore, in the overall fragrances market in Czech Republic, the merged entity will have a moderate combined share of [30-40]% post-Transaction.

(386) In each of the plausible markets, the merged entity will continue to face strong competition from a number of major international fragrances houses. These are:

- (a) All fragrances: Avon ([10-20]%), Oriflame ([5-10]%) and L'Oréal ([5-10]%)
 – Male fragrances: Avon ([10-20]%) and Oriflame ([5-10]%)
 – Female fragrances: Avon ([10-20]%), Oriflame ([5-10]%) and L'Oréal ([5-10]%).
- (b) Prestige fragrances: L'Oréal ([10-20]%), Elizabeth Arden ([10-20]%) and Chanel ([10-20]%)
 – Prestige male: L'Oréal ([10-20]%) and Elizabeth Arden ([10-20]%)
 – Prestige female: Chanel ([10-20]%), Elisabeth Arden ([10-20]%) and L'Oréal ([10-20]%)

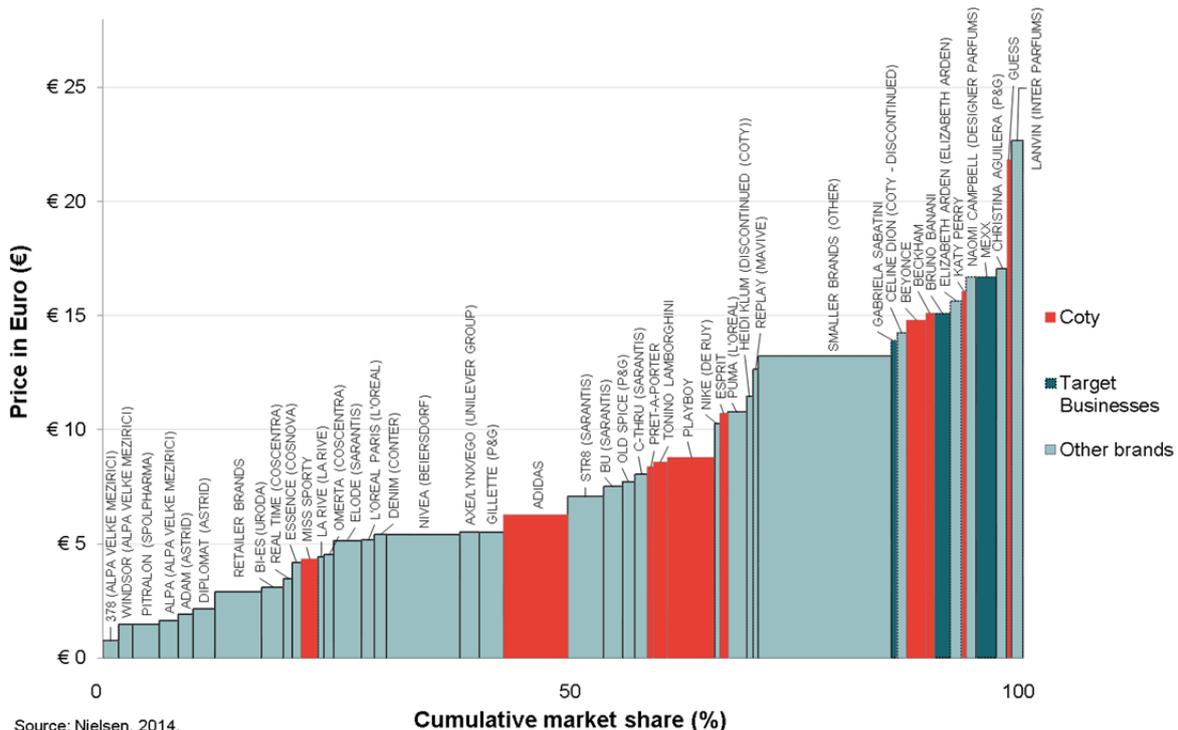
²⁵⁵ [Business secrets redacted].

- (c) Mass fragrances: Avon ([20-30]%) and Oriflame ([5-10]%);
 - Mass male: Avon ([20-30]%) and Oriflame ([10-20]%)
 - Mass female: Avon ([20-30]%), Oriflame ([5-10]%) and Yves Rocher ([5-10]%).

Closeness of competition (brand analysis)

- (387) The Parties' largest prestige fragrance brands in the Czech Republic are Calvin Klein, Davidoff, and Joop! (Coty); and Hugo Boss and Gucci (Target Businesses). Their largest mass fragrance brands are Adidas and Prêt-à-Porter²⁵⁶, and Mexx and Gabriela Sabatini respectively.
- (388) With respect to prestige brands, brand level nominal price data for Czech Republic submitted by the Parties shows that the Parties' prestige brands are not the closest to each other on the pricing spectrum, and where brands are closely positioned, there are other brands from competitors that attain equivalent market shares in Czech Republic and are priced at around the same level.²⁵⁷

Chart 1: Czech Republic - Mass fragrances price ladder (2014)



Source: Nielsen, 2014.
 Note: Brands separately included with volume market shares bigger than 0.5%. Top Coty brands smaller than 0.5%: Calvin Klein, Lady Gaga and Davidoff. Top Target Businesses smaller than 0.5%: James Bond. Huao Boss and Lacoste.

Source: Frontier Economics using Nielsen data. Source: Frontier economics using Nielsen data

²⁵⁶ [Business secrets redacted].

²⁵⁷ Form CO, Annex 6-035 indicates the following nominal prices in 2014 in Czech Republic: Calvin Klein EUR [Confidential – pricing] and Davidoff EUR [Confidential – pricing]; and Hugo Boss EUR [Confidential – pricing]. Although Hugo Boss and Calvin Klein are relatively close in terms of pricing, there remains a 20% difference between them. Competitors brands such as Elizabeth Arden EUR [Confidential – pricing], Lanvin [Confidential – pricing] and Giorgio Armani EUR [Confidential – pricing] are also priced around the same levels and attain comparable market shares.

- (389) As for the mass fragrances price ladder, Coty's major brands Adidas and Playboy are priced in a range at the lower to medium end of the price spectrum whereas the Target businesses' brands such as Gabriela Sabatini and Mexx are positioned at the upper pricing spectrum of the mass market. A number of Coty's brands (Beyoncé and Celine Dion²⁵⁸) are also placed at that level of the ladder, but are rather small brands. Finally, Beckham (Coty) and Bruno Banani have rather similar prices but they have a different proposition: Beckham is a sports brand targeted at young male, Bruno Banani (Target Businesses) is a fashion brand more popular among women.
- (390) Within the medium part of the price ladder the Parties brand face competition from the product ranges of the main competitors (for instance Sarantis or Unilever, but also L'Oréal's brand Puma). The same is valid for the upper end of the price ladder, with competing brands from e.g. Elisabeth Arden, Inter Parfums and Designer Parfums.
- (391) It follows from the above that at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties' competitors, for all of the different price points currently targeted by the Parties.
- (392) Besides, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands and no specific issues were raised concerning the Czech Republic.
- (393) In the light of the above, the Commission concludes that Coty and the Target Businesses' fragrances products do not appear to be closer substitutes to each other than with the products of their competitors in the Czech Republic.

Barriers to entry or expansion – innovation

- (394) As indicated in Section 5.2.8 a majority of respondents to the market investigation indicated that in general, launching a new fragrance would be moderately difficult, and that retailers are generally willing to give new concepts and brands test slots in a limited number of outlets before commercialising new products.
- (395) The Parties submit that there have been at least 200 new fragrance launches in the Czech Republic every year and that these new products are launched by a highly diverse range of companies, rather than solely the largest international competitors. Coty and the Target Businesses only account for a small proportion of total launches.²⁵⁹
- (396) Therefore the Commission concludes that the dynamism and the competitiveness of the Czech market is ensured by a high number of new product launches and that this dynamism is spurred by competitive rivalry with other players and not only between the Parties.

²⁵⁸ [Business secrets redacted].

²⁵⁹ Form CO, paragraph 1123.

Other countervailing competitive forces

- (397) According to the Parties, the Czech Republic has the highest Internet penetration rate for fragrances markets within the EEA amounting to 44.7%.²⁶⁰ The Parties claim that many online retailers active the Czech Republic source prestige fragrances through the grey channel at important price discounts. As regards the mass fragrances segment, direct sellers' brands are put forward as a relevant competitive constraint, with Avon and Oriflame being the two largest brands of the segment.
- (398) The Commission notes that, in recent years, several pure online players such as El Nino and Internet Shop ESA have entered the Czech market and that Internet sales seem to constitute an important part of the market in the Czech Republic.
- (399) While a few respondents argued that the Parties would have significant market shares in the fragrances market, the majorities among all groups of respondents expressing an opinion said that the merged entity would face sufficient competitive pressure post-Transaction to keep it from raising prices.²⁶¹
- (400) Overall, the Czech fragrance market is characterised by the presence of strong competitors; the absence of specific closeness of competition issues between the Parties appear to be absent; there is in addition some competitive pressure through direct Internet sales, and a majority of market participants said that there would be sufficient competitive pressure post-Transaction. The Commission considers that this supports the conclusion that the Transaction would not lead to any significant competition concerns in the fragrances markets in the Czech Republic.

Conclusion

- (401) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the Czech Republic, under any plausible segmentation.

5.3.3.6.2.2. Slovakia

Market shares

- (402) The Parties' market shares²⁶² in the affected fragrance markets in Slovakia amount to the following figures in 2014:

²⁶⁰ Form CO, Annex 6-037-Coty-Europe Internet Retailing-July 2015, Slide 14 (based on Euromonitor).

²⁶¹ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

²⁶² As described in Section 5.1.2, the Parties submit that there is no evidence supporting the increment to the sales of the Parties in Slovakia. Euromonitor reports the sales of all Target Businesses prestige brands sold in the country and in the mass segment, the Parties' view is that a large proportion if not all of the sales accounting for the increment according to Euromonitor are related to high selling brands that are not part of the Proposed Transaction, in particular Christina Aguilera. The Parties use the actual sales data for this brand in the relevant markets and in light with these sales propose a reallocation of the "unidentified" brand level data when calculating the company-level data. The Commission has verified that the adjustments proposed by the Parties for Slovakia are in line with the composition of the brand portfolio which is within the scope of the Transaction at the day of notification and therefore considers the adjustments to be acceptable in light of the dynamic competitive assessment the Commission conducts.

Table 13: Slovakia fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[20-30]%	[5-10]%	[30-40]%
<i>All</i>	<i>Male</i>	[30-40]%	[5-10]%	[40-50]%
<i>All</i>	<i>Female</i>	[20-30]%	[5-10]%	[30-40]%
<i>Mass</i>	<i>All</i>	[30-40]%	[5-10]%	[30-40]%
<i>Mass</i>	<i>Male</i>	[40-50]%	[5-10]%	[40-50]%
<i>Mass</i>	<i>Female</i>	[20-30]%	[5-10]%	[30-40]%
<i>Prestige</i>	<i>All</i>	[10-20]%	[20-30]%	[40-50]%
<i>Prestige</i>	<i>Male</i>	[5-10]%	[20-30]%	[30-40]%
<i>Prestige</i>	<i>Female</i>	[10-20]%	[20-30]%	[40-50]%

- (403) In the overall fragrances market in Slovakia, the merged entity will have a moderate market share of [30-40].
- (404) Post-Transaction, in each of the markets the Parties will continue to face strong competition from a number of major international fragrances houses. These are:
- (a) All fragrances: Avon ([10-20]), L'Oréal ([5-10]) and Oriflame ([5-10]);
 - Male fragrances: Avon ([5-10]) and Oriflame ([5-10]);
 - Female fragrances: Avon ([10-20]), L'Oréal ([10-20]) and Oriflame ([5-10]).
 - (b) Prestige fragrances: Euroitalia ([10-20]), LVMH ([5-10]), and L'Oréal ([5-10])
 - Prestige male: Euroitalia ([10-20]), L'Oréal ([10-20]) and LVMH ([10-20])
 - Prestige female: Euroitalia ([10-15]), LVMH ([5-10]) and Elizabeth Arden ([5-10]).
 - (c) Mass fragrances: Avon ([10-20]), Oriflame ([10-20]) and L'Oréal ([5-10])
 - Mass male: Avon ([10-20]), and Oriflame ([10-20])
 - Mass female: Avon ([10-20]), L'Oreal ([10-20]) and Oriflame ([10-20]).

- (405) The Parties submit that the shares reported by Euromonitor for adidas in Slovakia significantly overestimate adidas's position in fragrances market in that geography - and consequently that the Parties' combined shares presented in the aforementioned tables are overestimated.²⁶³ The Commission takes note of the aforementioned claim, but assesses the competitive effects of the Transaction on the conservative basis of the market share data provided by Euromonitor, while also accepting the methodology and the other adjustments of market shares for Slovakia as described in Section 5.1.2.
- (406) The increment brought about by the Transaction in the mass, mass male, and mass female market is limited (around [0-5]%), so that so that there would be no material Transaction-specific effect in these markets.

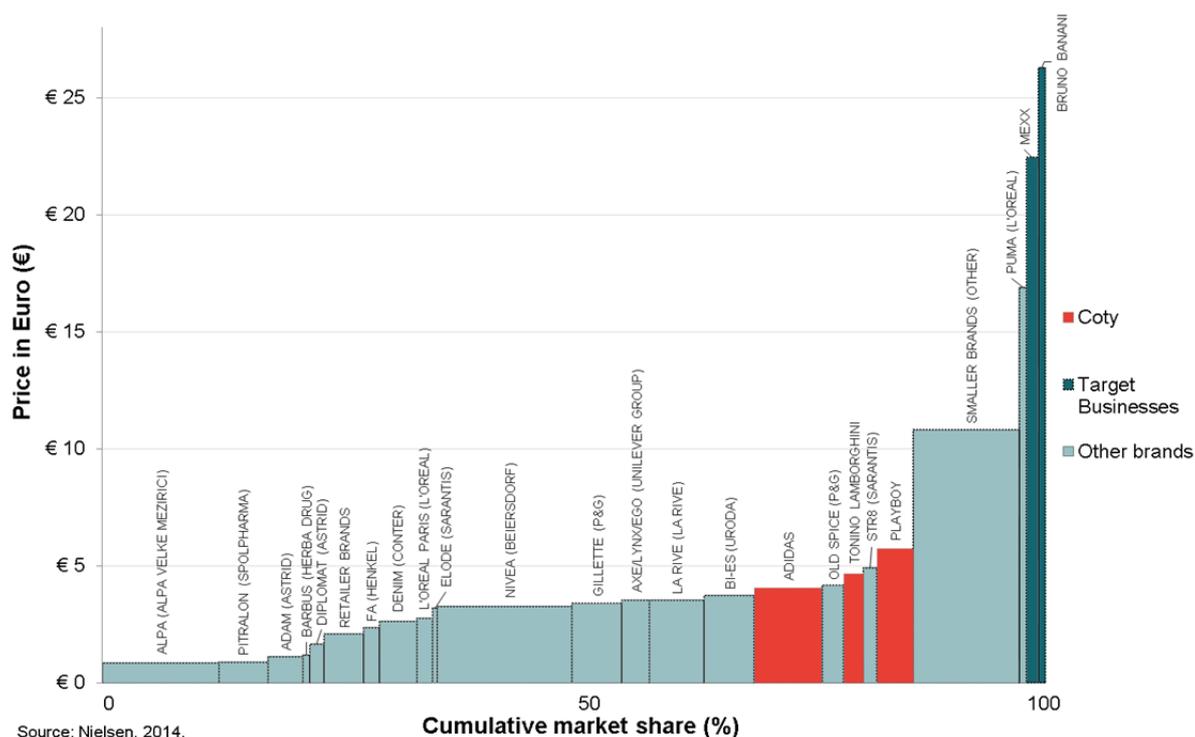
Closeness of competition (brand analysis)

- (407) The Parties' largest prestige fragrances brand in Slovakia are Chloé, Davidoff, Cerruti and Calvin Klein (Coty); and Hugo Boss, Lacoste, Gucci and Escada (Target Businesses). Their largest mass fragrances brands are: adidas and Playboy (Coty); and Mexx and Bruno Banani (Target Businesses).
- (408) The brand level nominal price data for fragrances in Slovakia shows that the Parties' prestige fragrances brands are not the closest to each other on the pricing spectrum in Slovakia; where some Parties' brands are more closely positioned, there are other brands from competitors that attain equivalent market shares in Slovakia and are priced at around the same level.²⁶⁴
- (409) As for the mass channel price ladder, Coty's major brands are positioned at the mid-range whereas the Target Businesses' brands are positioned at the high end of the mass channel.

²⁶³ According to Euromonitor data, almost half of the Parties' combined share in Slovakia is accounted for by adidas with a share of [10-20]%. However, the Parties submit that the net sales at supplier level reported by Coty internally for adidas in Slovakia (EUR [0-5] million) would be substantially lower than the retail sales value reported by Euromonitor (EUR [10-20] million). The net sales at supplier level would therefore amount to less than [0-5]% of the retail sales value (RSV) reported by Euromonitor.

²⁶⁴ Form CO, Annex 6-035 indicates the following nominal prices in 2014 in Slovakia: Chloé EUR [Confidential – pricing], Davidoff EUR [Confidential – pricing], Calvin Klein EUR [Confidential – pricing] (Coty); and Hugo Boss EUR [Confidential – pricing], Lacoste EUR [Confidential – pricing]. Competitor brands such as Lanvin EUR [Confidential – pricing], Naomi Campbell EUR [Confidential – pricing] and Versace EUR [Confidential – pricing] are also priced around the same levels and attain comparable market shares.

Chart 2 Slovakia - Mass fragrances price ladder (2014)



Note: Brands separately included with volume market shares bigger than 0.5%. Top Coty brands smaller than 0.5%: Miss Sporty, Guess and Beyonce. Top Target Businesses smaller than 0.5%: James Bond, Gabriela Sabatini and Hugo Boss.

Source: Frontier Economics using IRI data

- (410) The Commission further notes that the price ladder show that the product ranges of the main competitors (for instance Sarantis or Unilever) also largely overlap with the product ranges offered by the Parties. Moreover, there are several other brands that target specific segments of the market (for instance the low-end segment). This indicates that the Parties face competition from strong specialised brands in each price point. Also, the product ranges offered by those competitors overlap with the respective parts of the product ranges offered by the Parties.
- (411) This suggests that, at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties' competitors, for all of the different price points currently targeted by the Parties.
- (412) Therefore, the Parties' brands are not particularly close to each other on the pricing spectrum, and even where some brands are more closely positioned, there are a number of other brands priced at around the same level.
- (413) As described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands and no specific issues were raised concerning Slovakia.
- (414) In the light of the above, the Commission concludes that Coty and the Target Businesses' fragrances products do not appear to be closer substitutes to each other than with the products of their competitors in Slovakia.

Barriers to entry or expansion – innovation

- (415) As indicated in Section 5.2.8 a majority of respondents to the market investigation indicated that in general, launching a new fragrance would be moderately difficult, and that retailers are generally willing to give new concepts and brands test slots in a limited number of outlets before commercialising new products.
- (416) As an example, the Parties submit that the Italian company Euroitalia S.R.L, has recently managed to install Versace products as the second most sold brand in the country (market share of [10-20]%), just behind the Target Businesses' Hugo Boss.²⁶⁵
- (417) The Commission considers that this example shows that barriers to entry in the Slovakian fragrance market have been overcome in the recent past.
- (418) Therefore the Commission concludes that the dynamism and the competitiveness of the Slovakian market can be ensured by new product launches and that this dynamism is spurred by competitive rivalry with other players and not only between the Parties.

Other competitive forces

- (419) Regarding other competitive forces, in Slovakia internet sales for fragrances account for approximately 10% of sales and several mostly Czech-based pure online players serving the Czech /Slovak fragrances market, such as El Nino and Internet Shop ESA, have emerged.
- (420) While a few respondents argued that the Parties would have significant market shares in the fragrances market, the majorities among all groups of respondents expressing an opinion said that the merged entity would face sufficient competitive pressure post-Transaction to keep it from raising prices.²⁶⁶
- (421) Overall the Commission considers that in particular the presence of strong competitors, the absence of specific closeness of competition issues between the Parties, and the fact that a majority of market participants said that there would be sufficient competitive pressure post-Transaction, support the conclusion that the Transaction would not lead to any significant competition concerns in the fragrances markets in Slovakia.

Conclusion

- (422) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Slovakia, under any plausible segmentation.

5.3.3.6.3. Conclusion

- (423) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the Czech Republic and Slovakia, neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

²⁶⁵ Form CO, paragraph 1172.

²⁶⁶ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

5.3.3.7. Finland

5.3.3.7.1. Parties' activities

- (424) In Finland, Coty supplies fragrances under the following brands: adidas, Beckham, Beyoncé, Calvin Klein, Celine Dion, Chloé, Davidoff, Enrique Iglesias, Guess, Katy Perry, Lady Gaga, Marc Jacobs, Philosophy, Playboy and Roberto Cavalli.²⁶⁷
- (425) The Target Businesses are active with their brands Escada, Gucci, Hugo Boss, James Bond, Lacoste and Mexx.

5.3.3.7.2. Commission's assessment

- (426) In Finland, the fragrances and prestige fragrances markets are affected, with combined market shares of respectively [20-30]% and [20-30]%. As described in the Table below, the male fragrances and the prestige male and prestige female markets are also affected:

Table 14: Finland – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[5-10]%	[20-30]%
All	Male	[10-20]%	[10-20]%	[20-30]%
Prestige	All	[10-20]%	[10-20]%	[20-30]%
Prestige	Male	[10-20]%	[10-20]%	[30-40]%
Prestige	Female	[10-20]%	[5-10]%	[20-30]%

- (427) Therefore, the market shares of the merged entity would remain moderate, and not higher than [30-40]%, on all the above markets.
- (428) Moreover, significant competitors would remain in all the affected markets, including L'Oréal, Chanel and LVMH (having e.g. market shares in the prestige fragrance market of respectively [10-20]%, [10-20]% and [5-10]% and in the prestige female market of [10-20]%, [20-30]% and [10-20]%). In the prestige male fragrance market, where the Parties' combined market share is highest, L'Oréal, Chanel and LVMH market shares would be material, at respectively [10-20]%, [5-10]% and [5-10]%.
- (429) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Finland. One Finnish retailer explained for example that there is "*still lots of competition*" in the Finnish market post transaction.²⁶⁸
- (430) Overall, given the moderate combined market shares of the Parties, the presence of significant competitors and the fact that no material concerns were raised by the respondents to the Commission's market investigation, the Commission considers that the Transaction is unlikely to raise any significant competition concerns in the Finnish fragrances markets.

