



## **OPINION**

**of the ADVISORY COMMITTEE on MERGERS  
AT ITS MEETING OF 29 MARCH 2019  
CONCERNING A PRELIMINARY DRAFT DECISION RELATING TO  
CASE M.8947 – NIDEC/ WHIRLPOOL (EMBRACO BUSINESS)**

**Rapporteur: FRANCE**

### **Operation**

1. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

### **Union Dimension**

2. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation.

### **Product markets**

3. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant product markets:
  - a. Fixed speed household compressors
  - b. Variable speed household compressors
  - c. Fixed speed light commercial compressors
  - d. Variable speed light commercial compressors

### **Geographic markets**

4. The Advisory Committee (10 Member States) agrees with the Commission that the relevant geographic market for fixed speed household compressors can be left open.
5. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant geographic market for variable speed household compressors, namely that it is EEA-wide in geographic scope or, at least worldwide, with strong regional differentiations, where the EEA has to be considered as a region highly differentiated from others.

6. The Advisory Committee (10 Member States) agrees with the Commission's definitions of the relevant geographic markets for fixed speed and variable speed light commercial compressors, namely that they are EEA-wide in geographic scope or, at least worldwide, with strong regional differentiations, where the EEA has to be considered as a region highly differentiated from others.

### Competitive Assessment

7. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction **would not significantly impede effective competition**, regardless of the exact geographic market definition, with regard to fixed speed household compressors.
8. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction **would significantly impede effective competition due to horizontal non-coordinated effects and/or due to the creation or strengthening of a dominant position** with regard to variable speed household compressors.
9. The Advisory Committee (10 Member States) agrees with the Commission's assessment that the Transaction **would significantly impede effective competition due to horizontal non-coordinated effects and/or due to the creation or strengthening of a dominant position** with regard to fixed speed and variable speed light commercial compressors.

### Commitments

10. The Advisory Committee (10 Member States) agrees with the Commission that the Final Commitments address the competition concerns in relation to the markets for:
  - a. Variable speed household compressors;
  - b. Fixed speed and variable speed light commercial compressors.
11. At the request of a member of the Advisory Committee, the Commission explained in detail all measures specifically included in the design and scope of the remedies to ensure that the Divestment Business will develop into a viable competitive force. The Advisory Committee (10 Member States) agrees with the Commission that the Final Commitments sufficiently ensure the viability of the Divestment Business.
12. The Advisory Committee (10 Member States) agrees with the Commission that, subject to full compliance with the Final Commitments, the Transaction would not significantly impede effective competition in the internal market or a substantial part of it.

### Compatibility with the Internal Market

13. The Advisory Committee (10 Member States) agrees with the Commission that the Transaction should therefore be declared compatible with the internal market and the EEA Agreement in accordance with Articles 2(2) and 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.