

***Case No COMP/M.6468 -  
FORFARMERS /  
HENDRIX***

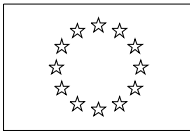
Only the English text is available and authentic.

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

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Article 6(1)(b) NON-OPPOSITION  
Date: 16/03/2012

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EUROPEAN COMMISSION

Brussels, 16.03.2012  
C(2012) 1891

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party:**

Dear Sir/Madam,

**Subject: Case No COMP/M.6468 – FORFARMERS/HENDRIX  
Commission decision pursuant to Article 6(1)(b) of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 10 February 2012, the European Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004<sup>2</sup> by which the undertaking Forfarmers Group B.V ("Forfarmers", the Netherlands) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the Hendrix business ("Hendrix") currently owned by Nutreco Nederland B.V, by way of purchase of shares and assets. This business comprises (i) the issued share capital in Hendrix UTD B.V (the Netherlands), Hedimix B.V (the Netherlands), Hendrix UTD GmbH (Germany) and Hendrix Illesch GmbH (Germany) and their respective subsidiaries, (ii) all assets and liabilities of Nutreco Feed Belgium N.V. (Belgium) and Hendrix N.V. (Belgium) and (iii) certain intellectual property rights.

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

<sup>2</sup> OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation").

## **I. THE PARTIES**

2. ForFarmers is the holding company for an international group of companies mainly active in the production and sale of agricultural commodities such as compound feed, fertilisers and seeds. ForFarmers also produces broiler breeders and provides miscellaneous agricultural services<sup>3</sup>. Forfarmers also supplies raw materials to the feed, food and fuel industries through its participation in Cefetra B.V<sup>4</sup>.
3. Hendrix is currently part of Nutreco, an international company active in the animal nutrition industry. Hendrix' core activity is the production and sale of compound feed in the Netherlands, Belgium and Germany. Hendrix also sells broiler breeders and provides miscellaneous agricultural sector services<sup>5</sup>.

## **II. THE OPERATION**

4. On 15 November 2011, ForFarmers and Nutreco Nederland B.V., a full indirect subsidiary of Nutreco, entered into a signing protocol by which they agreed to enter into a Share, Assets and Liabilities Purchase Agreement in respect of Hendrix.

## **III. CONCENTRATION**

5. The proposed transaction will result in ForFarmers acquiring sole control over Hendrix. The notified transaction therefore constitutes a concentration within the meaning of Article 3 (1) (b) of the Merger Regulation.

## **IV. EU DIMENSION**

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2 500 million<sup>6</sup> (Forfarmers: EUR 4163 million, Hendrix: EUR 829 million).
7. In six Member States ([...]) the combined aggregate turnover of all the undertakings concerned is more than EUR 100 million. In Belgium, Germany and the Netherlands, the aggregate turnover of each of the undertakings concerned is more than EUR 25 million. Finally, none of the undertakings concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State.

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<sup>3</sup> Relating to: (i) the coordination of barn engineering and architecture, (ii) legal aspects of the farming business, such as environmental and building permits and subsidies, (iii) agricultural business development; and (iv) the acquisition of and trade in production rights, such as milk quota.

<sup>4</sup> Forfarmers holds 57.7% of the shares in raw material supplier Cefetra. This transaction was approved by the Commission on 14.05.2009.

<sup>5</sup> Relating to: (i) the coordination of barn engineering and architecture, (ii) legal aspects of the farming business, such as environmental and building permits and subsidies; and (iii) agricultural business development.

<sup>6</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

8. The notified operation therefore has an EU dimension pursuant to Article 1(3) of the Merger Regulation.

## V. MARKET DEFINITIONS

9. The proposed transaction gives rise to horizontal overlaps between the Parties' activities in: (i) the supply of single feed<sup>7</sup>, (ii) the production and sale of compound feed<sup>8</sup> and (iii) the breeding and sale of broiler breeders<sup>9</sup>.
10. The proposed transaction also gives rise to a number of vertical relationships between the Parties in the markets for (i) the supply of single feed to the market for compound feed and (ii) the production and sale of compound feed to the broiler breeding market.