²⁶⁷ Céline Dion and Lady Gaga will be discontinued in 2016.

²⁶⁸ See reply to Q2 – questionnaire to customers, question 52.1.1.

5.3.3.7.3. Conclusion

(431) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Finland, under any plausible segmentation.

5.3.3.8. Germany

5.3.3.8.1. Parties' activities

(432) The fragrance brands of the Parties in Germany are the following:

- (a) Coty: adidas, Balenciaga, Beckham, Beyoncé, Bottega Veneta, Chloé. Calvin Klein, Cerruti, Celine Dion, Chopard, Davidoff, Enrique Iglesias, Esprit, Guess, Halle Berry, Jennifer Lopez, Jil Sander, Joop!, Jovan, Katy Perry, Lady Gaga, Marc Jacobs, Lancaster, Nikos, Playboy, Roberto Cavalli, Tonino Lamborghini, Vespa, Vera Wang, Vivienne Westwood.²⁶⁹
- (b) Target Businesses: Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste, Mexx and Stella Mc Cartney.

5.3.3.8.2. Market shares

(433) The Parties' market shares²⁷⁰ in the affected fragrances markets in Germany amount to the following figures in 2014:

Table 15: Germany – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[5-10]%	[20-30]%
All	Male	[10-20]%	[5-10]%	[20-30]%
All	Female	[10-20]%	[10-20]%	[20-30]%
Mass	All	[10-20]%	[5-10]%	[20-30]%
Mass	Male	[10-20]%	[5-10]%	[20-30]%
Mass	Female	[10-20]%	[5-10]%	[20-30]%
Prestige	All	[20-30]%	[10-20]%	[30-40]%
Prestige	Male	[20-30]%	[5-10]%	[30-40]%
Prestige	Female	[10-20]%	[10-20]%	[30-40]%

Source: Frontier Economics using adjusted Euromonitor data

(434) Therefore, the merged entity will have moderate market shares, reaching at most [30-40]% in all the above markets.

²⁶⁹ [Business secrets redacted].

²⁷⁰ As described in Section 5.1.2, the Parties submit that the evidence suggests that the increment to the Target Businesses' share in Germany should be materially lower. The only Target Businesses brand that is not explicitly identified by Euromonitor brand level data is Stella McCartney. The Parties use the actual sales data for this brand in the relevant markets and in light with these sales propose a reallocation of the "unidentified" brand level data when calculating the company-level data. The Commission has verified that the adjustments proposed by the Parties for Germany are in line with the composition of the brand portfolio which is within the scope of the Transaction at the day of notification and therefore considers the adjustments to be acceptable in light of the dynamic competitive assessment the Commission conducts.

- (435) The Parties' adjustments of scanner data which did not suffice to account for the difference between the datasets in Germany relate to the following markets: mass, male, and mass male fragrances (see Section 5.1.2). In these markets, the Commission has assessed the rationalisation of the data submitted by the Parties and notes that: (i) the mass, male, and mass male fragrances sales captured by the scanner data only represent 58%, 70% and 51% of sales captured in Euromonitor respectively; (ii) according to data source GfK, hard discounters and specialist stores (where direct sellers would be included) account for 21% of the mass channel sales; and (iii) if one adjusts the scanner data to reflect these missing sales, the remaining difference between the two datasets in terms of the Parties' combined share remains sizeable (above 7 percentage points difference between adjusted scanner data and Euromonitor data) in the mass, male, and mass male fragrances markets; however the Parties' adjusted combined shares would only reach [30-40]%, [30-40]% and [30-40]% in these markets respectively.²⁷¹
- (436) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]% on all the above markets, considering both Euromonitor data and adjusted scanner data (the latter for the mass, male, and mass male fragrances markets only).
- (437) Moreover, post-Transaction, in each of the affected markets the Parties will continue to face strong competition from a number of major international fragrances houses, such as ²⁷²:
- (a) All fragrances: LVMH ([10-20]), L'Oréal ([5-10]%), Estée Lauder ([5-10]%), Mäurer & Wirtz ([5-10]%) and Chanel ([5-10]%);
 - Male fragrances: LVMH ([5-10]%), Mäurer & Wirtz ([5-10]%), L'Oréal ([5-10]%) and Estée Lauder ([5-10]%)
 - Female fragrances: LVMH ([10-20]%), Chanel ([5-10]%), L'Oréal ([5-10]%) and Estée Lauder ([5-10]%)
 - (b) Prestige fragrances: LVMH ([10-20]%), Estée Lauder ([5-10]%), L'Oréal ([5-10]%), and Chanel ([5-10]%);
 - Prestige male: LVMH ([10-20]%), L'Oréal ([5-10]%) and Estée Lauder ([5-10]%)
 - Prestige female: LVMH ([10-20]%), Chanel ([10-20]%) Estée Lauder ([5-10]%) and L'Oréal ([5-10]%).

²⁷¹ Form CO, Annex 7-Frag-General-001-005-Market Share Variations and Parties' response to RFI 3 of 27 January 2016.

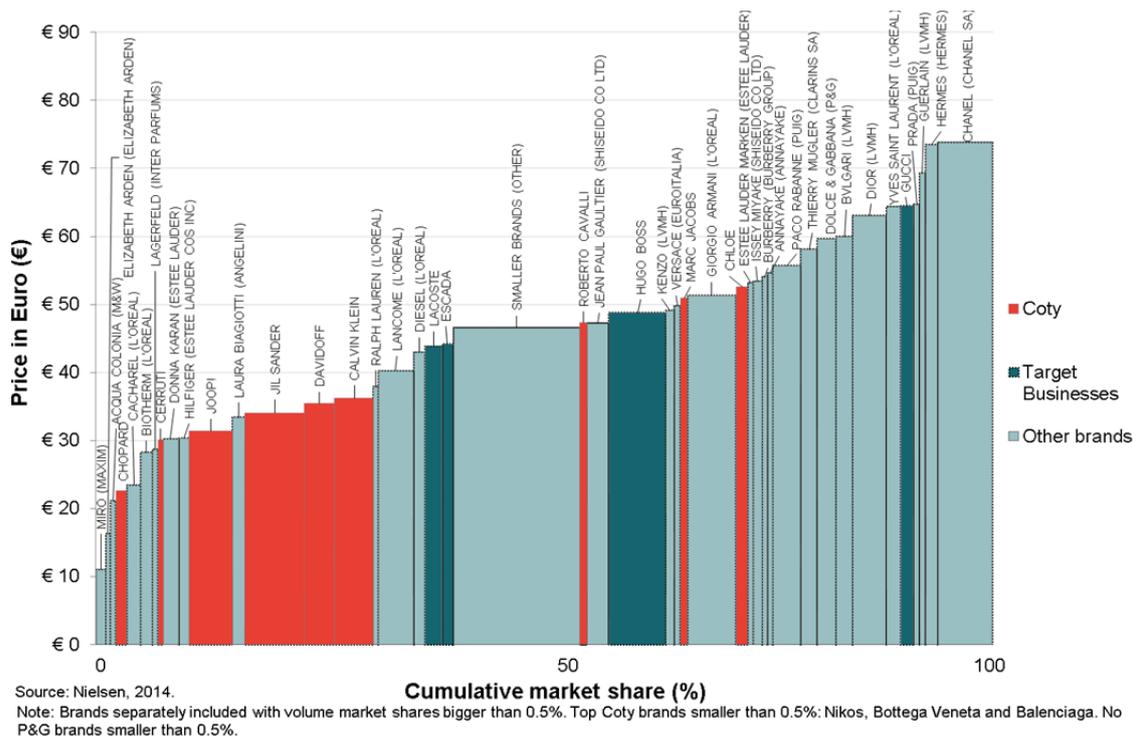
²⁷² Market shares based on Euromonitor. Even using adjusted scanner data in the mass, male, and mass male fragrances markets, significant competitors such as Mäurer & Wirtz, Beiersdorf, L'Oréal and Unilever will remain. As an example, in the mass male fragrances market where the Parties' combined shares are highest, these competitors reach [10-20]%, [10-20]%, [5-10]% and [5-10]% respectively. See Form CO, paragraph 1396 and following and Parties' response to RFI 14 of 10 February 2016.

- (c) Mass fragrances: Mäurer & Wirtz ([10-20]%), Unilever ([0-5]%), L'Oréal ([0-5]%) and retailer brands with an aggregated market share of [5-10]%.
 - Mass male: Mäurer & Wirtz ([10-20]%), retailer brands ([5-10]% on aggregate) and Unilever ([5-10]%)
 - Mass female: Mäurer & Wirtz ([10-20]%) and retailer brands ([10-20]% on aggregate).

5.3.3.8.3. Closeness of competition (brand analysis)

- (438) The Parties' largest prestige fragrances brands in Germany are Jil Sander, followed by Calvin Klein, Davidoff, and Joop (Coty), as well as Hugo Boss, followed by Gucci and Lacoste (Target Businesses).
- (439) The price ladder for prestige fragrances in Germany shows that Coty's largest brands, i.e. Calvin Klein, Jil Sander, Davidoff and Joop! are positioned at a relatively low price level whereas the Target Businesses have no offering within this range. The Target Businesses' Hugo Boss, Escada and Lacoste brands range at a medium or high price level.

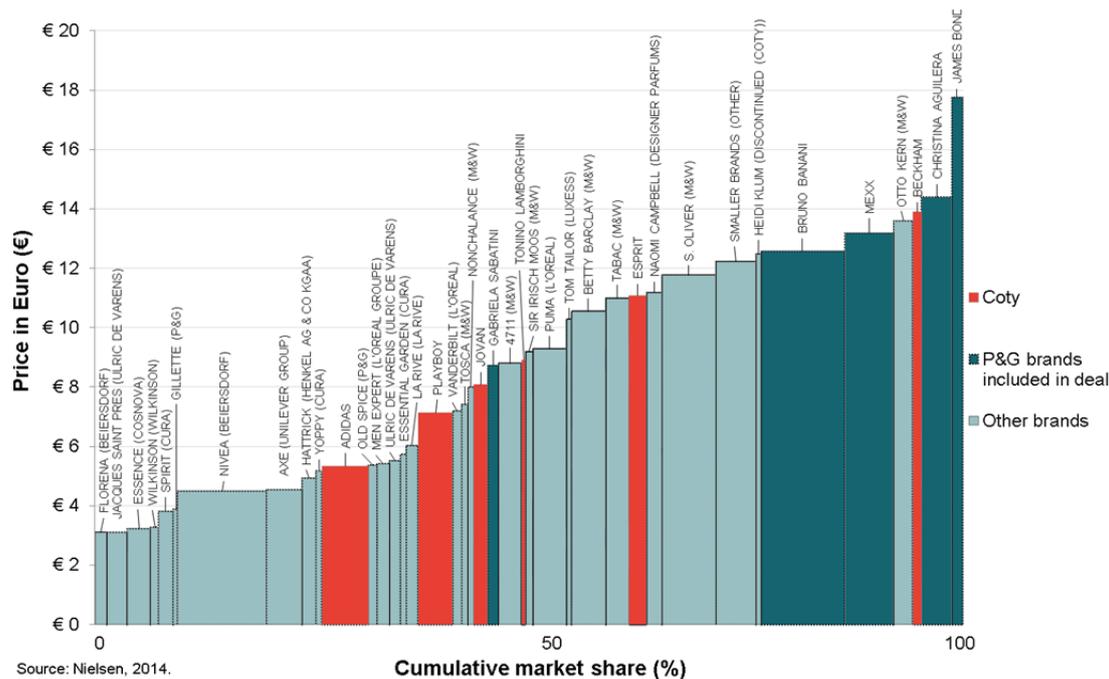
Chart 3: Germany - Prestige fragrances price ladder (2014)



Source: Frontier Economics using IRI data

- (440) The Parties' largest mass fragrances brands are: adidas and Playboy (Coty), as well as Mexx, Bruno Banani and Gabriella Sabatini (Target Businesses).
- (441) As for the mass channel price ladder, Coty's major brands are generally positioned at the mid-range whereas the Target Businesses' brands are mostly positioned at the high end of the mass channel (except for Gabriella Sabatini, which has a very limited presence).

Chart 4: Germany - Mass fragrances price ladder (2014)



Source: Nielsen, 2014.
 Note: Brands separately included with volume market shares bigger than 0.5%. Top 3 Coty brands smaller than 0.5%: Beyonce, Katy Perry and Guess. No P&G brands smaller than 0.5%.

Source: Frontier Economics using IRI data

- (442) The price ladders show that the product ranges of third party brands compete in comparable price ranges to the ones offered by each of the Parties. Moreover, there are several other brands that target specific segments of the market (for instance the low-end segment, or the premium segment). This indicates that the Parties face competition from strong specialised brands in each price point.
- (443) This suggests that, at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties’ competitors, for all of the different price points currently targeted by the Parties.
- (444) Therefore, the Parties’ brands are not particularly close to each other on the pricing spectrum, and even where some brands are closely positioned, there are a number of other brands priced at around the same level.²⁷³

²⁷³ Moreover, due to the fact that a number of sales channels are missing from IRI data, several competing brands of suppliers such as Yves Rocher, Body Shop, Zara and H&M that should feature in the ladders are not covered by the data. The Parties do not have access to any detailed alternative data sources on the price positioning of competing brands that are not captured in scanner data. Notwithstanding this, the Parties set out the relative price positioning of certain brands absent in the price ladders based on their commercial knowledge and experience, as follows: (i) Yves Rocher and The Body Shop are in the upper mass price range, closely positioned to brands such as Beckham or Mexx; (ii) Zara in the low/mid mass price range is closely positioned to brands such as Axe or Nivea; and (iii) H&M is in the low mass price range and closely positioned to brands such as Adidas, Axe or Playboy. The price positioning of these brands can be generally applied across all geographies in the EEA.

- (445) Moreover, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands. During the market investigation, some competitors mentioned that in Germany Coty's brands Jil Sander, Davidoff, Hugo Boss and Davidoff, all in the prestige male market, could be considered as "must-have" brands putting thus Coty in a particularly advantageous position compared to its rivals.²⁷⁴ However, the market investigation also pointed out that, besides the above mentioned Coty's brands, in the prestige male market in Germany there are several other brands of competing suppliers that are viewed as equally strong as Coty's brands.²⁷⁵
- (446) In the light of the above, the Commission concludes that Coty and the Target Businesses' fragrances products do not appear to be closer substitutes to each other than with the products of their competitors in Germany.

5.3.3.8.4. Barriers to entry or expansion – innovation

- (447) As indicated in Section 5.2.8, barriers to entry and expansion, while material, could also be overcome.
- (448) An analysis of the proportion of sales accounted for by the launch of new products over time shows that in Germany the shares of the various fragrances market segments attributable to lines launched since January 2012 range from over 30% (male prestige) to almost 50% (female mass) as at June 2015.²⁷⁶
- (449) Therefore the Commission concludes that the dynamism and the competitiveness of the German market is ensured by a high number of new product launches and that this dynamism is spurred by competitive rivalry with other players and not only between the Parties.

5.3.3.8.5. Other competitive forces

- (450) A majority of respondents to the market investigation indicated that there will be sufficient competition in the German fragrances markets to prevent the merged entity from raising prices post Transaction.²⁷⁷ Some customers raised concerns that the Transaction would strengthen the position of the merged entity in the mass fragrance market.²⁷⁸ However, the mass market is highly dynamic and characterized by the presence of several competitors and low brand loyalty.
- (451) Overall, the Parties' combined market shares would remain moderate, significant competitors would be present, the Parties do not appear to be very close competitors, and a majority of respondents to the Commission's market investigation expects there to be sufficient competition post-Merger. Therefore the Commission considers that the Transaction is unlikely to lead to any significant competition concerns in the German fragrances markets.

²⁷⁴ See responses to Q1 - questionnaire to competitors, question 30.

²⁷⁵ See responses to Q1 - questionnaire to competitors, question 30.

²⁷⁶ See Form CO, paragraph 1410.

²⁷⁷ Replies to Q1 - questionnaire to competitors, question 61.1; Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

²⁷⁸ See responses to Q2 - questionnaire to customers, question 52.1.

5.3.3.8.6. Conclusion

(452) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Germany, under any plausible segmentation.

5.3.3.9. Hungary

5.3.3.9.1. Parties' activities

(453) In Hungary, Coty supplies fragrances under the following brands: adidas, Beyoncé, Calvin Klein, Celine Dion, Cerruti, Chloé, David Beckham, Davidoff, Enrique Iglesias, Esprit, Guess, Jennifer Lopez, Jil Sander, Joop!, Katy Perry, Lady Gaga, Marc Jacobs, Miss Sporty, Playboy, Roberto Cavalli, Tonino Lamborghini, and Vespa.

(454) The Target Businesses are active with their brands Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste, and Mexx.

5.3.3.9.2. Commission's assessment

(455) In Hungary, the fragrance and mass fragrance markets are affected, with combined market shares of around [20-30]% each. As described in the Table below, the female fragrances, the male prestige fragrances, and the female mass fragrances markets are also affected:

Table 16: Hungary – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[10-20]%	[5-10]%	[20-30]%
<i>All</i>	<i>Female</i>	[10-20]%	[5-10]%	[20-30]%
<i>Mass</i>	<i>All</i>	[10-20]%	[10-20]%	[20-30]%
<i>Mass</i>	<i>Female</i>	[10-20]%	[5-10]%	[20-30]%
<i>Prestige</i>	<i>Male</i>	[0-5]%	[10-20]%	[20-30]%

(456) Therefore, the market shares of the merged entity would remain low, and not higher than [20-30]%, on all the affected markets.

(457) Moreover, strong competitors would remain in all the affected markets. In the mass female fragrances market, where the Parties' combined market shares is highest, Avon and L'Oréal market shares would be respectively [20-30]% and [5-10]%.

(458) While some respondents to the market investigation alleged that the Parties would have high market shares in the fragrance market and could potentially raise prices post-Transaction, these concerns were generally not substantiated. Moreover, the majority of all respondents did not raise any specific concerns as to the Transaction's effects on the Hungarian fragrances markets.

(459) Overall, the Commission's considers that the low combined market shares of the Parties and the presence of strong competitors support the conclusion that the Transaction would not lead to any significant competition concerns in the Hungarian fragrances markets.

5.3.3.9.3. Conclusion

- (460) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts in the market for fragrances in Hungary, under any plausible segmentation.

5.3.3.10. Malta

5.3.3.10.1. Parties' activities

- (461) In Malta, Coty supplies fragrances under the following brands: Calvin Klein, Chloé, Davidoff, Guess, Joop!, J.Lo, Lady Gaga, Love2Love, Marc Jacobs, Nautica, Playboy and Roberto Cavalli. Coty distributes prestige fragrances *via* its distributor [Business secret – name of distributor] and mass fragrances via its distributor [Business secret – name of distributor].
- (462) The Target Businesses are active with their brands Escada, Gucci, Hugo Boss, James Bond, Lacoste and Mexx.

5.3.3.10.2. Commission's assessment

- (463) The Parties note that there is no distinction between mass and prestige distribution channels in Malta. The concept of drugstores (the main channel for mass fragrances in most other European countries) does not exist as such in Malta. Furthermore, there are extremely limited sales of mass fragrances in supermarkets. Supermarkets tend to focus on body sprays and deodorants with mass fragrances merely an ancillary offering. Therefore, brands which are considered to be mass brands in other countries are also sold at perfumeries in Malta.²⁷⁹
- (464) During the market investigation, most respondents from Malta endorsed a separation of mass and prestige products while at the same time a majority of these respondents, i.e. customers and distributors, carries both product categories.
- (465) In Malta the fragrances market is affected, with a combined market share of approximately [30-40]%. As described in Table 17 below, both the male and the female fragrances markets would also be affected.

Table 17: Malta – fragrances (2014)

Fragrances	Coty's share	Target's share	Combined share
<i>All All</i>	[20-30]%	[5-10]%	[30-40]%
<i>All Male</i>	[20-30]%	[10-20]%	[30-40]%
<i>All Female</i>	[20-30]%	[5-10]%	[30-40]%

- (466) On the basis of best estimates, the merged entity would have a moderate combined share of at most approximately [30-40]% in the mass fragrances market.²⁸⁰ Therefore, the combined market shares of the Parties in the prestige fragrances markets should be of similar magnitude.

²⁷⁹ Form CO, paragraph 1520.

²⁸⁰ See parties' reply to RFI 12 of 8 February 2016.

- (467) The market shares of the merged entity would remain moderate, reaching at most [30-40]%.
- (468) The increment brought about by the Transaction in the female fragrances market is limited ([5-10]%), so that so that there would be no material Transaction-specific effect in this market.
- (469) Moreover, strong competitors would remain, including LVMH with a share of [20-30]% in the all fragrances market (and having market shares in male fragrances market of [10-20]%, and [20-30]% in the female fragrances market) and Euroitalia with a share of [10-20]% in the all fragrances market (having market shares in male fragrances market of [10-20]% and [5-10]% in the female fragrances market). Other competitors will also continue to be active, such as Chanel or Puig with market shares in all fragrances of [5-10]% and [10-20]%, respectively (and only marginally different market shares in the male and female fragrances markets).²⁸¹ Moreover, in the prestige fragrances market the merged entity will likewise continue to face significant competitors, such as LVMH, Euroitalia and Puig, which all are large multi-national producers of prestige fragrances. On the brand level of overall fragrances (including both male and female fragrances), leading brands are Christian Dior (LVMH) with a share of over [10-20]% and Versace (Euroitalia) with a share of over [5-10]%. As concerns the split between male and female fragrances, brand positions do not change markedly for male fragrances; for female fragrances, Chanel would be another significant competitor with a market share of almost [5-10]%.²⁸²
- (470) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Malta. Besides, the majority of respondents from Malta, i.e. customers and retailers, that the Transaction would have a neutral or even positive impact on competition.²⁸³
- (471) Overall, the Commission considers that the Transaction would not raise any significant competition concerns on the Maltese fragrances market for the following reasons: the Parties' combined market shares would remain moderate, strong international competitors will be present, and no competition concerns were raised in the market investigation.

²⁸¹ The Parties add that there are many internationally recognised brands present within the mass fragrances segment in Malta. In particular, in addition to Coty's adidas and Playboy brands, and the Target Businesses' James Bond and Mexx brands, Puig's Shakira and Antonio Banderas brands are also key brands in the mass fragrances segment. There are also many other internationally recognised mass fragrance brands in the segment such as: First American Brands' Disney, the INCC Group's Mercedes-Benz and Cofinluxe's Salvador Dali, Cafe Cafe and Love Love brands. See parties' reply to RFI 12 of 8 February 2016.