### Horizontal overlaps

#### 1. Single feed

11. The Parties' main activities are the production and sale of animal feed. Both Forfarmers and Hendrix are active in the supply of single feed and the production and sale of compound feed. In line with a previous Commission decision<sup>10</sup>, the notifying party distinguishes between single animal feed and compound animal feed.
12. Single animal feed means animal feed products which are made up of only one basic feed ingredient. The overall market of single feeds includes for example scraps of soya, rapes or sugar beet, fish meal or grain.
13. In a previous case<sup>11</sup>, the Commission considered a further distinction of the single feed market between markets for non-grain feed ingredients (e.g. oilseed meals, fish meal and by-products of the starch and ethanol industry) and feed grains. The Commission also considered in that case that there was an overall wholesale market for single feed<sup>12</sup>. Although the Commission left open the exact geographic market definition in that case, it found some factors indicating national markets.

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<sup>7</sup> Alternatively, under narrower potential market definitions, the markets for (i) the supply of whey and (ii) the supply of wet corn gluten feed, both used as moisture-rich animal single feed, would be affected.

<sup>8</sup> Alternatively, under narrower potential market definitions, the markets for (i) the supply of compound feed to cattle; (ii) the supply of compound feed to poultry, (iii) the supply of compound feed to pigs (iv) the supply of starter nutrition (a type of compound feed) and (v) the supply of complete feed (a type of compound feed) would be affected.

<sup>9</sup> The proposed transaction also results in horizontal overlap in miscellaneous service in the Netherlands. As this overlap is *de minimis*, this segment is not discussed [...].

<sup>10</sup> Case Comp M.1362 BAY WA/RWA

<sup>11</sup> Case Comp M.1362 BAY WA/RWA

<sup>12</sup> Case Comp M.1362 BAY WA/RWA, paragraph 21.

14. The notifying party argues that the market for single feed includes: (i) the supply of raw materials to compound feed manufacturers and (ii) the supply of roughage and moisture-rich single feed to farmers.

*(i) the supply of raw materials to compound feed manufacturers*

15. Only Forfarmers is active (through Cefetra) in the supply of raw materials to the compound feed market. The notifying party submits that the segment of raw materials for compound feed encompasses all raw materials, regardless of whether they are plant-based, animal-based or chemical - used by compound feed manufacturers and sourced by them from specialised wholesalers. In line with a previous Commission decision<sup>13</sup>, the notifying party considers that the raw materials used for compound feed consist of: (i) grains, (ii) oil-bearing seeds, (iii) gluten, (iv) animal meal, (v) fishmeal and (vi) citrus pulp. The Dutch Competition Authority (NMa) has considered a different subdivision of this market in previous decisions<sup>14</sup>, taking into account the content of the raw materials and considered separate markets for (i) starch, (ii) proteins, (iii) fats, (iv) minerals and (v) vitamins.

16. As to the geographic scope of the market, the notifying party argues that the market for the supply of raw materials for compound feed is worldwide because these materials are traded in open cash markets and Cefetra competes with companies active on a worldwide basis. The Commission (and the NMA) has considered in previous decisions that competition takes place at European level, although the exact market geographic scope was left open.

17. In any event, the Parties' combined shares in the market for raw material and its potential sub-divisions do not lead to any horizontally or vertically affected market.

*(ii) the supply of roughage and moisture-rich single feed to farmers.*

18. Both Forfarmers and Hendrix are active in the supply of roughage and moisture-rich single feed<sup>15</sup> to farmers.

19. The notifying party submits that the market encompasses the following products: (i) straw and hay (roughage) and (ii) wet corn gluten feed, (iii) sugar beet pulp, (iv) brewer's grain (spent grains), (v) potato chips / potato pulp, (vi) wheat starch, (vii) wet distiller's grain, (viii) potato steam peelings and (ix) whey and other dairy products<sup>16</sup>. In line with a NMA decision<sup>17</sup>, the notifying party does not consider a further segmentation between different types of roughage and moisture-rich single feed or different types of animals they can feed. The notifying party argues that roughage and moisture-rich single feed are all

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<sup>13</sup> Case Comp M. 5410 Forfarmers/ Cefetra

<sup>14</sup> See for instance, Case 2526 ACM/ Cavo LATuco and Case 5612 Ceralco/ Schouten Products

<sup>15</sup> The notifying party submits that roughage and moisture-rich single feed is used by cattle and pig farmers as a basic element for the composition of the feed ration of their livestock. Most of these products are by-products from farming and production of food product or alcoholic beverages which a rich content in fibre and a residual nutrition value, according to the seasons, availability and price.

<sup>16</sup> According to the notifying party (i) straw and hay are roughage products and the rest of the products are moisture-rich single feed.

<sup>17</sup> Case 6781/93 Agrifirm/Cehave

substitutable amongst each other to a large extent and each type has at least two or three other types which are fully substitutable.