²⁸² Coty's distributor in Malta estimates that 55% of the overall fragrances market constitutes prestige fragrances and 45% mass fragrances. For prestige fragrances, the brand-level sell-out data presented by the Parties for the overall fragrances market in Malta would also be a best available proxy for market shares in the prestige market (as the beauty retailer whose data is provided also represents around 65-70% of the local prestige market). For mass fragrances, although no other brand-level sell-out data is available at the current time, Coty's mass fragrances distributor in Malta has confirmed that the mass fragrances segment in Malta is very fragmented and estimates that no brand has more than 5% share. See parties' reply to RFI 12 of 8 February 2016.

²⁸³ See e.g. replies to Q2 – questionnaire to customers, question 53; replies to Q5 – questionnaire to distributors, question 53.

5.3.3.10.3. **Conclusion**

(472) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Malta, under any plausible segmentation.

5.3.3.11. The Netherlands

5.3.3.11.1. **Parties' activities**

(473) In In the Netherlands, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beyoncé, Bottega Veneta, Bourjois, Calvin Klein, Cerruti, Chloé, David Beckham, Davidoff, Esprit, Guess, Jil Sander, Katy Perry, Lady Gaga, Lamborghini, Lancaster, Marc Jacobs, Miu Miu, Nikos, Playboy, Roberto Cavalli, and Vivienne Westwood.

(474) The Target Businesses are active with their brands Bruno Banani, Escada, Gucci, James Bond, Lacoste, Mexx, Gabriele Sabatini and Hugo Boss.

5.3.3.11.2. **Market shares**

(475) In the Netherlands, the following markets are affected:

Table 18: The Netherlands – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[10-20]%	[5-10]%	[20-30]%
<i>All</i>	<i>Male</i>	[10-20]%	[10-20]%	[30-40]%
<i>Mass</i>	<i>All</i>	[10-20]%	[5-10]%	[20-30]%
<i>Mass</i>	<i>Male</i>	[20-30]%	[10-20]%	[30-40]%
<i>Prestige</i>	<i>All</i>	[10-20]%	[5-10]%	[20-30]%
<i>Prestige</i>	<i>Male</i>	[10-20]%	[10-20]%	[30-40]%

(476) Therefore, the market shares of the merged entity would remain moderate, and not higher than [30-40]%, on all the above markets.

(477) The Netherlands are one of the markets where there were significant differences between scanner and Euromonitor data and where the Parties' adjustments of scanner data did not suffice to account for the difference between the datasets in the Netherlands. These differences relate to the following markets: mass, mass female, and mass male fragrances (see Section 5.1.2).

(478) In these markets, the Commission has assessed the rationalisation of the data submitted by the Parties and notes that: (i) the mass, mass female, and mass male fragrances sales captured by the scanner data represent 96%, 82% and 116% of sales captured in Euromonitor respectively; (ii) according to Euromonitor, almost 21% of mass sales relate to direct channel sales (from brands such as Yves Rocher or retailer sales) which are not captured in the Nielsen data; and (iii) if one adjusts the Nielsen data in the colour cosmetics segments to reflect these missing sales, the remaining difference between the two datasets in terms of the Parties' combined share remains sizeable (above 10 percentage points difference between adjusted scanner data and Euromonitor data) in the mass, mass female, and mass male fragrances markets. The

Parties' adjusted combined shares reach [30-40]%, [40-50]% and [40-50]% in these markets respectively.²⁸⁴

- (479) Therefore, the market shares of the merged entity would remain below [40-50]% on the above three markets, considering both Euromonitor data and adjusted scanner data (the latter for the three abovementioned markets only).
- (480) In all the markets where the Parties hold relatively higher market shares according to Euromonitor, they would nevertheless face significant competition from other players:²⁸⁵
- (a) In the prestige male market: L'Oreal ([10-20]%), Puig ([10-20]%), Chanel ([5-10]%), Shiseido ([5-10]%), Burberry Group ([0-5]%) and LVMH ([0-5]%).
 - (b) In the mass male market: Unilever ([10-20]%), L'Oréal ([10-20]%), Remark Groep ([5-10]%) and Mäurer & Wirtz ([5-10]%). The market is also rounded off by a sizeable number of players with smaller shares such as Henkel, Puig, Yves Rocher and Oriflame.
- (481) Although some competitors have expressed concerns as regards the impact of the Transaction in the fragrances markets in the Netherlands, these markets remain still fragmented with strong competitors holding powerful brands.

5.3.3.11.3. Closeness of competition (brand analysis)

- (482) In the prestige male market, while Coty's Calvin Klein or Davidoff are priced by retailers at a rather low price level in the Netherlands – Calvin Klein's average price in 2014 was EUR [Confidential – pricing], Davidoff's average price was EUR [Confidential – pricing] EUR, the Target Businesses' Hugo Boss (EUR [Confidential – pricing]) was positioned at a medium price level (average price in 2014: EUR [Confidential – pricing]) in the Netherlands.²⁸⁶ Thus, there is a price gap between Coty's and the Target Businesses' main brands. The Parties' brands are not the closest to each other on the pricing spectrum, and even where some brands are closely positioned, there are plenty of other large brands in the Netherlands such as L'Oréal's Armani, Cacharel, Lancôme and YSL and Shiseido's Jean-Paul Gaultier, which are priced at around the same level.
- (483) In the mass markets (for both male and female), the price ladder below shows that adidas and Playboy (Coty) are priced towards the low end of the price range and the Target Businesses do not have similarly priced brands and fall within the upper mid-to high end price range. Coty's Beckham, Guess and Beyonce and the Target Busi-

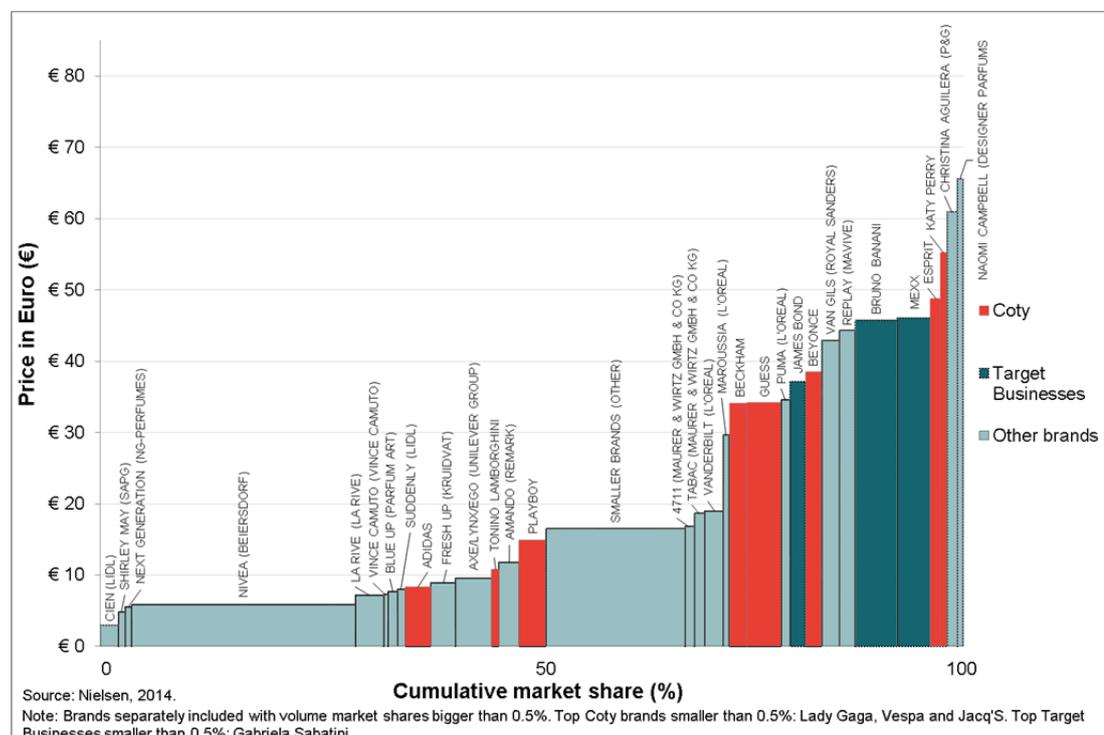
²⁸⁴ Form CO, Annex 7-Frag-General-001-005-Market Share Variations and Parties' response to RFI 3 of 27 January 2016

²⁸⁵ Market shares of competitors based on Euromonitor. Even using adjusted scanner data in the mass, mass male, and mass female fragrances markets, large international competitors such as L'Oréal, Designer Parfums, or Unilever will remain. As an example, in the mass female fragrances market where the Parties' combined shares are highest, these competitors reach [5-10]%, [0-5]% and [0-5]% respectively according to non-rationalised scanner data. In mass male fragrances, L'Oréal and Unilever have [0-5]% market share each, and Beiersdorf is a strong competitor with [10-20]% market share according to adjusted scanner data. See Form CO, paragraph 1574 and following and Parties' response to RFI 14 of 10 February 2016.

²⁸⁶ Form CO, paragraph 1579.

nesses' James Bond are priced in the mid-range of the segment, but there are other competing fragrances also priced in a similar range, for example L'Oréal's Maroussia and Puma. Coty's Esprit and Katy Perry and the Target Businesses' Bruno Banani, Mexx and Gabriella Sabatini and are priced towards the upper end of the price range, along with competing third party brands Van Gils, Naomi Campbell.

Chart 5: Netherlands - Mass fragrances price ladder (2014)



- (484) The price ladder shows that the product ranges of third party brands compete in comparable price ranges to the ones offered by each of the Parties. Moreover, there are several other brands that target specific segments of the market (for instance the low-end segment, or the premium segment). This indicates that the Parties face competition from strong specialised brands in each price point.
- (485) This also suggests that, at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties' competitors, for all of the different price points currently targeted by the Parties.
- (486) Therefore, the Parties' brands are not particularly close to each other on the pricing spectrum, and even where some brands are closely positioned, there are a number of other brands priced at around the same level.²⁸⁷

²⁸⁷ Moreover, due to the fact that a number of sales channels are missing from IRI data, several competing brands of suppliers such as Yves Rocher, Body Shop, Zara and H&M that should feature in the ladders are not covered by the data. The Parties do not have access to any detailed alternative data sources on the price positioning of competing brands that are not captured in scanner data. Notwithstanding this, the Parties set out the relative price positioning of certain brands absent in the price ladders based on their commercial knowledge and experience, as follows: (i) Yves Rocher and The Body Shop are in the upper mass price range, closely positioned to brands such as Beckham or Mexx; (ii) Zara in the low/mid mass price range is closely positioned to brands such as Axe or Nivea; and

- (487) The closeness of competition analysis in the Netherlands is consistent with the general assessment on closeness of competition carried out in Section 5.2.3.
- (488) In the light of the above, the Commission concludes that Coty and the Target Businesses' fragrances products do not appear to be closer substitutes to each other than with the products of their competitors in the Netherlands.

5.3.3.11.4. **Barriers to entry or expansion – innovation**

- (489) The Parties have provided a breakdown of new launches of fragrances products in the last two years (2013-2014, mass and prestige products together)²⁸⁸. They show that the market is characterised by around 200 new launches per year, Coty and the Target Business representing together a little more than 10% of these launches.
- (490) Therefore the Commission concludes that the dynamism and the competitiveness of the Dutch fragrances market is ensured by a high number of new product launches and that this dynamism is spurred by competitive rivalry with other players and not only between the Parties.
- (491) Overall, given that the Parties' combined market shares would remain moderate, given the presence of significant competitors, the fact that the Parties do not appear to be very close competitors, the Commission considers that the Transaction is unlikely to lead to any significant competition concerns in the Dutch fragrances markets.

5.3.3.11.1. **Conclusion**

- (492) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the Netherlands, under any plausible segmentation.

5.3.3.12. Poland

5.3.3.12.1. **Parties' activities**

- (493) In Poland, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beyoncé, Bottega Veneta, Calvin Klein, Celine Dion, Cerruti, Chanson, Chloé, David Beckham, Davidoff, Enrique Iglesias, Halle Berry, Jil Sander, Joop!, Katy Perry, Lady Gaga, Marc Jacobs, Miu Miu, Playboy, Prêt à Porter, Roberto Cavalli, Tonino Lamborghini, Vera Wang and Vespa.²⁸⁹
- (494) The Target Businesses are active with their brands Bruno Banani, Escada, Gabriela Sabatini, Gucci, Hugo Boss, James Bond, Lacoste and Mexx.

5.3.3.12.2. **Commission's assessment**

- (495) In Poland, the fragrances, prestige fragrances, and mass fragrances markets are affected. As described in Table 19 below, a further split of the fragrances market and

(iii) H&M is in the low mass price range and closely positioned to brands such as Adidas, Axe or Playboy. The price positioning of these brands can be generally applied across all geographies in the EEA.

²⁸⁸ Form CO paragraph 1584.

²⁸⁹ [Business secrets redacted].

the prestige fragrances and mass fragrances markets into male and female markets would result in further affected markets:

Table 19: Poland – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[20-30]%	[0-5]%	[20-30]%
<i>All</i>	<i>Male</i>	[10-20]%	[0-5]%	[20-30]%
<i>All</i>	<i>Female</i>	[20-30]%	[0-5]%	[20-30]%
<i>Mass</i>	<i>All</i>	[20-30]%	[0-5]%	[20-30]%
<i>Mass</i>	<i>Male</i>	[20-30]%	[0-5]%	[20-30]%
<i>Mass</i>	<i>Female</i>	[20-30]%	[5-10]%	[20-30]%
<i>Prestige</i>	<i>All</i>	[10-20]%	[0-5]%	[20-30]%
<i>Prestige</i>	<i>Male</i>	[10-20]%	[5-10]%	[20-30]%
<i>Prestige</i>	<i>Female</i>	[20-30]%	[0-5]%	[20-30]%

- (496) Therefore, the Parties' combined market shares would remain low, and not higher than [30-40]%, in all the affected markets.
- (497) Moreover, in all affected markets except for mass female and prestige male fragrances, the Transaction would account for a low increment (below [5-10]%), so that so that there would be no material Transaction-specific effect in these markets.
- (498) Moreover, other strong competitors would remain, including Avon with a share of [10-20]% in the all fragrances market (exercising a strong competition constraint for e.g. on the female mass fragrances market with [30-40]%, where the Parties' combined market shares is highest) or L'Oreal with a share of [5-10]% in the all fragrances market and Oriflame having market shares in the mass female fragrances market of [5-10]%).
- (499) In the Commission's market investigation, some competitors and some customers active in Poland said that the Transaction increased the risk of price increases,²⁹⁰ however the majority of customers in Poland said that the Transaction would have a neutral effect on competition.²⁹¹
- (500) Overall, the Commission considers that in particular the presence of strong competitors and the low combined market shares of the Parties give support to the conclusion that the Transaction would not raise significant competition concerns in the fragrances markets in Poland.

5.3.3.12.3. Conclusion

- (501) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Poland, under any plausible segmentation.

²⁹⁰ Responses to Q1 – questionnaire to competitors, question 62; responses to Q2 – questionnaire to customers, question 53.

²⁹¹ Responses to Q2 – questionnaire to customers, question 53.

5.3.3.13. Portugal

5.3.3.13.1. Parties' activities

- (502) In Portugal, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beckham, Beyoncé, Bottega Veneta, Calvin Klein, Cerruti, Chanson, Chloé, Crossmen, Davidoff, Enrique Iglesias, Guess, Jacq's, Jenifer Lopez, Joop!, Jovan, Katy Perry, Lady Gaga, Lamborghini, Lancaster, Love2Love, Marc Jacobs, Nikos, Playboy, Pret à Porter, Roberto Cavalli, Varon Dandy, Vera Wang and Vespa.
- (503) The Target Businesses are active with their brands Escada, Gucci, Hugo Boss, James Bond and Lacoste.

5.3.3.13.2. Commission's assessment

- (504) In Portugal, the male fragrances, prestige male fragrances and mass male fragrances markets are affected, with combined market shares of respectively [20-30]%, [20-30]% and [20-30]% as described in the Table below:

Table 20: Portugal – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	Male	[5-10]%	[10-20]%	[20-30]%
Mass	Male	[10-20]%	[0-5]%	[20-30]%
Prestige	Male	[0-5]%	[10-20]%	[20-30]%

- (505) Therefore, the market shares of the merged entity would remain low, reaching at most [20-30]%, on all the affected markets.
- (506) Moreover, strong competitors would remain, including Puig and L'Oréal (having e.g. market shares in the male fragrances market of respectively [20-30]% and [10-20]% and in the prestige male market of [20-30]% and [10-20]%). In the mass male fragrances market, where the Parties' combined market shares is highest, Puig would compete strongly (with market share of [10-20]%).
- (507) Finally, while one competitor alleged that the Parties would have significant market shares in the mass male fragrances market,²⁹² no material substantiated concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Portugal.
- (508) Overall, the Commission considers in particular that the low combined market shares of the Parties and the presence of strong competitors support the conclusion that the Transaction would not lead to any significant competition concerns in the fragrances markets in Portugal.

5.3.3.13.3. Conclusion

- (509) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Portugal, under any plausible segmentation.

²⁹² Replies to Q1 – questionnaire to competitors, question 61.

5.3.3.14. Romania

5.3.3.14.1. Parties' activities

- (510) In Romania, Coty supplies fragrances under the following brands: adidas, Adrenaline, Beyoncé, Calvin Klein, Celine Dion, Cerruti, Chanson, Chloe, Chopard, Crossmen, Davidoff, David Beckham, Enrique Iglesias, Esprit, Guess, Halle Berry, Jennifer Lopez, Jil Sander, Joop!, Katy Perry, Lady Gaga, Marc Jacobs, Playboy, Prêt-à-Porter, Roberto Cavalli and Vespa.
- (511) The Target Businesses are active with their brands: Bruno Banani, Escada, Gucci, Hugo Boss, James Bond and Lacoste.

5.3.3.14.2. Commission's assessment

- (512) In Romania, only the male prestige fragrances market is affected, with Parties' combined market shares of [20-30]%.

Table 21: Romania – fragrances (2014)

Fragrances	Coty's share	Target's share	Combined share
<i>Prestige Male</i>	<i>[10-20]%</i>	<i>[5-10]%</i>	[20-30]%

- (513) Therefore, the market share of the merged entity would remain low.
- (514) Moreover, strong competitors would remain on the affected market, including LVMH, having a market share of [10-20]%, or Chanel, having a market share of [10-20]%.
- (515) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Romania.
- (516) Overall, the Commission considers that in particular the low combined market shares and the presence of strong competitors support the conclusion that the Transaction would not lead to any significant competition concerns in the fragrances markets in Romania.

5.3.3.14.3. Conclusion

- (517) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Romania, under any plausible segmentation.

5.3.3.15. Scandinavia - Denmark, Norway and Sweden

5.3.3.15.1. Parties' activities

- (518) In Denmark, Sweden and Norway, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beyoncé, Bottega Veneta, Calvin Klein, Cerruti, Chloé, David Beckham, Davidoff, Guess, Jennifer Lopez, Katy Perry, Lady Gaga, Lancaster, Marc Jacobs, Miu Miu, Nautica, philosophy, Playboy, Roberto Cavalli and

Tonino Lamborghini.²⁹³ Coty distributes its fragrances in Scandinavia through [Business secret – name of distributor].²⁹⁴

- (519) The Target Businesses’ fragrances brands are: Bruno Banani, Escada, Gucci, Hugo Boss, James Bond, Mexx, Lacoste and Stella McCartney. The Target Businesses distribute fragrances in Scandinavia via three distributors: [Business secret – name of distributor] (Denmark), [Business secret – name of distributor] (Norway), and Scandinavian [Business secret – name of distributor] (Sweden).

5.3.3.15.2. Commission's assessment

- (520) At country level, the following markets are affected:

5.3.3.15.2.1. Denmark

- (521) In Denmark, the male fragrances, and the prestige male fragrances markets are affected, with combined market shares of [30-40]% for each. As described in Table 22 below, the overall fragrances, the prestige fragrances, and the prestige female fragrances markets are also affected:

Table 22: Denmark – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[10-20]%	[20-30]%
All	Male	[10-20]%	[10-20]%	[30-40]%
Mass	All	[20-30]%	[0-5]%	[20-30]%
Mass	Male	[30-40]%	[0-5]%	[30-40]%
Prestige	All	[10-20]%	[10-20]%	[20-30]%
Prestige	Male	[5-10]%	[20-30]%	[30-40]%
Prestige	Female	[10-20]%	[5-10]%	[20-30]%

- (522) Therefore, market shares would remain moderate, reaching at most [30-40]%, on all the affected markets.
- (523) Mass and male mass fragrances markets are affected when considering the Target Businesses actual sales data even though Euromonitor reports no market share for the Target Businesses. In any event however, the Target Businesses have only some very limited presence in Denmark in these markets.²⁹⁵ The increment brought about by the Transaction is therefore very limited in these markets, so that so that there would be no material Transaction-specific effect in the mass and male mass fragrances markets.
- (524) Moreover, strong competitors would remain on all affected markets, including L'Oréal and Chanel (having market shares in the prestige fragrances market of [20-30]% and [5-10]% respectively, and in the overall fragrances market of [10-20]% and [5-10]%). L'Oréal will also have significant market shares in the male

²⁹³ [Business secrets redacted].

²⁹⁴ [Business secrets redacted].

²⁹⁵ Form CO, paragraph 1721.

fragrances market ([10-20]%), and in the prestige male fragrances market ([20-30]%).

- (525) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Denmark.
- (526) Overall, the Commission considers that given in particular the low combined market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to raise any significant competition concerns in the Danish fragrances markets.
- (527) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Denmark, under any plausible segmentation.

5.3.3.15.2.2. Norway

- (528) In Norway, the prestige fragrances, the male fragrances, the mass and prestige male fragrances markets are affected, with combined market shares of respectively [20-30]%, [30-40]%, [20-30]%, and [30-40]%. The overall fragrances, the female fragrances and prestige fragrances markets are also affected as described in Table 23 below:

Table 23: Norway – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[10-20]%	[20-30]%
All	Male	[5-10]%	[20-30]%	[30-40]%
All	Female	[10-20]%	[10-20]%	[20-30]%
Mass	Male	[5-10]%	[20-30]%	[20-30]%
Prestige	All	[10-20]%	[10-20]%	[20-30]%
Prestige	Male	[5-10]%	[20-30]%	[30-40]%
Prestige	Female	[5-10]%	[10-20]%	[20-40]%

- (529) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on all the affected markets.
- (530) Moreover, strong competitors would remain, including L'Oréal and LVMH (having e.g. market shares in the prestige fragrances market of respectively [10-20]% and [10-20]%). L'Oréal and Puig will also still hold market shares of respectively [20-30]% and [5-10]% in the male fragrances market. In the prestige male fragrances market, where the Parties' combined market share is the highest, L'Oréal and Puig will also be strong competitors, with market shares of respectively [20-30]% and [10-20]%.
- (531) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Norway.
- (532) Overall, the Commission considers that in particular given the low combined market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to raise any significant competition concerns in the Norwegian fragrances markets.

(533) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Norway, under any plausible segmentation.

5.3.3.15.2.3. *Sweden*

(534) In Sweden, the prestige male fragrances, the prestige fragrances, and the male fragrances markets are affected, with combined market shares of respectively [30-40]%, [30-40]%, and [20-30]%. The overall fragrances, the female fragrances and the prestige female fragrances are also affected as described in Table 24 below:

Table 24: Sweden – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[10-20]%	[20-30]%
All	Male	[5-10]%	[10-20]%	[20-30]%
All	Female	[10-20]%	[5-10]%	[20-30]%
Prestige	All	[10-20]%	[10-20]%	[20-30]%
Prestige	Male	[5-10]%	[20-30]%	[30-40]%
Prestige	Female	[10-20]%	[10-20]%	[20-30]%

(535) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]% on all the affected markets.

(536) Moreover, strong competitors would remain, including L'Oréal and Unilever (having e.g. market shares in the overall fragrances market of respectively [10-20]% and [5-10]%, and in the male fragrances market of [20-30]% and [10-20]%). L'Oréal will also still hold market shares of [20-30]% in the prestige fragrances market and of [10-20]% in the prestige female fragrances market. In the prestige male fragrances market, where the Parties' combined market share is the highest, L'Oréal and Puig will also be strong competitors with market shares of respectively [20-30]% and [10-20]%.

(537) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Sweden. One Swedish retailer explained that "*There are still large actors on the Swedish market e.g L'Oréal, Sörensson.*"²⁹⁶

(538) Overall, the Commission considers that in particular given the low combined market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to raise any significant competition concerns in the Swedish fragrances markets.

(539) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Sweden, under any plausible segmentation.

²⁹⁶ See replies to Q2 – questionnaire to customers, question 52.1.1.

5.3.3.15.3. Conclusion

(540) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Denmark, Norway, and Sweden neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

5.3.3.16.Slovenia

5.3.3.16.1. Parties' activities

(541) In Slovenia, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beyoncé, Calvin Klein, Cerruti, Chloé, Chopard, David Beckham, Davidoff, Guess, Jil Sander, Joop!, Katy Perry, Marc Jacobs, Miu Miu, Playboy, and Roberto Cavalli. Coty distributes its prestige fragrances in Slovenia via the distributor [Business secret – name of distributor] and its mass fragrances via the distributor [Business secret – name of distributor].

(542) The Target Businesses supply the following fragrances brands: Bruno Banani, Escada, Gabriela Sabatini, Gucci, Lacoste, Hugo Boss and James Bond. P&G distributes its fragrances in Slovenia via the distributor [Business secret – name of distributor].

5.3.3.16.2. Commission's assessment

(543) In Slovenia, the fragrances market, prestige fragrances segment and mass fragrances segment are affected. As described in the table below, a further split of the fragrances market and the prestige fragrances and mass fragrances markets into male and female markets would result in further affected markets.

(544) The Parties' market shares²⁹⁷ in the affected fragrances markets in Slovenia amount to the following figures in 2014:

Table 25: Slovenia – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
<i>All</i>	<i>All</i>	[10-20]%	[10-20]%	[20-30]%
<i>All</i>	<i>Male</i>	[10-20]%	[10-20]%	[20-30]%
<i>All</i>	<i>Female</i>	[10-20]%	[10-20]%	[30-40]%
<i>Mass</i>	<i>All</i>	[10-20]%	[10-20]%	[20-30]%
<i>Mass</i>	<i>Male</i>	[10-20]%	[5-10]%	[20-30]%
<i>Mass</i>	<i>Female</i>	[20-30]%	[10-20]%	[30-40]%
<i>Prestige</i>	<i>All</i>	[10-20]%	[10-20]%	[30-40]%
<i>Prestige</i>	<i>Male</i>	[10-20]%	[10-20]%	[20-30]%
<i>Prestige</i>	<i>Female</i>	[10-20]%	[20-30]%	[30-40]%

²⁹⁷ As described in Section 5.1.2, the Parties submit that the evidence suggests that the increment to the Target Businesses' share in Slovenia should be materially lower. The Parties note that the company level increment associated to P&G's fragrances share is likely to be related to P&G brands which are not part of the Proposed Transaction, in particular Christina Aguilera which is not explicitly captured in the Euromonitor brand level data. The Commission has verified that the adjustments proposed by the Parties for Slovenia are in line with the composition of the brand portfolio which is within the scope of the Transaction at the day of notification and therefore considers the adjustments to be acceptable in light of the dynamic competitive assessment the Commission conducts.

- (545) Therefore, the Parties' combined market shares would remain moderate, reaching at most [30-40]%, in all the affected markets.
- (546) Moreover, in each of the affected markets, strong competitors would remain, including L'Oréal (with market shares in the overall, male and female fragrances markets of respectively [10-20]%, [10-20]% and [10-20]%) and Luxess (with market shares in the overall, male and female fragrances markets of respectively [5-10]%, [5-10]% and [5-10]%). Post Transaction, the same international companies will compete with the Parties in the remaining affected market delineations. In 2014, L'Oréal and Luxess respectively had shares of [10-20]% and [5-10]% in the mass fragrances market, of [10-20]% and [10-20]% in the mass female market and [10-20]% and [5-10]% shares in the mass male fragrances market. In the overall prestige fragrances market, where the Parties combined market share is the highest, significant competitors such as Chanel would remain, with market shares of [10-20]%. In the prestige male fragrances market, LVMH's market shares amounted to [10-20]%, followed by Chanel with [5-10]% and L'Oréal with [5-10]%. In the prestige female fragrances market, Chanel is the biggest competitor of the Parties, with [20-30]%, followed by Elizabeth Arden ([10-20]%) and Puig ([5-10]%).
- (547) Finally, a competitor expressed concerns that the Transaction would strengthen the merged entity's position in the mass female and mass male fragrances, quoting scanner data market shares. However, for the reasons outlined in Section 5.1, the assessment of market shares and market characteristics is best served by the Euromonitor data.
- (548) No further material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Slovenia.
- (549) Besides, a majority of respondents to the market investigation indicated that there will be sufficient competition to prevent the merged entity from raising prices post Transaction.²⁹⁸
- (550) Overall, the Commission considers that in particular given the low combined market shares of the Parties and the presence of significant competitors, the Transaction is unlikely to raise any significant competition concerns in the Slovenian fragrances markets.

5.3.3.16.3. **Conclusion**

- (551) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Slovenia, under any plausible segmentation.

5.3.3.17. Country cluster – UK and Ireland

5.3.3.17.1. **Parties' activities**

- (552) In the UK and Ireland, Coty supplies fragrances under the following brands: adidas, Balenciaga, Beckham, Beyoncé, Bottega Veneta, Calvin Klein, Céline Dion, Cerruti, Chloé, Chopard, Davidoff, Enrique Iglesias, Guess, Jennifer Lopez, Joop!, Jovan,

²⁹⁸ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

Katy Perry, Lady Gaga, Marc Jacobs, Miu Miu, philosophy, Playboy, Roberto Cavalli, Vera Wang and Vivienne Westwood.²⁹⁹

- (553) Coty negotiates and sells products direct to retailers in the UK. Prestige fragrances are sold to department stores in Ireland through contacts in the UK (since all department stores in Ireland are owned by UK Groups). A small amount of prestige fragrances are sold direct to local customers in Ireland. Mass fragrances are supplied in Ireland to local customers via a distributor (Jaymark). It is estimated that approximately [5-10]% of Coty's business in the UK/Ireland country cluster concerns Irish customers without a presence in the UK. While prestige fragrances are generally supplied through Coty UK, for mass products (including colour cosmetics and celebrity fragrances) Coty estimates that approximately 2/3rds of all customers in Ireland purchase their goods in Ireland.³⁰⁰
- (554) The Target Businesses are active with the following fragrance brands: James Bond,³⁰¹ Bruno Banani, Mexx, Escada, Gucci, Hugo Boss, Lacoste and Stella McCartney.
- (555) [Business secret – operational information]; they sell directly to retailers in the prestige channel and use two distributors for various mass fragrances. In Ireland, fragrances are sold directly from the UK to large customers or through a distributor. Irish customers often source their needs from both the UK and Ireland. As an example, the Target Businesses directly supply [Business secret – operational information], which then exports products to [Business secret – operational information]. Similarly, [Business secret – operational information] imports products from [Business secret – operational information]. According to the Target Businesses' best estimate, the purchasing part of direct supplies to Irish customers would represent 80% of the Irish consumption.³⁰²

5.3.3.17.2. Commission's assessment

- (556) At country level, the following markets are affected:

5.3.3.17.2.1. UK

- (557) In the UK the fragrances market, as well as the prestige, male, and prestige male markets are affected, as described below:

Table 26: UK– fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[10-20]%	[5-10]%	[20-30]%
All	Male	[10-20]%	[10-20]%	[20-30]%
Prestige	All	[10-20]%	[10-20]%	[20-30]%
Prestige	Male	[10-20]%	[10-20]%	[20-30]%

²⁹⁹ [Business secrets redacted].

³⁰⁰ Form CO, paragraph 1855.

³⁰¹ Whilst James Bond is treated as a mass fragrance brand in most countries, in the UK it is considered a prestige fragrances brand and sold to prestige outlets.

³⁰² Form CO, paragraph 1856.

- (558) Therefore, the market shares of the merged entity would remain low, reaching at most [20-30]%, on all the affected markets.
- (559) Moreover, even in the prestige male fragrances market where the combined market share of the Parties is highest, strong competitors would remain, such as L'Oréal and Puig with a share of [10-20]%, or Estée Lauder and Shiseido with a share of [5-10]% each.
- (560) While some respondents to the market investigation raised concerns that the merged entity would combine strong brands of the Parties, the majorities of respondents among all groups queried did not raise any substantiated competition concerns.³⁰³ Given the overall low market shares in the UK, which are significantly below [30-40]% and the presence of strong competitors, like L'Oréal, Estée Lauder or Chanel with market shares of [5-10]%, [5-10]%, and [5-10]% in the all fragrance market respectively (and comparable shares in the other affected markets), the Transaction is unlikely to lead to any negative effects on competition.
- (561) Overall, given that Parties' combined market shares would remain low, given the presence of significant competitors and given the fact that a majority of respondents to the Commission's market investigation expects there to be sufficient competition post-Transaction, the Commission considers that the Transaction is unlikely to lead to any significant competition concerns in the UK fragrances markets.
- (562) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the UK, under any plausible segmentation.

5.3.3.17.2.2. *Ireland*

- (563) In Ireland, the fragrances market, as well as the prestige, male, prestige male female and prestige female fragrances markets are affected, as described below:

Table 27: Ireland – fragrances (2014)

Fragrances		Coty's share	Target's share	Combined share
All	All	[20-30]%	[5-10]%	[20-30]%
All	Male	[10-20]%	[10-20]%	[20-30]%
All	Female	[20-30]%	[5-10]%	[20-30]%
Prestige	All	[20-30]%	[5-10]%	[30-40]%
Prestige	Male	[10-20]%	[10-20]%	[30-40]%
Prestige	Female	[20-30]%	[5-10]%	[30-40]%

- (564) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on the affected markets.
- (565) Moreover, strong competitors would remain, exerting competition constraint, such as L'Oréal and LVMH (having market shares of respectively [10-20]% and [5-10]% in the fragrances market, of [10-20]% and [10-20]% in the prestige fragrances market, and of [10-20]% and [5-10]% in the female fragrances market). L'Oréal and Puig will also be strong competitors in the male fragrances market (with market shares of

³⁰³ Responses to Q1 – questionnaire to competitors, question 61; responses to Q2 – questionnaire customers, question 52; responses to Q5 – questionnaire to distributors, question 52.

respectively [5-10]% and [10-20]%) and in the prestige male fragrances market (with market shares of respectively [10-20]% and [10-20]%). In the prestige fragrances markets, where the Parties' combined market share is the highest, strong competitors such as L'Oréal and LVMH will also remain, with [10-20]% and [10-20]% market shares.

- (566) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about fragrances in Ireland.³⁰⁴
- (567) Overall, given that Parties' combined market shares would remain moderate, given the presence of significant competitors and given the fact that a majority of respondents to the Commission's market investigation expects there to be sufficient competition post-Merger, the Commission considers that the Transaction is unlikely to lead to any significant competition concerns in the Irish fragrances market.
- (568) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in Ireland, under any plausible segmentation.

5.3.3.17.3. Conclusion

- (569) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for fragrances in the UK and Ireland neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

5.4. The colour cosmetics markets

5.4.1. Introduction and affected markets

- (570) The colour cosmetics category is the 3rd largest beauty category, behind skin care and hair care. The total retail sales values generated with colour cosmetics in 2014 within the EEA amounted to EUR 10 billion, of which around 2.6 billion related to prestige colour cosmetics. Face is the biggest segment, followed by eye, lip, and finally nail (respectively 36, 28, 24, and 12%).
- (571) The overall European annual growth rate for mass colour cosmetics is expected to range at 3-4% over the next four years. The main drivers for growth in most countries are increasing usage and product diversification. Eastern European countries are expected to experience the highest growth rates of up to 6-8%. In more mature markets with a less positive economic outlook, such as Italy, Spain or France, growth rates are expected to lag behind the European average at about 1-2%. The impact of retailer brands and brands with an offering at lower price points may limit the value growth. The German and British markets are expected to grow at about the European average of 3-4%, driven by higher usage rates.³⁰⁵
- (572) Prestige colour cosmetics would not lead to any affected market, under any plausible segmentation.³⁰⁶ As a consequence, the present decision will assess the Transaction

³⁰⁴ Responses to Q1 – questionnaire to competitors, question 61; responses to Q2 – questionnaire customers, question 52; responses to Q5 – questionnaire to distributors, question 52.

³⁰⁵ See e.g. reply of the Parties to RFI 10 of 4 February 2016.

³⁰⁶ Form CO, paragraph 52.

in more detail in the colour cosmetics mass markets, and its plausible sub-segments mass nail, mass lip, mass face and mass eye colour cosmetics, as the narrowest plausible markets.

(573) Table 28 below sets out the relevant shares for affected EEA markets in mass colour cosmetics based on Euromonitor data.

Table 28: Affected markets in mass colour cosmetics market (2014)

Country / Cluster	Coty share	Target Businesses share	Combined share
Austria	[20-30]%	[10-20]%	[30-40]%
Croatia	[10-20]%	[20-30]%	[30-40]%
Cyprus	[10-20]%	[5-10]%	[20-30]%
Czech Republic / Slovakia	[20-30]%	[5-10]%	[30-40]%
<i>Czech Republic</i>	<i>[10-20]%</i>	<i>[5-10]%</i>	<i>[20-30]%</i>
<i>Slovakia</i>	<i>[20-30]%</i>	<i>[5-10]%</i>	<i>[30-40]%</i>
Denmark (part of Scandinavia cluster)	[10-20]%	[10-20]%	[30-40]%
Hungary	[10-20]%	[5-10]%	[20-30]%
Italy	[5-10]%	[10-20]%	[20-30]%
Malta	[10-20]%	[10-20]%	[30-40]%
Netherlands	[20-30]%	[10-20]%	[30-40]%
Poland	[20-30]%	[0-5]%	[20-30]%
Slovenia	[5-10]%	[20-30]%	[20-30]%
Spain	[20-30]%	[5-10]%	[30-40]%
UK/Ireland	[10-20]%	[5-10]%	[20-30]%
<i>UK</i>	<i>[10-20]%</i>	<i>[5-10]%</i>	<i>[20-30]%</i>
<i>Ireland</i>	<i>[10-20]%</i>	<i>[5-10]%</i>	<i>[20-30]%</i>
EEA	[10-20]%	[5-10]%	[20-30]%

Source: Euromonitor data, Form CO, paragraph 2047

(574) Further affected markets arise when considering various market segmentations (e.g. eye/lip/face/nail colour cosmetics). Shares for the affected markets (including under all segmentations in each national market), as well as details on the competitive assessment, are provided in each country section below, as relevant.³⁰⁷

(575) For completeness, the Commission also notes that according to scanner data Estonia and Lithuania would also be affected in narrow market delineations. In particular, on the basis of Nielsen data, the mass eye colour cosmetics market would be affected in Estonia (combined market shares of [20-30]%) and Lithuania (combined market shares of [20-30]%) and the mass face colour cosmetics market would be affected in

³⁰⁷ In the country section for the colour cosmetics markets, the affected markets under any plausible market delineation are presented on the basis of Euromonitor data. As explained in Section 5.1.2, affected markets according to scanner data are also considered when the Commission considers that the Parties' proposed adjustments for scanner data did not suffice to explain substantial discrepancies between the two sets of data (notably, the Czech Republic eye and face colour cosmetics markets).

Estonia (combined market shares of [20-30]%). The Parties' combined market shares would be low (below [20-30]%) in all three affected markets. Moreover, in all these three markets the Parties would continue to face competition by L'Oréal, the market leader, with higher shares than the Parties' combined shares in all affected markets. Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Estonia or Lithuania. Therefore, the Commission considers that given the low combined market shares of the Parties and the presence of strong players able to effectively constrain them, the Transaction does not raise any serious doubts in the colour cosmetics markets in Estonia and Lithuania.

5.4.2. EEA-wide assessment

5.4.2.1. Parties' activities

(576) In the EEA, Coty supplies global brands Rimmel, OPI, CK Color, and Sally Hansen as well as Bourjois, Manhattan, Astor, NYC and Miss Sporty, which are brands with a more regional focus.

(577) The Target Businesses' main brand in the EEA is Max Factor. The Parties mention also that there are very limited sales of other Target Businesses brands in the EEA exist for Gucci (which has a very low level of distribution) and Cover Girl (which is not marketed by the Target Businesses, and believed to be present via parallel imports in very small amounts in Ireland).³⁰⁸

5.4.2.2. Commission's assessment

(578) At EEA level, the mass colour cosmetics market is affected, with combined market shares of [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%).³⁰⁹

(579) As described in Table 29 below, the mass eye, mass face, mass lip and mass nail colour cosmetics markets are also affected.

Table 29: EEA – colour cosmetics

	Mass Eye	Mass Face	Mass Lip	Mass Nail
Coty	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Target Businesses	[5-10]%	[10-20]%	[5-10]%	[0-5]%
Combined	[20-30]%	[20-30]%	[20-30]%	[20-30]%

(580) Therefore, the market shares of the merged entity would remain low, reaching at most [20-30]% on all affected markets.

(581) Moreover, strong competitors would remain, including L'Oréal and Cosnova (with market shares in the mass colour cosmetics markets of [20-30]% and [5-10]% re-

³⁰⁸ Form CO, paragraph 45.

³⁰⁹ There are rounding effects in the presentation of market shares of the Parties across the Decision.

spectively). In the mass lip colour cosmetics market, where the Parties' combined market share is highest, L'Oréal and Cosnova market shares would be [20-30]% and [5-10]% respectively.

- (582) Retailer brands are also exercising a material competitive constraint on the Parties at EEA level, with aggregated market shares on both mass colour cosmetics and mass lip colour cosmetics markets of [5-10]% and [5-10]% respectively.
- (583) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics at EEA level. A customer is concerned that the Transaction would strengthen the merged entity's negotiating power vis-à-vis retailers, whereas another customer pointed out that the Transaction may lead to a price increase and lessening of innovation and product quality in the EEA³¹⁰ However, a majority of the market participants consider that the Transaction would have a neutral impact on the colour cosmetics market in the EEA³¹¹ and some customers indicated that the Transaction may also spur competition between the merged entity and the market leader L'Oréal.³¹²
- (584) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns should the colour cosmetics markets be defined at EEA-wide level.

5.4.2.3. Conclusion

- (585) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the EEA, under any plausible product segmentation.

5.4.3. Country/Cluster assessment

5.4.3.1. Austria

5.4.3.1.1. Parties' activities

- (586) In Austria, Coty supplies colour cosmetics under the following brands: Astor, Manhattan,³¹³ Sally Hansen and OPI.
- (587) The Target Businesses supply colour cosmetics under the brands Max Factor (which fully includes Ellen Betrix in Austria) and Gucci.

5.4.3.1.2. Commission's assessment

Market shares

- (588) In Austria, the colour cosmetics and mass colour cosmetics markets are affected. In 2014, the Parties' combined market shares amounted to [30-40]% (Coty: [10-20]%, Target Businesses: [10-20]) and [30-40]% (Coty: [20-30]%, Target Businesses:

³¹⁰ See responses to Q2 – questionnaire to customers, question 53.2.1.

³¹¹ See responses to Q1- questionnaire to competitors, question 62.2 and to Q2 – questionnaire to customers, question 53.2.

³¹² See responses to Q2 – questionnaire to customers, question 53.2.

³¹³ This includes to a limited extent Manhattan Clearface products.

[10-20]%) respectively. As described in Table 30 below, the eye, face, lip and nail colour cosmetics and the mass eye, face, lip and nail colour cosmetics markets are also affected:

Table 30: Austria – colour cosmetics (2014)

	Mass Eye	Mass Face	Mass Lip	Mass Nail	Eye	Face	Lip	Nail
Coty	[20-30]%	[20-30]%	[20-30]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[10-20]%
Target Businesses	[20-30]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[0-5]%
Combined	[40-50]%	[30-40]%	[30-40]%	[20-30]%	[30-40]%	[30-40]%	[30-40]%	[20-30]%

(589) In the overall colour cosmetics market, the Parties will continue to face significant competition by a number of international players which will remain active in the Austrian segment with material shares post-transaction, including L’Oréal ([20-30]%), Cosnova ([5-10]%), and Yves Rocher ([0-5]%). The same competitors are also competing with the Parties in the mass colour cosmetics market with very similar market shares (L’Oréal Groupe ([20-30]%), Cosnova ([5-10]%) and Yves Rocher ([5-10]%).

(590) Except for (mass) eye colour cosmetics, the market shares of the merged entity would remain moderate, reaching at most [30-40]% in all affected markets, and significant competitors would remain in all affected markets, including L’Oréal and Cosnova.