20. With regard to the geographic scope, the notifying party considers that the market for the supply of roughage and moisture-rich single feed is regional in scope, covering the Benelux countries, certain parts of Northern France and the Northern half of Germany. The NMa has considered this market to be national or wider than national, but has left the exact geographic market definition open.
21. Replies from third parties during the market investigation have broadly confirmed the position held by the Commission in its previous decisions as regards market definition. However, no definitive conclusion can be drawn from the market investigation on a potential segmentation between the different types of products. The market participants alleged that each product has its characteristics and suppliers are different (i.e. some roughage and moisture-rich single feed are coming from farm and other are coming from different industrial process).. Customers and competitors also recognized that, with respect to production and use, it would be easy to switch from one product to another.
22. For the purposes of this case, the precise definition of the relevant market can also be left open since the competitive assessment would not change under any plausible alternative market definition.

## **2. Compound feed**

23. Both Forfarmers and Hendrix are active in the market for the production and sale of compound feed in the Netherlands, Belgium and Germany.
24. The production of compound animal feed involves the mixing and compounding of various ingredients. In general, animal feed is made up of two main ingredients: agricultural raw materials (mainly grains) which comprise on average over 98 % of total feed volume; and premix (i.e., feed additives).<sup>18</sup>
25. In line with previous Commission decisions<sup>19</sup>, the notifying party considers that the market for compound feed should be considered as all animal feed products (with the exception of fish feed and pet food) without further distinction between feed for different types of animal.
26. The Commission and the Dutch Competition Authority (NMa) have also considered a possible sub-segmentation of this market into feed for cattle, pigs and poultry<sup>20</sup>. In addition, in a recent decision, the Commission has considered a possible sub-segmentation of this market into concentrates, starter nutrition, milk replacers and complete feed.<sup>21</sup>

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<sup>18</sup> M.2956 CVC/PAI Europe/Provimi. In addition, it should be noted that ForFarmers is not active in the area of animal feed mixes (base mixes or pre-mixes) or in upstream or downstream areas.

<sup>19</sup> See for instance, Case Comp M. 2771 Cargill/Agribands and Case Comp M.5558 – Nutreco/Cargill.

<sup>20</sup> See for instance Case Comp M.5410 Forfarmers/Cefetra and Case 1603/23 Cooperative Cehave/Cooperatie Landbouwbelaang.

<sup>21</sup> Case Comp M. 6383- Cargill/Koro France

However, in these decisions, the Commission has ultimately left open the precise definition of the relevant market.

27. The market investigation confirmed that the market for compound feed could include all animal feed products with the exception of fish feed and pet food.
28. In addition, the results of the investigation suggested that the market for compound feed could be further divided depending on different animals or types.
29. All respondents claimed that compound feed could be further divided between products depending on different animal (cattle, poultry, pigs) because each compound feed is specific for each group of animal with nutritional differences. However, they also indicated that these products have similar characteristic since the same raw materials are used for all kind of animals and their prices move in parallel. Moreover, the majority of competitors have switched between the production of the three different types of animal and customers could easily switch between different products.
30. With regard different types of compound feed, the market investigation showed that the vast majority of the respondent considered that compound feed should be further divided between concentrates, starter nutrition, milk replacers and complete feed. Some respondents indicated that these types of compound feed have different ingredients, applications and require different infrastructure to be available on the customer farms<sup>22</sup>.
31. For the purpose of this decision, however, the question of the exact market product can ultimately be left open as even under the narrowest market definition no competition concerns arise.
32. In relation to the geographic scope, the notifying party submits that the market is at least macro-regional in scope, covering the Benelux, certain parts of Northern France and Northern half of Germany. In previous decisions<sup>23</sup>, the Commission has considered the market for compound animal feed to be a national in scope because of the radius (100-150 km) of the sales of compound animal feed from the feed plants and the players' activities and marketing strategies on a national basis.
33. During the market investigation, most of the competitors confirmed that the distant to delivery compound feed to their customer is between 50 and 150 km and transport costs constitute a significant barrier.
34. For the purposes of this decision, however it can be left open the exact market geographic definition since no competition concerns arise under any market definition.

### **3. Broiler breeders**

35. Both Forfarmers and Hendrix are active in the market for breeding and sale of broiler breeders in the Netherlands, Belgium and Germany.

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<sup>22</sup> The market investigation has not been conclusive on further potential sub-division (i.e starter nutrition for cattle). In any event, on milk replacer which could potentially be the product which suit for one type of animal, the Parties market shares are very low [0-5]%.