(591) In the mass eye market, where the Parties' combined market shares amount to [40-50]%, strong competitors would also be active, in particular L’Oréal and Cosnova with respective market shares of [20-30]% and [5-10]%.³¹⁴ Similar competitor market shares can be observed in the overall eye and mass face markets.

Closeness of competition (brand analysis)

(592) The Parties' largest brands in Austria are Astor, Rimmel, and Manhattan (Coty); and Max Factor (Target Businesses).

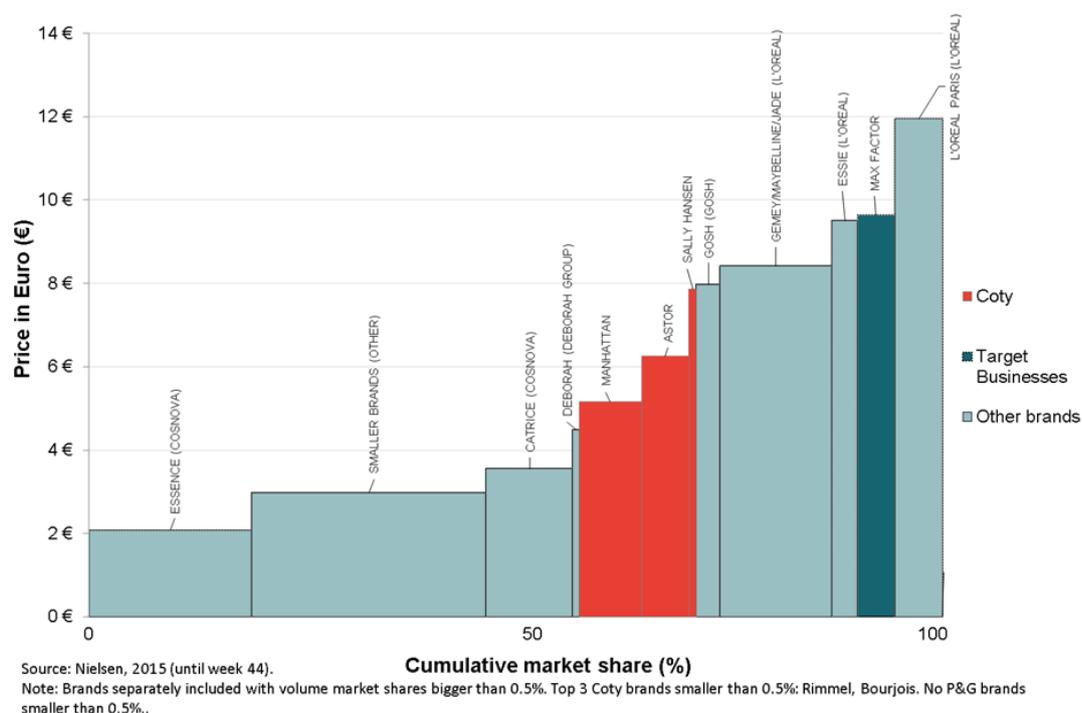
(593) In Austria, Max Factor is positioned most closely to the L’Oréal brand L’Oréal Paris, with the two brands sharing very similar characteristics such as their brand positioning and key marketing messages and, ultimately, their target consumers. None of Coty’s brands Bourjois, NYC and Rimmel are positioned particularly close to Max Factor. Compared to the latter, Coty’s brands appeal to younger women, are perceived as brands offering a large colour range and good value for money. While amongst the Coty brands Astor has a slightly older target group than for instance Manhattan or Rimmel (with Astor customers usually being 30+ years), its proposition is different from that of Max Factor and targets a different population. Overall, the Coty brands appear closer to Deborah (Debby) and, to some extent, L’Oréal’s Maybelline in Austria.³¹⁵

³¹⁴ Form CO, paragraph 2259.

³¹⁵ See Form CO, paragraphs 2279 and 2280.

(594) Furthermore, retail price positioning shows that the average retail pricing of Coty’s brands is not close to that of Max Factor. There is, in fact, a large discrepancy between the pricing level of Coty’s brands and that of Max Factor. The price ladder for mass colour cosmetics in Austria below shows that Coty’s largest brands are positioned at an intermediate price level whereas the Target Businesses’ Max Factor brand is positioned at a higher price level.

Chart 6: Austria – Mass colour cosmetics price ladder (2014)



(595) The price ladders show that the product ranges of third party brands compete in comparable price ranges to the ones offered by each of the Parties. Moreover, there are several other brands that target specific segments of the market (for instance the low-end segment). This indicates that the Parties face competition from strong specialised brands in each price point.

(596) This suggests that, at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by each of the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties’ competitors, for all of the different price points currently targeted by the Parties.

(597) Besides, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties’ brands do not compete more closely with each other than they do with third party brands. No specific issues were raised concerning Austria.

(598) In light of the above, the Commission concludes that Coty and the Target Businesses' colour cosmetics products do not appear to be closer substitutes to each other than with the products of their competitors in Austria.

Barriers to entry or expansion – innovation

(599) As indicated in Section 5.2.8 a majority of respondents active in the market indicated that in general, launching new colour cosmetics would only be moderately difficult, and that retailers are generally willing to give new concepts and brands test slots in a

limited number of outlets before commercializing new products, and no specific issues were raised concerning Austria.

- (600) In particular in Austria, since 2010, three competing brands have entered the segment and gained significant shares, of above [0-5]% already in 2013, according to Nielsen-based segment data: Catrice, essie and Gosh.³¹⁶
- (601) Furthermore, recent expansion in Austria includes the launch of the Cosnova brands essence and Catrice at Bipa in August 2015. As per 2014, essence and Catrice both had achieved shares of around [0-5]%, based on Euromonitor data.
- (602) The Commission considers that these recent examples show that barriers in the Austrian colour cosmetics market can be overcome.
- (603) Therefore the Commission concludes that the dynamism and the competitiveness of the Austrian market is ensured by new product launches and that this dynamism is spurred by competitive rivalry with other players and not only between the Parties.

Other competitive forces

- (604) In the Commission's market investigation, to the question whether there will be sufficient competition to prevent the merged entity from raising prices post Transaction, most respondents answer positively.³¹⁷ For example, one significant competitor to the Parties said that "*Austria has historically had higher prices than Germany, but a process of convergence is on its way since a few years, so we do not expect price increases in Austria without Germany increasing prices as well*".³¹⁸
- (605) Furthermore, no other material concern on the effects of the Transaction was raised by respondents to the market investigation about the colour cosmetics markets in Austria.³¹⁹
- (606) Overall, the Commission considers that the presence of strong competitors with close alternatives to the Parties' brands and the absence of negative comments from respondents to the market investigation support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Austria.

5.4.3.1.3. Conclusion

- (607) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Austria, under any plausible segmentation.

³¹⁶ Gosh Copenhagen, established in Denmark, is a producer of colour cosmetics, skin care products, hair care products and personal care products. Gosh's products are sold in approximately 80 countries, including all the Member States in the EEA. Reply to Q1 - questionnaire to competitors, question 1 and 2.

³¹⁷ Replies to Q1 - questionnaire to competitors, question 61.1; Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

³¹⁸ Cosnova, Replies to Q1 - questionnaire to competitors, question 61.1,

³¹⁹ Replies to Q1 - questionnaire to competitors, question 61.2 ; Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

5.4.3.2. Bulgaria

5.4.3.2.1. Parties' activities

- (608) In Bulgaria, Coty supplies colour cosmetics under the following brands: Astor, Bourjois, Manhattan, Miss Sporty, OPI, Rimmel and Sally Hansen³²⁰.
- (609) The Target Businesses supply colour cosmetics only under the Max Factor brand.

5.4.3.2.2. Commission's assessment

- (610) In Bulgaria, only the lip and the mass lip colour cosmetics markets are affected. In 2014, the Parties' combined market shares amounted to [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) and [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) respectively.
- (611) Moreover, significant competitors would remain, including Erkul Kozmetik (with market shares in the lip colour cosmetics of [5-10]% and in mass lip colour cosmetics of [5-10]%) and L'Oréal (with market shares in lip colour cosmetics of [5-10]% and in mass lip colour cosmetics of [5-10]%). Avon, with direct sales, is also exercising competition constraint, with market shares on both segments of [10-20] and [10-20]% respectively.
- (612) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Bulgaria.³²¹
- (613) Overall, the Commission considers that the low combined market shares and the presence of strong competitors support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Bulgaria.

5.4.3.2.3. Conclusion

- (614) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Bulgaria, under any plausible segmentation.

5.4.3.3. Croatia

5.4.3.3.1. Parties' activities

- (615) In Croatia, Coty supplies colour cosmetics under the following brands: Rimmel, Manhattan, Bourjois and OPI.
- (616) The Target Businesses are active with their brand Max Factor.

5.4.3.3.2. Commission's assessment

- (617) In Croatia, the colour cosmetics and mass colour cosmetics markets are affected. In 2014, the Parties' combined market shares amounted to [30-40]% and [30-40]% respectively, as described in Table 32 below:

³²⁰ Coty has recently started to sell Sally Hansen in Bulgaria (September 2015).

³²¹ Replies to Q1 - questionnaire to competitors, question 61.2; Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

Table 32: Croatia – colour cosmetics

	Colour	Mass Colour	Mass Eye	Mass Lip	Mass Face	Mass Nail
Coty	[5-10]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[10-20]%
Target Businesses	[20-30]%	[20-30]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%
Combined	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[40-50]%	[20-30]%

Source: Form CO; for eye, lip, face and nail, see response to RFI 12 of 8 February 2016, question 4

- (618) Therefore, the market shares of the merged entity would remain moderate, reaching [30-40]% at most on the affected markets, except for mass lip and mass face colour cosmetics.
- (619) The Parties compete with strong international players, such as L'Oréal and Cosnova, with market shares in the colour cosmetics markets of [20-30]% and [20-30]% respectively. In the mass colour cosmetics market, where the Parties' combined market share is [30-40]%, L'Oréal's and Cosnova's market shares would be [20-30]% and [20-30]% respectively.
- (620) Within the eye, lip, nail and face colour cosmetics markets, the Parties would continue to face Cosnova and L'Oréal as strong competitors. In the mass face colour cosmetics market, where the Parties' market shares would be highest, Cosnova and L'Oréal would still reach [20-30]% and [10-20]% respectively. In mass lip, Cosnova ([30-40]%) and L'Oréal ([10-20]%) would also be strong competitors.
- (621) Moreover, the Target Businesses' Max Factor brand is not a particularly close competitor to any of Coty's brands that are sold in Croatia. On the contrary, evidence supports that Max Factor is closest to L'Oréal's brand range on the basis of brand positioning and price points.³²²
- (622) Besides, the launch of the Cosnova brands essence and Catrice is a prime example of successful entry and subsequent expansion in Croatia. Since the launch of essence in 2008 and of Catrice in 2010, Cosnova was able to raise its share up to [20-30]% and become one of the largest suppliers and most important competitors in the segment. Both Cosnova's brands essence and Catrice have been expanding and constraining the Parties' brands. In addition to Cosnova, other players entered recently in the Croatian colour cosmetics markets, such as the two Italian companies Deborah and KIKO.³²³
- (623) A competitor expressed concerns as regards the strengthening of Coty's market position in Croatia, due to the acquisition of the Target Businesses' brand Max Factor. However, the Commission is of the view that the Transaction would not combine particularly close competitors and several strong suppliers of colour cosmetics would remain active and be able to constrain the merged entity post-Transaction. Finally,

³²² See Form CO, paragraphs 2353 and 2370-2373.

³²³ See Form CO, paragraphs 2376 and 2377.

no other material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Croatia.³²⁴

(624) Overall, the Commission considers that given the moderate combined market shares of the Parties and the presence of strong competitors with close alternative to the Parties' brands, the Transaction does not raise any significant competition concerns in the Croatian colour cosmetics markets.

5.4.3.3.3. Conclusion

(625) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Croatia, under any plausible segmentation.

5.4.3.4. Cyprus

5.4.3.4.1. Parties' activities

(626) In Cyprus, Coty supplies colour cosmetics under the following brands: Bourjois, Rimmel and Sally Hansen.

(627) The Target Businesses are active with their brand Max Factor.

5.4.3.4.2. Commission's assessment

(628) In Cyprus, the mass colour cosmetics market is affected. In 2014, the Parties' combined market share in this market was low amounting to [20-30]% (Coty [10-20]%, the Target Businesses [5-10]%).

(629) The mass eye, mass face, mass lip and mass nail colour cosmetics markets are also affected. In 2014, the Parties' combined market shares in these markets are described in Table 33 below:

Table 33: Cyprus – colour cosmetics

	Mass Eye	Mass Face	Mass Lip	Mass Nail
Coty	[10-20]%	[10-20]%	[10-20]%	[20-30]%
Target Businesses	[5-10]%	[5-10]%	[5-10]%	[0-5]%
Combined	[20-30]%	[20-30]%	[20-30]%	[20-30]%

(630) Therefore, the market shares of the merged entity would remain low, reaching [20-30]% at most on the affected markets.

(631) In the mass colour cosmetics markets in Cyprus, strong competitors will remain, constraining the merged entity, in particular L'Oréal ([40-50]%) and Gosh ([10-20]%).

³²⁴ See responses to Q1 – questionnaire to competitors, question 61.2, to Q2- questionnaire to customers, question 52.2 and to Q5 – questionnaire to distributors, question 52.2.

- (632) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Cyprus.³²⁵
- (633) Overall, the Commission considers that, in particular, the low Parties' combined market shares, the presence of strong competitors, and the fact that no material concern on the effects of the Transaction was raised by respondents to the market investigation, support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Cyprus.

5.4.3.4.3. Conclusion

- (634) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Cyprus, under any plausible segmentation.

5.4.3.5. Country cluster – Czech Republic and Slovakia

5.4.3.5.1. Parties' activities

- (635) In Czech Republic and Slovakia, Coty supplies colour cosmetics under the following brands: Astor, Bourjois, OPI, Rimmel, Miss Sporty, New York Colour and Sally Hansen.
- (636) The Target Businesses are active with their brand Max Factor.

5.4.3.5.2. Commission's assessment

- (637) At country level, the following markets are affected:

5.4.3.5.2.1. Czech Republic

Market shares

- (638) In the Czech Republic the overall colour cosmetics market and the mass cosmetics segments are affected markets; in 2014, the Parties' combined market shares amounted to [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) and [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) respectively. The face, lip and nail colour cosmetics and the mass face, eye, lip and nail colour cosmetics markets are also affected, as indicated in Table 34 below:

Table 34: Czech Republic – colour cosmetics

	Mass Face	Mass Lip	Mass Nail	Face	Lip	Nail
Coty	[10-20]%	[20-30]%	[20-30]%	[10-20]%	[20-30]%	[20-30]%
Target Businesses	[0-5]%	[10-20]%	[0-5]%	[0-5]%	[10-20]%	[0-5]%
Combined	[20-30]%	[30-40]%	[20-30]%	[20-30]%	[30-40]%	[20-30]%

³²⁵ Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

- (639) The merged entity will have a low market share of [20-30]% and of [20-30]% in the mass colour cosmetics market and in the colour cosmetics market respectively. The Transaction thus will have a limited impact on these markets.
- (640) Moreover, the increments brought about by the Transaction in face, nail, mass face and mass nail markets are limited, so that there would be no material Transaction-specific effect in these markets.
- (641) As discussed in Section 5.1.2 above, the Parties' adjustments of scanner data which did not suffice to account for the difference between the datasets in the Czech Republic relate to the following markets: mass eye (which is not affected using Euromonitor data) and mass face colour cosmetics. In these markets, the Commission has assessed the rationalisation of the data submitted by the Parties and notes that: (i) the mass eye and mass face colour cosmetics sales captured by the Nielsen data only represent around 70% of sales captured in Euromonitor; (ii) according to Euromonitor, almost 30% of sales relate to direct sales (from brands such as Oriflame and Avon) which are not captured in the Nielsen data; and (iii) if one adjusts the Nielsen data in the colour cosmetics segments to reflect these missing sales, the remaining difference between the two datasets in terms of the Parties' combined share remains sizeable (above 9 percentage points difference between adjusted scanner data and Euromonitor data) in the mass eye and mass face colour cosmetics markets, however the Parties' adjusted combined shares reach [30-40]% and [30-40]% in these markets respectively.³²⁶
- (642) Therefore, if both Euromonitor data and scanner data were to be considered, the market shares of the merged entity in all the mass affected markets would remain moderate, reaching at most [30-40]% in the mass lip colour cosmetics market.
- (643) Moreover, the Parties face and would continue to face strong competitors such as L'Oréal and Avon with market shares in the colour cosmetics markets of [10-20]% and [10-20]% respectively.
- (644) In the mass lip colour cosmetics market, where the Parties have the highest combined market share, L'Oréal ([10-20]%), Yves Rocher ([5-10]%), LVMH ([5-10]%) and Avon ([5-10]%) would strongly compete and constrain the merged entity.³²⁷
- (645) As explained in Section 5.2.6 above, direct sellers such as Avon and Oriflame, are particularly strong in Central Eastern European countries due to historical reasons. This is evidenced, for example, by a study commissioned by Coty in relation, among others, to the Czech Republic, the purpose of which was to analyse the usage of Coty's brands in comparison to Oriflame and Avon in 2013 and 2014. As the study illustrates, the usage of Avon products was higher than any other brand in the study, across both years. In the Czech Republic, Avon was the most used brand at approximately [10-20]% of the sample across 2014 (and in 2013 too). Miss Sporty was sec-

³²⁶ Form CO, Annex 7-CoCo-General-001-005-Coty-Euromonitor versus Nielsen - Analysis of divergences.

³²⁷ Market shares based on Euromonitor. Even using adjusted scanner data for the mass eye and mass face colour cosmetics markets, the merged entity will be significantly constrained by several strong competitors, such as L'Oréal ([10-20]% in mass eye, [10-20]% in mass face), Cosnova ([5-10]% in mass eye, [5-10]% in mass face), Gabriella Salvete ([5-10]% in mass eye, [5-10]% in mass face) or Dermacol ([5-10]% in mass eye, [10-20]% in mass face). Form CO, paragraph 2463 and following and Parties' response to RFI 14 of 10 February 2016.

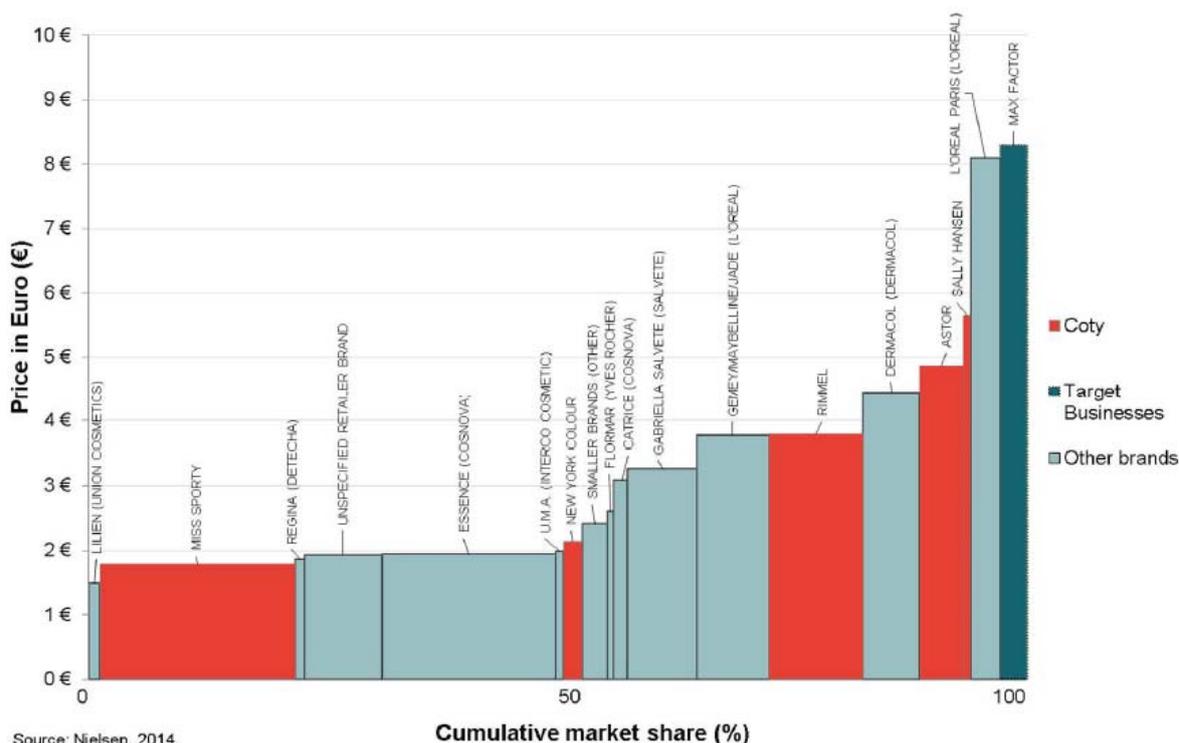
ond (approximately [10-20]%) in 2014, closely followed by Oriflame (approx. [10-20]%).³²⁸

Closeness of competition (brand analysis)

- (646) The Parties' largest brands in the Czech Republic are Miss Sporty, Astor and Rimmel (Coty); and Max Factor (Target Businesses).
- (647) There are several brands with similar or larger shares than the Parties' brands such as Avon, Cosnova's essence, and L'Oréal's L'Oréal Paris and Maybelline.
- (648) Besides, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands. Coty's largest brand in the Czech Republic is Miss Sporty, which is benchmarked against [***Business secret – a competitor brand is named***]. The main benchmark for Astor is the ***Business secret – competitor brands are named***. Coty's other brand Rimmel is mainly benchmarked against [***Business secret – a competitor brand is named***].
- (649) The Parties' brands are also not particularly close competitors in terms of price positioning. The price ladder for colour cosmetics in the Czech Republic shows that Coty's largest brands are positioned at a relatively low or medium price level whereas the Target Businesses have no offering within this range. The Target Businesses' Max Factor brand is instead positioned at a higher price level.

³²⁸ See Form CO, paragraph 2109 and Annex 7-CoCo-General-001-016-Coty-TGI analysis-Color cosmetics users in CZ and HU and SK (2013-2014).

Chart 7: Czech Republic – Mass colour cosmetics price ladder (2014)



Source: Nielsen, 2014.

Note: Brands separately included with volume market shares bigger than 0.5%. Top 3 Coty brands smaller than 0.5%: Bourjois, Opi and Calvin Klein. No P&G brands smaller than 0.5%.

Source: Frontier Economics using Nielsen data

- (650) The price ladders show that the product ranges of third party brands compete in comparable price ranges to the ones offered by each of the Parties. Moreover, there are several other brands that target specific segments of the market (for instance the low-end segment, or the premium segment). This indicates that the Parties face competition from strong specialised brands in each price point.
- (651) This indicates that, at the different price points, the Transaction is unlikely to reduce to any significant extent the competitive pressure faced by the Parties. Following the Transaction, consumers are likely to find several substitute products offered by the Parties' competitors, for all of the different price points currently targeted by the Parties.
- (652) Besides, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands and no specific issues were raised concerning the Czech Republic.³²⁹
- (653) In the light of the above, the Commission concludes that Coty and the Target Businesses' colour cosmetics products do not appear to be closer substitutes to each other than with the products of their competitors in the Czech Republic.

³²⁹ See responses to Q1 – questionnaire to competitors, question 32; Q2 – questionnaire to customers, question 28.

Barriers to entry or expansion – innovation

- (654) As indicated in Section 5.2.8 a majority of respondents active in the market indicated that in general, launching new colour cosmetics would only be moderately difficult, and that retailers are generally willing to give new concepts and brands test slots in a limited number of outlets before commercializing new products. No specific issues were raised concerning the Czech Republic.
- (655) The Commission has reviewed the information provided by the Parties which indicate that over the course of 2012 – 2014, the Czech colour cosmetics market saw some 200 – 300 launches per year. A relevant example of new entry is Cosnova, which launched its brand Catrice in 2011 in the Czech and Slovakian markets and whose share has grown since then.³³⁰
- (656) The Commission concludes that the Czech market is dynamic and competitive as showed by the level of new product launches. This dynamism is spurred by competitive rivalry with other players and not only between the Parties.

Other competitive forces

- (657) Regarding other competitive forces, in the Czech Republic, internet penetration is very high, with a rate of 21% in colour cosmetics (compared to an average of 5.3% in Eastern Europe and 8% in Western Europe) thus creating some constraint on the Parties. In 2013 and 2014, the largest part of the online cosmetics sales in the Czech Republic was generated by pure online players (such as Amazon) while online sales of traditional brick-and-mortar stores such as Douglas did not play a role in the Czech Republic.³³¹
- (658) In the Commission's market investigation, to the question whether there will be sufficient competition to prevent the merged entity from raising prices post Transaction, a majority of respondents having an opinion answered positively.³³² For example, one competitor indicates that the existence of an "*efficient drugstore retailer structure and price-sensitive consumers should make sure that prices do not increase*" in the Czech Republic.³³³
- (659) Furthermore, no other material concern on the effects of the Transaction was raised and substantiated by respondents to the market investigation about the colour cosmetics markets in the Czech Republic.³³⁴
- (660) Overall, the Commission considers that given the moderate combined market shares of the Parties and the presence of strong competitors with close alternative to the Parties' brands, the Transaction does not raise any significant competition concerns in the Czech colour cosmetics markets.

³³⁰ See Form CO, paragraph 2505.

³³¹ Form CO, paragraph 2202.

³³² Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

³³³ Cosnova, Reply to Q1 - questionnaire to competitors, question 61.1.

³³⁴ Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

Conclusion

(661) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the Czech Republic, under any plausible segmentation.

5.4.3.5.2.2. Slovakia

Market shares

(662) In Slovakia, the colour cosmetics and mass colour cosmetics are affected, with combined market shares of the Parties of respectively [30-40]% (Coty: [20-30]%, Target Businesses: [5-10]%) and [30-40]% (Coty: [20-30]%, Target Businesses: [5-8]%). As described in Table 35 below, the eye, face, lip and nail as well as the mass eye, mass face, mass lip and mass nail colour cosmetics markets are also affected:

Table 35: Slovakia – colour cosmetics (2014)

	Mass Eye	Mass Face	Mass Lip	Mass Nail	Eye	Face	Lip	Nail
Coty	[20-30]%	[20-30]%	[30-40]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%	[30-40]%
Target Businesses	[5-10]%	[5-10]%	[10-20]%	[0-5]%	[5-10]%	[5-10]%	[10-20]%	[0-5]%
Combined	[30-40]%	[30-40]%	[40-50]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[30-40]%

Source: Frontier Economics using Euromonitor data

(663) In the nail and mass nail markets, the increments brought about by the Transaction are limited, so that there would be no material Transaction-specific effect in these markets.

(664) Then, for the remaining affected markets, except for lip and mass lip colour cosmetics, the combined market shares of the Parties remain below [30-40]%

(665) In all affected markets, the Parties face and will continue to face post-Transaction strong competition from L'Oréal, Cosnova and direct selling companies Avon and Oriflame.

(666) In the overall colour cosmetics market, the Parties face competition by a number of strong international suppliers which will remain active and constrain the merged entity such as L'Oréal ([20-30]%), and Cosnova ([5-10]%). Moreover direct selling companies, such as Avon ([10-20]%) and Oriflame ([5-10]%) are also strongly competing with the Parties. As explained in Section 5.2.6 above, direct sellers such as Avon and Oriflame, are particularly strong in Central Eastern European countries due to historical reasons. This is evidenced, for example, by a study commissioned by Coty in relation, among others, to Slovakia, the purpose of which was to analyse the usage of Coty's brands in comparison to Oriflame and Avon in 2013 and 2014. As the study illustrates, the usage of Avon products was higher than any other brand in the study, across both years. In Slovakia, Avon was the leading brand with ap-

proximately a [20-30]% share. Oriflame was the second largest with a share of approximately [10-20]%.³³⁵

- (667) L'Oréal, Cosnova, Avon and Oriflame are also active in the mass colour cosmetics market, with market shares of [10-20]%, [5-10]%, [10-20]% and [5-10]% respectively, and of [10-20]%, [10-20]%, [10-20] %, and [5-10]% in the mass nail cosmetics segment.
- (668) In the mass lip segment, where the Parties' market share is the highest, the merged entity would face strong competition from L'Oréal ([20-30]%), Avon ([5-10]%) and Oriflame ([5-10]%). Retailer brands would also add to the competitive constraints on the merged entity with an aggregate market share of [5-10]%.

Closeness of competition (brand analysis)

- (669) Coty's largest brands in Slovakia are Astor, followed by Rimmel and Miss Sporty. The Targeted Businesses are present with the Max Factor brand.
- (670) There are many competing brands with similar or larger shares than the Parties' brands, such as L'Oréal's L'Oréal Paris, Avon, Oriflame, L'Oréal's Maybelline and Cosnova's essence (which has been increasing materially over the last three years).³³⁶
- (671) Besides, as described in Section 5.2.3, during the market investigation a majority of customers and competitors confirmed that the Parties' brands do not compete more closely with each other than they do with third party brands. Coty's largest brand in 2014 in Slovakia was Astor, which is benchmarked against L'Oréal's L'Oréal Paris brand, together with Max Factor³³⁷.
- (672) Coty's other leading brand in Slovakia Miss Sporty is benchmarked against [Business secrets – a competitor brand is named], whilst [Business secrets– a competitor brand is named] is Rimmel's main benchmark.³³⁸
- (673) The Parties' brands are also not particularly close competitors in terms of price positioning. As in the Czech Republic, in Slovakia Astor is priced well below Max Factor. Coty's second largest brand in Slovakia is Rimmel, which is priced at the mid-range, whereas Max Factor is at the top price range of the mass segment.
- (674) In the light of the above, the Commission concludes that Coty and the Target Businesses' colour cosmetics products do not appear to be closer substitutes to each other than with the products of their competitors in Slovakia.

³³⁵ See Form CO, paragraph 2109 and Annex 7-CoCo-General-001-016-Coty-TGI analysis-Color cosmetics users in CZ and HU and SK (2013-2014).

³³⁶ See Form Co, paragraph 2484.

³³⁷ See Form CO, paragraph 2492 and Annex 7-CoCo-CZ/SK-001-001-Coty-Beauty Czech & Slovak Republic, Hungary Plan review- March 2014.

³³⁸ See Form CO, paragraph 2493 and Annex 7-CoCo-CZ/SK-001-001-Coty-Beauty Czech & Slovak Republic, Hungary Plan review- March 2014.

Barriers to entry or expansion – innovation

- (675) As indicated in Section 5.2.8 a majority of respondents active in the market indicated that in general, launching new colour cosmetics would only be moderately difficult, and that retailers are generally willing to give new concepts and brands test slots in a limited number of outlets before commercializing new products. No specific issues were raised concerning Slovakia.
- (676) The Commission has reviewed the information provided by the Parties and takes note of the significant market shares achieved by colour cosmetics launches which occurred in Slovakia over the past years. A relevant example of new entry is Cosnova, which launched its brand Catrice in 2011 in the Czech and Slovakian markets and whose share has grown since then.³³⁹
- (677) The Commission concludes that the Slovak market is dynamic and competitive as showed by new product launches. This dynamism is spurred by competitive rivalry with other players and not only between the Parties.

Other competitive forces

- (678) In the Commission's market investigation, a majority of respondents expressing an opinion indicated that there will be sufficient competition to prevent the merged entity from raising prices post Transaction in Slovakia.³⁴⁰
- (679) Overall, the Commission considers that given the moderate combined market shares of the Parties and the presence of strong competitors with close alternative to the Parties' brands, the Transaction does not raise any significant competition concerns in the Croatian colour cosmetics markets.

Conclusion

- (680) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise any serious doubts as concerns the market for colour cosmetics in Slovakia, under any plausible segmentation.

5.4.3.5.3. Conclusion

- (681) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the Czech Republic and Slovakia, neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

5.4.3.6. Germany

5.4.3.6.1. Parties' activities

- (682) In Germany, Coty supplies colour cosmetics under the following brands: Astor, Bourjois, Manhattan, OPI, Sally Hansen and CK One Colour.
- (683) The Target Businesses supply colour cosmetics under the Max Factor and Gucci brands.

³³⁹ See Form CO, paragraph 2505.

³⁴⁰ Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

5.4.3.6.2. Commission's assessment

- (684) In Germany, only the mass face colour cosmetics market is affected, with low Parties' combined market share of [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%).
- (685) Moreover, the merged entity will face strong competitors such as L'Oréal, with a share higher than the Parties' combined share ([30-40]%), and Cosnova ([10-20]%).³⁴¹
- (686) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Germany.³⁴²
- (687) Overall, the Commission considers that, in particular, the low combined market share of the Parties', the presence of several strong competitors and the fact that no material concern on the effects of the Transaction was raised by respondents to the market investigation support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Germany.

5.4.3.6.3. Conclusion

- (688) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Germany, under any plausible segmentation.

5.4.3.7. Hungary

5.4.3.7.1. Parties' activities

- (689) In Hungary, Coty supplies colour cosmetics under the following brands: Astor, Manhattan³⁴³, Rimmel, Miss Sporty, Sally Hansen, New York Colour and Bourjois.
- (690) The Target Businesses are active with their brand Max Factor.

5.4.3.7.2. Commission's assessment

- (691) In Hungary, the colour cosmetics and mass colour cosmetics markets are affected. In 2014, the Parties' combined market share amounted to [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) and [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%) respectively.
- (692) The eye, face, lip and nail colour cosmetics and the mass eye, face, lip and nail colour cosmetics markets are also affected and the 2014 Parties' combined share in these markets delineations are illustrated in Table 36 below.

³⁴¹ See Form CO, paragraph 2520.

³⁴² See Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

³⁴³ Manhattan is intended to be phased out completely in 2016.

Table 36: Hungary – colour cosmetics (2014)

	Mass Eye	Mass Face	Mass Lip	Mass Nail	Eye	Face	Lip	Nail
Coty	[10-20]%	[20-30]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Target Businesses	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[5-10]%	[5-10]%
Combined	[20-30]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%

- (693) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on all affected markets.
- (694) Moreover, the merged entity will face several strong competitors in the colour cosmetics market as well as in the mass colour cosmetic market, such as L'Oréal ([20-30]% in both markets) and Cosnova ([10-20]% and [10-20]% respectively).
- (695) In the mass face colour cosmetics market, where the Parties have the highest combined market share, strong competitors will also be present, in particular L'Oréal and Cosnova with market shares of [20-30]% and [10-20]% respectively.
- (696) Avon has an outstanding position in the mass colour cosmetics segment in Hungary, with market shares on both mass colour cosmetics and mass face colour cosmetics markets of 16%. Avon will exert also a strong competition constraint on the merged entity.³⁴⁴
- (697) Finally, a customer is concerned that there would not remain significant suppliers of colour cosmetics post-Transaction. Another customer expressed concerns that the Transaction would strengthen the market position of the Parties that may lead to a price increase. However, in Hungary, as described above, strong international suppliers, such as L'Oréal and Cosnova, are present and able to constrain the merged entity post-Transaction. In addition, new players such as KIKO via an e-commerce platform have also successfully entered the market. No other material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Hungary.³⁴⁵
- (698) Overall, the Commission considers that, in particular, the moderate combined market shares of the Parties, and the presence of several strong competitors support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Hungary.

5.4.3.7.3. Conclusion

- (699) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Hungary, under any plausible segmentation.

³⁴⁴ As explained in Section 5.2.6 above, direct sellers such as Avon and Oriflame, are particularly strong in Central Eastern European countries due to historical reasons.

³⁴⁵ See Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

5.4.3.8. Italy

5.4.3.8.1. Parties' activities

- (700) In Italy, Coty supplies colour cosmetics under the following brands: Rimmel, OPI and New York Colour.³⁴⁶
- (701) The Target Businesses supply colour cosmetics under the Max Factor and Gucci brands.

5.4.3.8.2. Commission's assessment

- (702) In Italy, only the mass colour cosmetics and the mass face colour cosmetics markets are affected, with low Parties' combined market shares of respectively [20-30]% (Coty: [10-20]%, Target Businesses: [10-20]%) and [20-30]% (Coty: [5-10]%, Target Businesses: [10-20]%).
- (703) Moreover, the merged entity will face strong competitors in the mass colour cosmetics and the mass face colour cosmetics markets, such as L'Oréal [20-30]% in both markets), and Kiko ([10-20]% and [10-20]% respectively).
- (704) The Italian colour cosmetics firm Kiko has entered the segment only recently and has been able to gain a material share within a relatively short time frame. This shows that the segment is highly dynamic and that barriers to entry appear to be low.
- (705) Finally, a competitor expressed some concerns as regards the strengthening of Coty's market position in Italy, due to the acquisition of the Target Businesses' brand Max Factor. However, as explained in this decision, several strong suppliers of colour cosmetics would remain active and be able to constrain the merged entity post-Transaction. No other material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Italy.³⁴⁷
- (706) Overall, the Commission considers that, in particular, the low combined market shares of the Parties, and the presence of several strong competitors and that a majority of market participants said that there would be sufficient competitive pressure post-Transaction support the conclusion that the Transaction does not raise any significant competition concerns in the colour cosmetics markets in Italy.

5.4.3.8.3. Conclusion

- (707) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Italy, under any plausible segmentation.

³⁴⁶ Sally Hansen is also sold in Italy via an exclusivity contract with Sephora Europe. The Parties consider that Coty Italy does not directly manage the brand. The inclusion of Sally Hansen in the Parties' combined market shares would not lead to any additional affected market in Italy.

³⁴⁷ See Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

5.4.3.9. Malta

5.4.3.9.1. Parties' activities

- (708) In Malta, Coty supplies colour cosmetics under the brands Rimmel and Bourjois.³⁴⁸ Coty operates in Malta via two distributors: [Business secret – name of distributor].
- (709) The Target Businesses supply colour cosmetics under the brand Max Factor and uses [Business secret – name of distributor] as distributor.

5.4.3.9.2. Commission's assessment

- (710) The Parties' combined share would remain moderate, reaching at most [30-40]% (Coty: [10-20]%, Target Businesses: [10-20]%) in the mass colour cosmetics market in Malta.
- (711) The Parties have explained in the notification that they are not able to provide any further share information even on a best estimates basis for narrower markets (lip, face, eye, nail) in Malta. However, the competitive situation including market shares in Malta does not differ materially between the overall mass colour cosmetics market and the mass eye, lip, face and nail markets.³⁴⁹
- (712) Moreover, the Parties' main competitors, L'Oréal and Cosnova, are active in all of these segments. The Parties will therefore continue to face strong competition also in these sub-segments of the colour cosmetics market.
- (713) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Malta.
- (714) Overall, the Commission considers that in particular given the combined moderate market shares of the Parties, the presence of strong competitors, and the fact that no material concern on the effects of the Transaction was raised by respondents to the market investigation, the Transaction does not raise any significant competition concerns in the Maltese colour cosmetics markets.

5.4.3.9.3. Conclusion

- (715) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Malta, under any plausible segmentation.

5.4.3.10. The Netherlands

5.4.3.10.1. Parties' activities

- (716) In the Netherlands, Coty supplies colour cosmetics under the brands Rimmel, Bourjois, Sally Hansen, and Miss Sporty.³⁵⁰
- (717) The Target Businesses' only colour cosmetics brand is Max Factor.

³⁴⁸ Coty's sales of Bourjois are minimal (EUR [Business secret – sales data] last year).

³⁴⁹ See reply of the Parties to RFI 12 of 8 February 2016.

³⁵⁰ Coty also supplies New York Colour (NYC), Astor and Manhattan in the Netherlands through exclusive supply arrangements with certain Dutch retailers.

5.4.3.10.2. Commission's assessment

(718) In the Netherlands, the colour cosmetics and mass colour cosmetics markets are affected, with combined market shares of respectively [20-30]% (Coty: [10-20]%, Target Businesses: [10-20]%) and [30-40]% (Coty: [20-30]%, Target Businesses: [10-20]%). As described in Table 37 below, the eye, face, lip and nail colour cosmetics and the mass eye, face, lip and nail colour cosmetics markets are also affected:

Table 37: the Netherlands – colour cosmetics

	Eye	Face	Lip	Nail	Mass Eye	Mass face	Mass Lip	Mass nail
Coty	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%	[20-30]%	[10-20]%
Target Businesses	[5-10]%	[5-10]%	[10-20]%	[5-10]%	[10-20]%	[10-20]%	[20-30]%	[10-20]%
Combined	[20-30]%	[20-30]%	[30-40]%	[20-30]%	[30-40]%	[20-30]%	[40-50]%	[30-40]%

(719) Therefore, the Parties' combined market shares would remain below [30-40]% in all affected markets, with the exception of mass lip, where it would reach [40-50]%.

(720) The merged entity would however face significant competition from other market players active in the Dutch colour cosmetics market. This is for example the case of L'Oréal, which is almost as large as the merged entity in colour cosmetics in general ([20-30]%) and has a strong position in mass [20-30]%, mass eye ([30-40]%) and mass lip ([20-30]%) markets.

(721) Cosnova is also well placed to compete against the merged entity, notably as regards mass colour cosmetics ([10-20]%), mass eye ([10-20]%) and mass lip ([5-10]%) markets. Revlon also holds a solid market position in mass lip market ([5-10]%).

(722) Coty's largest brands in the mass colour cosmetics segment in the Netherlands are Rimmel and Bourjois. The Target Businesses' only brand is Max Factor. As regards closeness of competition between the Parties' brands, as explained in Section 5.2.3, Rimmel and Max Factor address different consumers in terms of demographics and have a different proposition. The closest substitute of Rimmel would be Maybelline (L'Oreal) whereas for Max Factor the closest substitute would be L'Oreal Paris (L'Oreal).

(723) Astor (Coty) could be considered a close competitor of Max Factor. However, Astor has limited presence in the Netherlands since it holds a market share below [0-5]% in mass colour cosmetics and mass eye, and below [0-5]% in mass lip. Rimmel and Bourjois have a more significant market presence.

(724) These differences in target groups and brand proposition are also reflected in prices of colour cosmetics in the Netherlands. The average pricing difference between Rimmel and Max Factor is large at approximately EUR 3.10, implying a strong distance between both brands in pricing terms.³⁵¹ Although Coty's Bourjois ([Business secret – pricing]) is positioned closer to Max Factor than Rimmel, L'Oréal Paris and

³⁵¹ Rimmel is priced at about EUR [Business secret – pricing] whereas Max Factor is priced significantly higher at about EUR [Business secret – pricing] (Form CO, paragraph 2675).

L'Oréal's essie are even more closely positioned. In addition, notwithstanding the pricing similarities between Max Factor and Bourjois, both brands are marketed differently and have distinct product strengths. Max Factor's marketing efforts are focused on [Business secret – positioning] whereas media and advertising campaigns for Bourjois are targeted at [Business secret – positioning].

- (725) Moreover, the Dutch colour cosmetics market is characterized by a high degree of innovation and product launches which will maintain competitive rivalry amongst market players. In 2014, more than 280 colour cosmetics new products were launched in the Netherlands, the Parties representing less than 25% of these launches.³⁵²
- (726) Finally, no material concern on the effects of the Transaction was raised by the majority of respondents to the market investigation about colour cosmetics in the Netherlands. In particular, to the question whether there will be sufficient competition to prevent the merged entity from raising prices post Transaction, the majority expressed a positive opinion.³⁵³
- (727) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns in the Dutch colour cosmetics markets.

5.4.3.10.3. **Conclusion**

- (728) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the Netherlands, under any plausible segmentation.

5.4.3.11. Poland

5.4.3.11.1. **Parties' activities**

- (729) In Poland, Coty supplies colour cosmetics under the following brands: Rimmel, Bourjois, Miss Sporty, Astor, Sally Hansen and Manhattan.³⁵⁴
- (730) The Target Businesses' supply of colour cosmetics is limited to Max Factor.

5.4.3.11.2. **Commission's assessment**

- (731) In Poland, the colour cosmetics and mass colour cosmetics markets are affected, with Parties' combined market shares of respectively [20-30]% (Coty: [20-30]%, Target Businesses: [0-5]%) and [20-30]% (Coty: [20-30]%, Target Businesses: [5-10]%). As described in Table 38 below, the eye, face and nail, and the mass eye, mass face, and mail nail colour cosmetics markets are also affected:

³⁵² See Fom CO Annex 7 001-050 Launches of products and sub-brands in colour cosmetics, Frontier economics.

³⁵³ Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

³⁵⁴ To a limited extent, Coty also supplies the OPI brand through a distributor in Poland, available only at Douglas retail outlets.

Table 38: Poland – colour cosmetics (2014)

	Eye	Face	Lip	Nail	Mass Eye	Mass Face	Mass Lip	Mass Nail
Coty	[20-30]%	[10-20]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[20-30]%
Target Businesses	[5-10]%	[5-10]%	[0-5]%	[0-5]%	[5-10]%	[5-10]%	[0-5]%	[0-5]%
Combined	[20-30]%	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%

- (732) As concerns lip and mass lip colour cosmetics, these markets are only technically affected when considering the Target Businesses actual sales data, which shows that the Target Businesses have some very limited presence in Poland in these markets. Indeed, the Euromonitor data only provides the abovementioned market shares for Coty and reports [0-5]% shares for the Target Businesses. The increment brought about by the Transaction is therefore in any event very limited (at most [0-5]% in either lip or mass lip)³⁵⁵ so that so that there would be no material Transaction-specific effect in these markets.
- (733) As concerns all the other markets, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on all affected markets.
- (734) In the nail and mass nail markets, the increments brought about by the Transaction are limited, so that there would be no material Transaction-specific effect in these markets.
- (735) Moreover, strong competitors would remain, including L'Oréal and Cosnova (having e.g. market shares in the mass colour cosmetics markets of respectively [10-20]% and [0-5]%). In the mass eye colour cosmetics market, where the Parties' combined market shares is the highest, L'Oréal and Cosnova would also be strong competitors, with market shares of respectively [10-20]% and [5-10]%.
- (736) Avon, with direct sales, will also exercise strong competition constraint on the merged entity, with market shares on e.g. both mass colour cosmetics and mass eye colour cosmetics markets of respectively [10-20]% and [20-30]%. Oriflame is also present in the Polish colour cosmetics, mass colour cosmetics and mass eye colour cosmetics markets, with market shares of [5-10]% in each of those markets.
- (737) Although a minority of competitors expressed concerns as regards the impact of the Transaction in the colour cosmetics markets in Poland, the presence of these large market players (notably L'Oreal, Avon and Oriflame) is likely to prevent any attempts of price increases by the merged entity. In general, no further material concern on the effects of the Transaction was raised by the majority of respondents to the market investigation about colour cosmetics in Poland.
- (738) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns in the Polish colour cosmetics markets.

³⁵⁵ See Parties' response to RFI 13 of 9 February 2016.

5.4.3.11.3. **Conclusion**

(739) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Poland, under any plausible segmentation.

5.4.3.12. Portugal

5.4.3.12.1. **Parties' activities**

(740) In Portugal, Coty supplies colour cosmetics under the following brands: Bourjois, Rimmel, OPI and Sally Hansen.

(741) The Target Businesses supply colour cosmetics only under the Max Factor brand.

5.4.3.12.2. **Commission's assessment**

(742) In Portugal, only the mass nail colour cosmetics market is affected, with low Parties' combined market share of [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%).

(743) The increment brought about by the Transaction is limited, so that there would be no material Transaction-specific effect in this market.

(744) Moreover, as regards the mass nail market, the Parties would face strong competition from Cosnova, L'Oréal, and Avon, with the following respective market shares: [10-20]%, [10-20]%, and [10-20]%.

(745) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Portugal.

(746) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns in the Portuguese colour cosmetics markets.

5.4.3.12.3. **Conclusion**

(747) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Portugal, under any plausible segmentation.

5.4.3.13. Country cluster Scandinavia – Denmark, Norway and Sweden

5.4.3.13.1. **Parties' activities**

(748) In Denmark, Norway and Sweden, Coty supplies colour cosmetics under the following brands: Rimmel, Manhattan, Sally Hansen and OPI. Coty distributes colour cosmetics in Scandinavia via its distributor [Business secret – name of distributor], save for Denmark. With regard to Denmark, Coty directly serves the retailer Matas with its Rimmel, Manhattan (Clearface) and Sally Hansen brands; it uses a distributor [Business secret – name of distributor] to distribute OPI products.

(749) The Target Businesses supply colour cosmetics only under the Max Factor brand. The Target Businesses distribute colour cosmetics in Scandinavia via three distributors: [Business secret – name of distributor] distributes its products in Denmark and Norway, while [Business secret – name of distributor] distributes its products in Sweden and [Business secret – name of distributor] distributes colour cosmetics in Norway.

5.4.3.13.2. Commission's assessment

(750) At the country level, the following markets are affected in Denmark (no affected markets arise in Sweden and Norway³⁵⁶):

5.4.3.13.2.1. Denmark

(751) In Denmark, the colour cosmetics and the mass colour cosmetics are affected, with combined market shares of respectively [20-30]% (Coty: [5-10]%, Target Businesses: [10-20]%) and [30-40]% (Coty: [10-20]%, Target Businesses: [10-20]%). As described in Table 39 below, the nail colour cosmetics and the mass eye, face, lip and nail colour cosmetics markets are also affected:

Table 39: Denmark – colour cosmetics

	Nail	Mass eye	Mass Face	Mass Lip	Mass Nail
Coty	[10-20]%	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Target Businesses	[10-20]%	[20-30]%	[10-20]%	[10-20]%	[10-20]%
Combined	[20-30]%	[30-40]%	[30-40]%	[20-30]%	[30-40]%

(752) Therefore, the market shares of the merged entity would remain moderate, reaching at most [30-40]%, on all the affected markets.

(753) Moreover, strong competitors would remain post Transaction, including L'Oréal and Tjellesen A/S (having market shares in the mass colour cosmetics markets of respectively [30-40]% and [10-20]%, in the mass eye colour cosmetics market of [20-30]% and [10-20]%, in the mass face colour cosmetics markets of [40-50]% and [5-10]%, and in the mass lip colour cosmetics market of [30-40]% and [10-20]%). The share of Tjellesen has grown in the last two years in the mass market. In the mass nail colour cosmetics market, where the Parties' combined market share is the highest, L'Oréal and Yves Rocher would continue to compete strongly, with market shares of respectively [20-30]% and [5-10]%.

(754) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Denmark.

(755) Given in particular the moderate market shares of the Parties, the presence of significant competitors, and the fact that no material concern on the effects of the Transaction was raised by respondents to the market investigation, the Transaction does not lead to any significant competition concerns in the Danish colour cosmetics markets.

(756) To conclude, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Denmark, under any plausible segmentation.

³⁵⁶ In particular, the Parties confirmed that Coty is not active in the mass lip and mass face sub-segments in Norway as correctly captured by Euromonitor. See Parties' reply to RFI 13 of 9 February 2016.

5.4.3.13.3. **Conclusion**

(757) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Denmark, Norway, and Sweden, neither separately nor viewed together as a possible country cluster, under any plausible segmentation.

5.4.3.14.Slovenia

5.4.3.14.1. **Parties' activities**

(758) In Slovenia, Coty supplies colour cosmetics under the brands Manhattan and Bourjois and, to a limited extent, OPI.

(759) The Target Businesses are active with their brand Max Factor.

(760) Both Parties distribute their products in Slovenia through [Business secret – name of distributor].

5.4.3.14.2. **Commission's assessment**

(761) In Slovenia, the colour cosmetics and mass colour cosmetics markets are affected, with low Parties' combined market shares of respectively [20-30]% (Coty: [5-10]%, Target Businesses: [20-30]%) and [20-30]% (Coty: [5-10]%, Target Businesses: [20-30]%).

(762) Moreover, the merged entity will be constrained by strong competitors, in particular L'Oreal and Cosnova, which are present in the mass cosmetics market with market shares of respectively [20-30]% and [20-30]%, and in the colour cosmetics market with shares of [10-20]% and [20-30]%. Amway, Avon and Oriflame, with market shares between [0-5] and [5-10]% are also active in the Slovenian colour cosmetics market and will compete with the merged entity.

(763) Confronted with specific issues to establish precise market share estimates for (mass) lip, face, eye, nail colour cosmetics markets, the Parties have provided their best estimates of their combined share in these markets: between 20 and 30%.³⁵⁷⁻³⁵⁸

(764) In any event, the competitive constraints are the same as the Parties' competitors (e.g. L'Oréal, Cosnova, Amway, Avon, Oriflame) are active across these markets and as such are able to provide a strong competitive constraint in each of the affected markets.

(765) Finally, although a minority of competitors expressed concerns as regards the impact of the Transaction in the colour cosmetics markets in Slovenia, the presence of these large market players (notably L'Oreal and Cosnova) is likely to prevent any attempts of price increases by the merged entity. In general, no further material concern on

³⁵⁷ Form CO, paragraph 2817.

³⁵⁸ Internal documents from Coty's distributor [Business secret – name of distributor] seems to suggest that this combined share could be higher as regards mass face markets (up to [30-40]%). However, this combined market share is only related to market presence of both Parties in one of major Slovenian retailer ([Business secret – name of customer]) and as such it is not fully indicative of the market presence of both parties in the whole mass face Slovenian market. See Annex 7-CoCo-SI-001-002-Coty-FY15_ORBICO_Albania,Bosnia,Serbia,Slovenia,Croatia_Slovenia april 2015 final, slide 33.

the effects of the Transaction was raised by the majority of respondents to the market investigation about colour cosmetics in Slovenia.³⁵⁹

(766) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns in the Slovenian colour cosmetics markets.

5.4.3.14.3. Conclusion

(767) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Slovenia, under any plausible segmentation.

5.4.3.15.Spain

5.4.3.15.1. Parties' activities

(768) In Spain, Coty supplies colour cosmetics under the brands Astor, Bourjois, Rimmel and OPI.

(769) The Target Businesses are active with their brand Max Factor in Spain.

5.4.3.15.2. Commission's assessment

(770) In Spain, the colour cosmetics and mass colour cosmetics markets are affected, with Parties' combined market shares of respectively [20-30]% (Coty: [20-30]%, Target Businesses: [5-10]%) and [30-40]% (Coty: [20-30]%, Target Businesses: [5-10]%). As described in Table 40 below, the eye, face, lip and nail colour cosmetics and the mass eye, mass face, mass lip and mass nail colour cosmetics markets are also affected:

Table 40: Spain – colour cosmetics

	Mass Eye	Mass Face	Mass Lip	Mass Nail	Eye	Face	Lip	Nail
Coty	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[20-30]%	[10-20]%	[20-30]%	[30-40]%
Target Businesses	[0-5]%	[10-20]%	[5-10]%	[0-5]%	[0-5]%	[10-20]%	[5-10]%	[0-5]%
Combined	[30-40]%	[30-40]%	[30-40]%	[30-40]%	[20-30]%	[20-30]%	[20-30]%	[30-40]%

(771) In most of the above markets, the market shares of the merged entity remain moderate, reaching at most [30-40]% (and in the eye and mass eye markets, the increments are low, so that no material Transaction-specific effects appear likely). The few exceptions are:

- (a) The nail and mass nail markets, where however increments are low, so that no material Transaction-specific effects appear likely;
- (b) The mass face market;

³⁵⁹ See Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

(c) The mass colour cosmetics market.

- (772) Strong competitors would remain, including in the mass colour cosmetics market: L'Oréal and Cosnova with [20-30]% and [0-5]% market share respectively. Retailer brands are also competing, with a global market share of [20-30]%.
- (773) In the mass face and mass nail markets, the same competitors have strong market positions: L'Oréal ([20-30]% and [20-30]%) and Cosnova ([0-5]% and [5-10]%). Retailer brands are also competing on these two markets, with a global market share of [10-20]% and [10-20]%.
- (774) Coty's largest brands in the mass colour cosmetics segment in Spain are Astor, Rimmel and Bourjois. The Target Businesses' only brand is Max Factor. As regards closeness of competition between the Parties' brands, as explained in Section 5.2.3. Rimmel and Max Factor address different consumers in terms of demographics and have a different proposition. The closest substitute of Rimmel would be Maybelline (L'Oreal) whereas for Max Factor the closest substitute would be L'Oreal Paris (L'Oreal). Astor (Coty) could be considered a close competitor of Max Factor but again L'Oreal Paris is closer from Max Factor in terms of market perception.
- (775) These differences in target groups and brand proposition are also reflected in prices in Spain. Rimmel, with an average price of EUR [Business secret - pricing], is positioned most closely to retailer brands (ranging from EUR [Business secret - pricing]) and brands at the entry range of the segment (such as Cosnova's essence at EUR [Business secret - pricing]). Astor, with an average price of EUR [Business secret - pricing], is positioned most closely to various smaller brands, at the mid-price level of the segment. Bourjois, with an average price of EUR [Business secret - pricing], is positioned most closely to Deborah (EUR [Business secret - pricing]) and, with some distance, to L'Oréal Paris (EUR [Business secret - pricing]), at the mid to higher-priced level of the segment. Finally, the Target Businesses' Max Factor brand is positioned at the upper level of the segment, with an average price of EUR [Business secret - pricing] and being positioned very closely to L'Oréal Paris at EUR [Business secret - pricing]. Their price positioning also therefore reflects their closeness in consumers' perception.³⁶⁰
- (776) Moreover, the Spanish colour cosmetics market is characterized by a high degree of innovation and product launches which will maintain competitive rivalry amongst market players. In 2014, more than 2400 colour cosmetics new products were launched in Spain, the Parties representing around 25% of these launches.³⁶¹
- (777) Finally, although a minority of competitors expressed concerns as regards the impact of the Transaction in the colour cosmetics markets in Spain, to the question whether there will be sufficient competition to prevent the merged entity from raising prices post Transaction, most respondents having an opinion answer positively.³⁶²

³⁶⁰ Form CO, paragraph 2898.

³⁶¹ See Fom CO Annex 7 001-050 Launches of products and sub-brands in colour cosmetics, Frontier economics.

³⁶² Replies to Q1 - questionnaire to competitors, question 61.2, Q2 – questionnaire to customers, question 52.2; and Q5 - questionnaire to distributors, question 52.2.

(778) Given in particular the overall moderate market shares of the Parties, the presence of significant competitors, and the fact that a majority of respondents to the market investigation considered that there will be sufficient competition to prevent the merged entity from raising prices, the Transaction does not raise any significant competition concerns in the Spanish colour cosmetics markets.

5.4.3.15.3. **Conclusion**

(779) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Spain, under any plausible segmentation.

5.4.3.16. Country cluster UK/Ireland

5.4.3.16.1. **Parties' activities**

(780) In the UK and Ireland, Coty supplies colour cosmetics under the following brands: Bourjois, OPI, Rimmel, Sally Hansen, and Miss Sporty.

(781) The Target Businesses supply colour cosmetics under the brands Max Factor and Gucci.

5.4.3.16.2. **Commission's assessment**

5.4.3.16.2.1. *United Kingdom*

(782) In the United Kingdom, the mass colour market is affected with a combined market share of the Parties of [20-30]% (Coty: [20-30]%, Target Businesses: [5-10]%). As it can be seen from Table 41 below, the nail, and the mass eye, mass face, mass nail and mass lip markets are also affected.

Table 41: UK – colour cosmetics

	Mass Eye	Mass Face	Mass Lip	Mass nail	Nail
Coty	[10-20]%	[10-20]%	[10-20]%	[20-30]%	[20-30]%
Target Businesses	[5-10]%	[10-20]%	[10-20]%	[0-5]%	[0-5]%
Combined	[20-30]%	[20-30]%	[20-30]%	[30-40]%	[20-30]%

(783) Therefore, the market shares of the merged entity would generally remain moderate, reaching at most [20-30]%, on most affected markets. The only exception is the mass nail market with [30-40]%, albeit with a very small increment, so that there would be no material Transaction-specific effects in this market.³⁶³

(784) Moreover, strong competitors will remain, including Alliance Boots, L'Oreal and Avon with market shares of respectively [20-30]%, [20-30]% and [5-10]% on the mass colour market, of respectively [20-30]%, [20-30]% and [10-20]% on the mass

³⁶³ The increment is very small in the nail market too, so that there would be no material Transaction-specific effects in this market.

eye market, of respectively [20-30]%, [20-30]% and [5-10]% on the mass face market, and of respectively [20-30]%, [10-20]% and [5-10]% on the mass lip market.

- (785) Coty's largest brands in the mass colour cosmetics segment in the UK are Rimmel and Bourjois, Rimmel being three times larger than Bourjois. The Target Businesses' only brand is Max Factor. As regards closeness of competition between the Parties brands, as explained in Section 5.2.3, Rimmel and Max Factor address different consumers in terms of demographics and have a different proposition. The closest substitute of Rimmel would be Maybellene (L'Oreal) whereas for Max Factor this would be L'Oreal Paris (L'Oreal). As regards Bourjois (Coty), L'Oreal Paris appears to be the closest substitute followed by Max Factor (Target Businesses) and Maybellene (L'Oréal).
- (786) These differences in brand positioning and interactions are also reflected in pricing. Rimmel is priced at about EUR [Business secret - pricing] whereas Max Factor is priced significantly higher at about EUR [Business secret - pricing]. The average pricing difference between Rimmel and Max Factor is large at approximately EUR [Business secret - pricing], implying a strong distance between both brands in pricing terms. Max Factor is priced similarly to L'Oréal Paris (EUR [Business secret - pricing]) and Revlon (EUR [Business secret - pricing]) (average pricing difference: ~EUR [Business secret - pricing]).³⁶⁴
- (787) Moreover, the UK colour cosmetics market is characterized by a high degree of innovation and product launches which will maintain competitive rivalry amongst market players. In 2014, more than 900 colour cosmetics new products were launched in the UK, the Parties representing one third of these launches.³⁶⁵
- (788) Finally, a minority of competitors expressed concerns as regards the impact of the Transaction in the colour cosmetics markets in the UK. However, as described above, the Commission is of the view that the presence of large market players is likely to prevent any attempts of price increases by the merged entity. No other material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in the UK. In particular, to the question whether there will be sufficient competition to prevent the merged entity from raising prices post Transaction, most respondents having an opinion answered positively.³⁶⁶
- (789) Given in particular the overall moderate market shares of the Parties, the presence of significant competitors, and the fact that a majority of respondents to the market investigation considered that there will be sufficient competition to prevent the merged entity from raising prices the Transaction does not raise any significant competition concerns in the UK colour cosmetics markets.
- (790) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the UK, under any plausible segmentation.

³⁶⁴ Form CO, paragraph 2161.

³⁶⁵ See Form CO Annex 7 001-050 Launches of products and sub-brands in colour cosmetics, Frontier economics.

³⁶⁶ Replies to Q1 - questionnaire to competitors, question 61.1, Q2 – questionnaire to customers, question 52.1; and Q5 - questionnaire to distributors, question 52.1.

5.4.3.16.2.2. *Ireland*

(791) In Ireland, the mass colour market is affected with a Parties' combined market share of [20-30]% (Coty: [10-20]%, Target Businesses: [5-10]%). As it can be seen from Table 42 below, the mass eye and mass face markets are also affected.

Table 42: Ireland – colour cosmetics

	Mass Eye	Mass Face
Coty	[10-20]%	[10-20]%
Target Businesses	[5-10]%	[5-10]%
Combined	[20-30]%	[20-30]%

(792) Therefore, the market shares of the merged entity would remain low, reaching at most [20-30]%, on all the affected markets.

(793) Moreover, strong competitors would remain, including Cosnova and L'Oreal with market shares of respectively [10-20]% and [10-20]% in the mass colour market, of respectively [10-20]% and [10-20]% on the mass eye market, and of respectively [10-20]% and [10-20]% on the mass face market.

(794) Finally, no material concern on the effects of the Transaction was raised by respondents to the market investigation about colour cosmetics in Ireland.

(795) Given in particular the overall moderate market shares of the Parties and the presence of significant competitors, the Transaction does not raise any significant competition concerns in the Irish colour cosmetics markets.

(796) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in Ireland, under any plausible segmentation.

5.4.3.16.3. Conclusion

(797) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for colour cosmetics in the UK/Ireland country cluster, neither separately nor viewed together as a country cluster under any plausible segmentation.

5.5. Deodorants

5.5.1. Parties' views

- (798) Coty is active in the deodorants category in the EEA mainly through its brands addidas and Playboy, which together account for [Business secret – the majority] of Coty's total deodorant related sales.³⁶⁷
- (799) The Target Businesses are present in the deodorants category mainly with variants of their fragrances brands Bruno Banani and Mexx.³⁶⁸
- (800) In substance, the Parties consider that no serious doubts would arise on the deodorants market, under any plausible market definition.

5.5.2. Commission's assessment

- (801) The only affected markets are presented in Table 43 below:

Table 43 – Affected deodorants markets (2014)

Country	Segment	Coty share	Target Businesses share	Combined share
Czech Republic	Male deodorants	[20-30]%	[0-5]%	[20-30]%
Slovakia	Male deodorants	[20-30]%	[0-5]%	[20-30]%
Poland	Male deodorants	[20-30]%	[0-5]%	[20-30]%

Source: Frontier Economics using Nielsen retail sales value data – rounding effects

- (802) On the affected markets, the combined market shares of the Parties are limited. Moreover, in each case, the increment is at most [0-5]%, so that there would be no material Transaction-specific effect in the above-mentioned markets.
- (803) Besides, a number of significant competitors, in particular Beiersdorf and Unilever, will continue to exert significant competitive constraints on the merged entity in these markets following the Transaction.
- (804) On the basis of Euromonitor data, the non-male deodorants market in Hungary (Parties' combined market shares of [20-30]% and increment of [0-5]%) and the male deodorants market in Poland (Parties' combined market shares of [20-30]% and increment of [0-5]%) would be affected. Therefore, there would be no material Transaction-specific effect in the above-mentioned markets.

³⁶⁷ Coty also generates limited sales through deodorant products of its other fragrance/skin care brands: Beckham, Beyoncé, Calvin Klein, Davidoff, Esprit, Lancaster, Prêt à Porter, and Roberto Cavalli, Form CO, paragraph 3125.

³⁶⁸ Sales of deodorant products related to the Target Businesses' other fragrances brands are minimal. The brands Gillette and Old Spice, which are also present in the deodorants category, will remain with P&G and continue to compete against Coty's brands following the Transaction; Form CO, 3126.

- (805) In Hungary also, significant competitors, in particular Unilever and Beiersdorf, will continue to exert significant competitive constraints on the merged entity following the Transaction.
- (806) While some respondent alleged in the Commission's market investigation that the Transaction would lead to high market shares in the Hungarian and Czech deodorants markets, the majorities of all groups of respondents did not raise any material substantiated concern on the effects of the Transaction and expressed that the Transaction would not have a significant impact on the competitive situation in the affected deodorant markets.³⁶⁹
- (807) Given that no competition concerns arise on the national Czech and Slovakian markets, competition concerns can also be excluded on a potential country cluster level. Market shares on the country cluster level do not differ markedly from market shares on the national level for the Parties and their competitors and neither does the magnitude of the market share increment brought about by the Transaction change significantly. No competition concern would *a fortiori* arise at EEA level.

5.5.3. Conclusion

- (808) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for deodorants, under any plausible product or geographic market definition.

5.6. Shower gels

5.6.1. Parties' views

- (809) Coty is active in the shower gel category in the EEA mainly through its brands *adidas* and *Playboy*, which together account for approx. [Business secret – the majority] of Coty's total shower gel related sales.
- (810) The Target Businesses are present in the shower gel category mainly with variants of their fragrances brands *Bruno Banani* and *Mexx*.³⁷⁰ The Target Businesses' shower gel business is very small, generating less than EUR [Business secret – sales information] million in 2014 in the EEA.
- (811) In substance, the Parties consider that no serious doubts would arise on the shower gels market, under any possible segmentation.³⁷¹

5.6.2. Commission's assessment

- (812) On the basis of Nielsen data, the combined market shares in the affected male shower gel segments in Poland as well as the Czech Republic and Slovakia reach respectively [20-30]%, [20-30]%, and [20-30]%, with increments brought about by the Target Businesses always of less than [0-5]%.

³⁶⁹ See e.g. replies to Q1 – questionnaire to competitors, question 63; replies to Q2 – questionnaire to customers, question 54; replies to Q3 – questionnaire to distributors, question 54.

³⁷⁰ The brands *Old Spice* and *Gillette*, which are also present in the shower gels category, will remain with P&G and continue to compete against Coty's brands following the Transaction.

³⁷¹ The Parties do not sell bath products.

- (813) On the basis of Euromonitor data, only two markets would be affected: the male shower gel sub-segments in Poland and Spain, where the Parties' combined market shares are respectively [20-30]% and [20-30]%. Nevertheless, here also, the increments are limited as the Target Businesses' shower gel sales are less than [0-5]% in Poland and less than [5-10]% in Spain.
- (814) Therefore, in addition to the limited combined market shares in all affected markets, there would be no material Transaction-specific effect in these markets due to the low increments.
- (815) Besides, a number of significant competitors, in particular Beiersdorf and Unilever in the Czech Republic, Slovakia, and Poland, and Unilever and retailers' brands in Spain, will continue to exert significant competitive constraints on the Parties following the Transaction.
- (816) In the Commission's market investigation, the majorities of all groups of respondents did not raise any material substantiated concern on the effects of the Transaction regarding shower gels and expressed that the Transaction would not have a significant impact on the competitive situation in the affected shower gels markets.³⁷²
- (817) Given that no competition concerns arise on the national Czech and Slovakian markets, competition concerns can also be excluded on a potential country cluster level.

5.6.3. *Conclusion*

- (818) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for shower gels, under any plausible market definition.

5.7. **Travel retail**

5.7.1. *Parties' views*

- (819) The Parties are active in travel retail primarily in the sale of fragrances within the prestige fragrances segment. Coty's main fragrance brands in travel retail are Calvin Klein, Chloé, Davidoff, Marc Jacobs, and Roberto Cavalli. The Target Businesses are primarily present in this market with the fragrance brands Escada, Gucci, Hugo Boss, and Lacoste.
- (820) The Parties' supply of colour cosmetics through the travel retail channel is marginal and also largely confined to the prestige segment: Coty supplies mainly the brand OPI; the Target Businesses supply mainly the brand Gucci, which is only sold through one door at Heathrow airport (representing expected sales of around EUR [50,000 – 100,000] for 2016).
- (821) In substance, the Parties consider that no serious doubts would arise on the travel retail market, under any plausible market definition.

³⁷² See e.g. replies to Q1 – questionnaire to competitors, question 63; replies to Q2 – questionnaire to customers, question 54; replies to Q3 – questionnaire to distributors, question 54.

5.7.2. *Commission's assessment*

(822) The affected fragrances markets are the following:

Table 44: Parties' shares by retail value: worldwide market

Segment	Coty	Target Businesses	Combined share
Mass fragrances	[10-20]%	[5-10]%	[20-30]%
Mass female fragrances	[10-20]%	[5-10]%	[20-30]%

Table 45: Parties' shares by retail value: EEA-wide market

Segment	Coty	Target Businesses	Combined share
Fragrances	[10-20]%	[5-10]%	[20-30]%
Male fragrances	[5-10]%	[10-15]%	[20-30]%
Prestige fragrances	[10-20]%	[10-20]%	[20-30]%
Male prestige fragrances	[5-10]%	[10-20]%	[20-30]%

Source: Frontier Economics using Generation Data³⁷³

- (823) Therefore, the Parties' combined market shares on the above markets are limited, reaching at most [20-30]%.
- (824) Moreover, several strong international players actively compete in the travel retail channel and whose shares are significant.
- (825) At EEA-level, in the fragrances markets, L'Oréal and LVMH will respectively hold market share of [10-20]% and [10-20]%. In the male fragrances market, L'Oréal, Chanel, and Puig will remain significant competitors with shares of respectively [10-20]%, [10-20]%, and [10-20]%. In the markets of prestige, and prestige-male fragrances, the Parties are also confronted with strong competitors, including L'Oréal (with respectively [10-20]% and [10-20]%) and LVMH (with respectively [10-20]% and [10-20]7%).
- (826) At worldwide level, in the markets of mass and mass female fragrances, the Parties are confronted with strong competitors, including Puig (with respectively [30-40]% and [20-30]%) and Elisabeth Arden (with respectively [20-30]% and [20-30]%).
- (827) Besides, the nail colour cosmetics market in travel retail across the EEA and at worldwide level would be affected, with combined share of the Parties of respective-

³⁷³ Generation data covers all EEA countries as well as some non EEA countries. The Parties perceive the overall shares provided for fragrances and colour cosmetics as derived from Generation data would be similar if limited to EEA countries only. This is because, in the Parties' commercial experience, travel retail sales in these non-EEA countries are minor.

ly [60-70]% and [60-70]%. However, the Target Businesses only supply very limited nail colour cosmetics products through the *Gucci* brand, that combined share includes an increment that rounds to nil. Consequently, there would be no material effect in this market, under any plausible geographic market definition.

- (828) While a majority of travel retailers stated that the Parties would have the ability and the incentive to conduct some form of bundling,³⁷⁴ the majorities of travel retailers and of competitors considered that there would be sufficient competition to prevent the merged entity from raising prices post-Transaction in the markets of fragrances sold through travel retail channels. Moreover, most travel retailers stated that the Transaction would have a neutral or a positive effect on the competitive situation in the market of fragrances sold through travel retail channels.³⁷⁵

5.7.3. Conclusion

- (829) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise serious doubts as concerns the market for travel retail, under any plausible market definition.

5.8. Coordinated effects

- (830) The Commission has assessed the likelihood that the Transaction would lead to coordinated effects.³⁷⁶
- (831) During the market investigation a competitor raised some concerns that the cross-shareholding between Coty and P&G post-Transaction may facilitate the risk of coordination between the Parties, which would remain active on close markets (i.e. in the hair and skin care).³⁷⁷ In the analysis a particular attention would be thus given to the risk of exchange of sensitive information between the Parties due to the link existing between their shareholders.

5.8.1. Parties' views

- (832) The Parties submit that the Transaction would not increase coordination on any of the affected markets. They claim that the Transaction will not lead to any symmetrical segment structure which could render coordinated effects more likely in none of the affected market segments. In addition, in both the fragrances and colour cosmetics markets, the high level of product differentiation, the dynamic nature of the markets, the low barriers to entry and expansion would render coordination difficult and unlikely. Finally, retailers exercise a material degree of buyer power and would push back on any attempt to raise prices in a coordinated manner.
- (833) The Parties claim that there is no risk of exchange of sensitive information between Coty and P&G as a result of the Transaction. The Reverse Morris Trust³⁷⁸ structure

³⁷⁴ Replies to Q1 – questionnaire to competitors, question 61.3; replies to Q3 – questionnaire to travel retail customers, questions 23 to 25.

³⁷⁵ Replies to Q3 – questionnaire to travel retail customers, questions 26 and 27.

³⁷⁶ HMG, paragraph 22(b).

³⁷⁷ HMG, paragraphs 47 and 48.

³⁷⁸ A Reverse Morris Trust is a form of corporate transaction that is used when a parent company has a subsidiary that it wants to dispose of in a tax-efficient manner. It combines a divisive reorganisation

employed for the Proposed Transaction is simply a corporate mechanism designed to give effect to separation of the Target Businesses from P&G and transfer them to Coty. In addition, any information flow from Coty to the P&G's shareholders will be the usual information provided to shareholders of publicly listed companies. Further, P&G's shareholders do not control P&G currently, so they do not have access to any relevant P&G's information. Moreover, any necessary transitional services required following the implementation of the Transaction will be short term and aimed at allowing an orderly separation from business being retained by P&G.

5.8.2. *Commission's assessment*

- (834) Coordinated effects are more likely to occur in concentrated, oligopolistic markets, in particular those characterized by homogeneous products and a high degree of transparency, where it would be easier for firms to align their conduct and thereby compete less intensely. According to the HMG, the less complex and the more stable the economic environment, the easier it is for the firms to reach a common understanding on the terms of coordination.³⁷⁹
- (835) As discussed in the Sections 5.2, 5.3 and 5.4 above, the fragrances markets are highly fragmented. Although the colour cosmetics markets are more concentrated, there remains a number of alternative players likely to constrain any oligopoly. In all countries established suppliers and new players coexist with different market shares and different capacity levels. In addition, the high level of product differentiation is likely to render coordination difficult. The broad variety of products within narrower product categories and a wide range of product quality and cost structures would make any coordination highly complex. Innovation is also an important driver of competition in both the fragrances and colour cosmetics markets, which make these markets highly dynamic and unstable.
- (836) These market characteristics, which apply to both fragrances and colour cosmetics, make any coordination on prices or other competitive parameters unlikely.
- (837) Besides, the Commission considers that the Reverse Morris Trust is a corporate mechanism designed to give effect to separation of the Target Businesses from P&G and transfer them to Coty and it seems neutral as regards the competitive behaviour of the Parties. Therefore, the structure of the operation would not likely give way to an exchange of sensitive information between competitors.

5.8.3. *Conclusion*

- (838) In view of the above, and considering all evidence available to the Commission, the Transaction would not raise any serious doubts as regards its compatibility with the internal market in relation to coordinated effects.

(spin-off or split-off) with an acquisitive reorganisation (statutory merger) to allow a tax-free transfer of a subsidiary under United States law. First, the parent company completes a spin-off or split-off of a subsidiary to the parent company's shareholders. Under applicable U.S. tax rules, this can be tax-free if certain criteria are met. Immediately following the spin-off or split-off, the former subsidiary - now owned by the parent company's shareholders, but separate from the parent company - then merges with a counterparty to create a merged company. Under U.S. tax rules, this can be largely tax-free if the shareholders of the former subsidiary own more than 50% of the merged company. See Parties reply to RFI 11 of 8 February 2016.

³⁷⁹ HMG, paragraph 45.

5.9. Conglomerate effects

(839) The Commission has examined whether the merged entity would be able to leverage its position in the fragrances or colour cosmetics market to impose other brands in different product markets (such as deodorants, shower gels, hair care, skin care) on their customers (for example through bundling practices), in order to foreclose competitors from access to the retailers' shelf space, or to hinder entry of new products to the market.

5.9.1. Parties' views

(840) The Parties submit that the Transaction will not result in any anti-competitive conglomerate effects. In particular, the Transaction will not modify the Parties' ability to adopt a tying or bundling strategy in the supply of colour cosmetics, fragrances, deodorants and any non-affected markets, including relevant market segments and sub-segments.

(841) First, each of the Parties is already active in the supply of colour cosmetics, fragrances and other beauty and body care products across the EEA and currently they do not bundle them.

(842) Second, the Transaction will not result in any substantive increase of Coty's offerings across different product markets, since the only product market addition compared to the pre-merger situation would consist of the Target Businesses' haircare businesses. However, the Target Businesses' haircare business is mainly sold to professional haircare salon, which means that the products in question are not sold to the same customers or *via* the same distribution channels as colour cosmetics and fragrances.³⁸⁰ Therefore any hypothetical bundling strategy would not be likely.

(843) Third, retailers have different buying teams in charge of each of colour cosmetics, fragrances and haircare for the different product categories. Therefore, negotiations for the various product categories are not held with the same individuals but at different times and with different negotiation partners. This would also render bundling a difficult strategy to pursue.

(844) Fourth, customers exert countervailing buyer power and would never accept any bundling strategy by the merged entity. Since barriers to entry and expansion are low, customers would have sufficient alternatives for a given product market, should the merged entity engage in a bundling strategy.

(845) Finally, the Parties argue that their competitors have a similar or even stronger portfolio of products and could try to defeat any bundling strategy by the merged entity.

5.9.2. Commission's assessment

(846) The main concern in the context of conglomerate mergers is that of foreclosure. The combination of products in related markets may confer on the merged entity the abil-

³⁸⁰ Sales to retail customers represent approximately [Business secret – sales data] of the overall haircare business being divested. Hair care products sold to retailers include colour and styling products. See Form CO, paragraph 3232 and 3234.

ity and incentive to leverage a strong market position from one market to another by means of tying or bundling or other exclusionary practices.³⁸¹

- (847) In assessing the likelihood of such a scenario, the Commission examines, first, whether the merged firm would have the *ability* to foreclose its rivals, second, whether it would have the economic incentive to do so and, third, whether a foreclosure strategy would have a significant detrimental effect on competition, thus causing harm to consumers. In practice, these factors are often examined together as they are closely intertwined.³⁸²
- (848) According to previous Commission's decisions, conglomerate effects might arise from the Parties' portfolio of brands across different product markets and the fact that the Parties have significant market shares in numerous product markets where their activities do not overlap.³⁸³
- (849) The Commission has assessed whether as a result of the Transaction the Parties could leverage their strong position in one market to increase the sales in a weaker product market by bundling the two products together.
- (850) First, for the reasons discussed in Sections 5.2 to 5.7, the merged entity will not have a significant degree of market power that would enable it to successfully engage in any bundling strategy in any of the markets concerned.³⁸⁴
- (851) However, for the sake of the argument, if we were to assume that the merged entity could leverage its position in one market to engage in exclusionary practices, the Commission has considered whether any bundling strategy may be facilitated by the enlarged range of brands across different product markets (i.e. fragrances, colour cosmetics, deodorants, shower gels, hair colouring, styling, care, etc) that the merged entity would have following the Transaction.
- (852) A majority of retailers that responded to the market investigation indicated that cross-promotions (i.e. promotions associating different products) are mainly organized by reference to distinct product categories.³⁸⁵
- (853) Moreover, a majority of respondents to the market investigation have indicated that in the past the Parties have not substantially promoted bundling across multiple markets.³⁸⁶

³⁸¹ Non Horizontal Merger Guidelines ("NHG"), paragraph 93.

³⁸² NHG, paragraph 94.

³⁸³ See e.g. case M.3149 – *Procter & Gamble/Wella*, paragraphs 110 et seq.

³⁸⁴ See NHG, paragraph 23. As discussed in Section 5.7, the Parties will have a significant combined market share only in the nail colour cosmetics market in travel retail across the EEA (63.5%) and at worldwide level (60.0%). However, the Target Businesses only supply very limited nail colour cosmetics products through the *Gucci* brand, so the increment brought about by the Transaction rounds to nil. Despite having already a strong market position in the nail colour cosmetics at the EEA level with its brand OPI, Coty has not engaged in any bundling strategy so far and there is no evidence that the Transaction would change Coty's ability and incentives to do so, in particular because OPI, which is a nail polish–specialist brand distributed via a selective distribution system, has only limited presence in the EEA (see Form CO, paragraph 2021).

³⁸⁵ See responses to Q2 – questionnaire to customers, question 48.

- (854) Given that the existing portfolios of each of the Parties comprise already a large number of brands across different markets, there is no indication that such bundling would become more likely in the future. A majority of customers also indicated that post-Transaction they will not sell more cross-promotions of the merged entity products.³⁸⁷
- (855) While the replies of distributors are mixed (pointing to the fact that any strategy by the merged entity would depend on the markets concerned)³⁸⁸, a majority of customers and competitors indicated that post-Transaction the merged entity would have the ability to bundle or tie any of its colour cosmetics or fragrances products on the one hand with any of its other products (such as hair products, deodorants and shower gels).³⁸⁹
- (856) In this respect the Commission notes at the outset that any ability to bundle or tie the merged entity's products would only be possible for products that are sold via the same distribution channel.
- (857) For this reason, while the Target Businesses include P&G's global professional salon hair care and parts of its retail hair colouring and styling business,³⁹⁰ the Commission is of the view that the merged entity would unlikely bundle salon products with other product categories due to the fact that salon products and retail beauty products serve two distinct groups of customers and are distributed via different channels.
- (858) Moreover, as regards prestige products that are typically sold via the selective distribution system, any bundling strategy of the merged entity appears unlikely, since brand equity and loyalty is very important and there would be no interest to the cross promotion with any other product.³⁹¹ In this regard, a competitor pointed out that *"Key Target's brands are prestige brands and sold mainly via different channels vs other products (hair colour, deodorants, shower gels), therefore due to two different*

³⁸⁶ The provision of gift sets (including for example a fragrance and a shower gel or a deodorant) does not amount to a generalised commercial tying or bundling strategy whereby the Parties' retail customers are incentivised to purchase fragrances and colour cosmetics (or other products) together. The Parties' gift sets are confined to the same brand and often the same product category. Moreover, hair colouring, styling, care products are not usually combined in gift sets with fragrances or colour cosmetics. Therefore the existence of gift sets does not entail combining colour cosmetics and fragrances with hair products to any significant scale. Moreover, products sold in gift sets account for a moderate share of turnover : 18% of total fragrance sales and 2% of total colour cosmetics sales across the EEA for Coty, 25% of total fragrance sales and 5% of total colour cosmetics sales across the EEA for the target Businesses See also Form CO, paragraphs 3237-3240.

³⁸⁷ See responses to Q2 – questionnaire to customers, question 48.2.

³⁸⁸ For example, the hair market seems to be a completely different business, so bundling with other product categories appears quite unlikely. See responses to Q5 – questionnaire to distributors, question 49.

³⁸⁹ See responses to Q1 – questionnaire to competitors, question 58 and to Q2 – questionnaire to customers, question 49.

³⁹⁰ The Transaction does not cover shampoos, conditioners and other hair care products sold by P&G in the retail channel besides hair colouring and styling products. More specifically, P&G's Head & Shoulders, Herbal Essences, Rejoice and Pantene brands will remain with P&G post-Transaction.

³⁹¹ See responses to Q1 – questionnaire to competitors, question 58.

distribution channels there is limited opportunity to bundle prestige fragrance with other products."³⁹²

- (859) Further, any bundling strategy combining colour cosmetics with any other product category where the Parties are active appears also unlikely, since "*colour cosmetics has very different marketing and consumer dynamics from hair colour, deodorants or shower gels, so we do not see the potential for Coty to capitalize on a conglomerate effect.*"³⁹³
- (860) As regards the likelihood that the merged entity would bundle retail hair products or deodorants or shower gels with fragrances or colour cosmetics, the Commission observes the following.
- (861) Post-Transaction the merged entity would face significant competition from other branded product suppliers with similar or even broader product ranges, such as l'Oréal, LVMH, and Unilever. The merged entity will not have more must-have brands than some of its strong competitors.³⁹⁴ Therefore, the merged entity is not in a unique position compared to its rivals in terms of product offerings.
- (862) Because of the existence of several suppliers with comparable offerings to that of the merged entity, customers could easily switch to alternative suppliers should the merged entity attempt to engage in any exclusionary practice. In addition, competitors with equally strong portfolios of brands could also defeat any bundling strategy of the merged entity by pricing more aggressively their products. Those counter-strategies seem particularly relevant to any bundling strategy that may be applied to mass products, given the high cross-elasticity of demand for products in mass markets.
- (863) In light of the foregoing, it seems unlikely that as a result of the Transaction the merged entity would have the ability to successfully foreclose its rivals by engaging in any bundling or tying strategy.
- (864) As concerns the Parties' incentive to engage in bundling practices, a majority of respondents to the market investigation indicated that post-Transaction the merged entity would not have any incentives to bundle or tie any of its colour cosmetics or fragrances products on the one hand with any of its other products (such as hair colour, deodorants, shower gels).³⁹⁵
- (865) In addition, neither Party has so far engaged in bundling different product categories on a significant scale. This is despite the fact that each of the Parties currently has a multi-product offering supplied to the same customers. The Commission does not

³⁹² See Henkel's replies to Q1 – questionnaire to competitors, question 58.

³⁹³ See Cosnova's replies to Q1 – questionnaire to competitors, question 58.

³⁹⁴ See Section 5.2.3.

³⁹⁵ Replies to Q1 – questionnaire to competitors, question 60, to Q2 – questionnaire to customers, question 50 and to Q5 – questionnaire to distributors, question 50. However, responses are different across different categories of respondents: customers (comprising both retailers and distributors) consider that the merged entity would not have the incentive to bundle whereas competitors replied that the merged entity would have such an incentive essentially due to its enlarged portfolio of brands in mass and prestige fragrances that can be bundled with deodorants and shower gels.

have any material indication to believe that this would change following the Transaction.

- (866) When assessing the incentive to foreclose, the Commission also took into account other factors such as the type of strategies adopted on the market in the past or the content of internal strategic documents such as business plans. In the internal documents of the Parties it appears that strategic planning is conducted predominantly at brand level (for one or several brands within the same product market). The Parties do not seem to conduct any strategic planning that would entail combining colour cosmetics and fragrances with any other product category to any significant scale.
- (867) Finally, even if we were to assume that the merged entity would engage in a bundling strategy linking brands across different product markets, a majority of respondents to the market investigation indicated that such a strategy would have a neutral impact on effective competition on any relevant market.³⁹⁶

5.9.3. *Conclusion*

- (868) In view of the above, and considering all evidence available to the Commission, the Transaction does not raise any serious doubts as regards its compatibility with the internal market in relation to conglomerate effects.

6. CONCLUSION

- (869) 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 and Article 57 of the EEA Agreement.

For the Commission
(signed)
Margrethe VESTAGER
Member of the Commission

³⁹⁶ Replies to Q1 – questionnaire to competitors, question 60, to Q2 – questionnaire to customers, question 51 and to Q5– questionnaire to distributors, question 51. Replies are however different across the categories of respondents: customers (comprising both customers and distributors) are not concerned about any possible bundling strategy of the merged entity which would have a neutral impact on effective competition, whereas competitors consider that any bundling strategy by the merged entity would negatively affect competition.