<sup>23</sup> Case Comp M.1362 BAY WA AG/RWA

36. In line with a previous decision<sup>24</sup>, the notifying party submits that this market comprises the activity of sourcing the desired amount of day-old chicks that are grown at specialised farms over a period of 18 weeks and then sold to propagator farms for the production of hatching eggs; these broilers are bred especially to produce eggs very early and to produce stock for poultry meat.<sup>25</sup>
37. In the market investigation, all respondents confirmed the position held by the Parties in line with a previous Commission' decision.
38. With regard to the geographic scope, the notifying party submits that this market is wider than national comprising a catchment area limited by the 12 hour maximum duration for transport of poultry imposed by law, corresponding to a radius of 600-800 kilometres. Therefore, based on the Parties' activities, the notifying party proposes to include in the relevant geographic market a region comprising Benelux, Germany and the Northern parts of France and Austria.
39. In previous decisions<sup>26</sup>, the Commission assessed that market both under a hypothetical national delineation and under a hypothetical delineation comprising the Netherlands, Belgium, Germany and the Northern parts of France and Austria but ultimately left open the precise scope of the relevant market.
40. In the market investigation, a wide majority of the participants claimed that the broiler breeders market is national in scope. Respondents also claimed that it is necessary to count with a local network to sell their poultry.
41. For the purpose of this decision, however it can be left open the precise scope of the geographic market since the competitive assessment would not change under any plausible alternative market definition.

## **VI. COMPETITIVE ASSESSMENT**

### **Horizontal overlaps**

42. The parties' activities overlap in the EU and in particular Member States in respect of each of the following segments: (i) compound feed; (ii) complete feed; (iii) concentrates; (iv) starter nutrition (v) milk replacers.<sup>27</sup>

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<sup>24</sup> Case Comp M.5410 Forfarmers/Cefetra

<sup>25</sup> According to the Parties, this market needs to be distinguished from the separate market for the broilers production process which encompasses the activity of raising and growing live poultry for a period of about 6 weeks for the purpose of slaughtering and sale for human consumption. Both ForFarmers and Hendrix are not active in this separate market.

<sup>26</sup> Case Comp M.5410 Forfarmers/Cefetra

<sup>27</sup> As regards, the proposed methodology for the calculation of the market shares, the parties have relied on volume data since it is the most common data used in the animal nutrition business and since relying on value data would imply introducing further assumptions which might risk distorting the accuracy of the reported market shares. The underlying data source used for the calculation of the market shares is the European Feed Manufacturers Association (FEFAC) [...].



43. The proposed transaction gives rise to a number of horizontally and vertically affected markets in the Netherlands. In Belgium, the only horizontally affected market concerns the supply of single feed.

## **1. Single feed**

44. Both Forfarmers and Hendrix are active in the market for the supply of single feed.

45. The Parties' combined market share in the supply of single feed is [5-10]% at EU level and [10-15]% in the geographic definition submitted by the notifying party<sup>28</sup>. At national level, the market shares are [30-35]% for the Netherlands, [5-10]% for Germany and [15-20]% for Belgium.

46. Forfarmers submits that competition concerns can be dismissed since the total combined market shares include two segments (raw material and roughage and moisture-rich single feed) where the Parties' activities have a minimal overlap and therefore the increment on the Dutch market and Belgian markets are very low, at only [0-5]% and [0-5]% respectively.

47. In the Netherlands, the total combined market share can be broken down into (i) [25-30]% relating to raw materials, which are entirely attributable to Cefetra (Forfarmers) and where, therefore, there is no overlap, and (ii) [0-5]% relating to roughage and moisture-rich single feed (i.e. [0-5]% for ForFarmers and [0-5]% for Hendrix).

48. In Belgium, there is no functional overlap, as Hendrix is not active in the area of raw materials and ForFarmers is not active in the area of roughage and moisture-rich single feed. The [15-20]% combined market share can be broken down into (i) [15-20]% relating to Cefetra's activity on the raw materials segment and (ii) [0-5]% relating to Hendrix' activity on the roughage and moisture-rich single feed segment.

49. Forfarmers supplies roughage and moisture-rich single feed in Germany and the Netherlands whilst Hendrix is only active in the supply of moisture-rich single feed in the Netherlands.

50. According to the notifying party, the Parties combined market shares in the overall supply of roughage and moisture-rich single feed would be below 15% on any geographic market definition and would therefore not lead to an affected market. However, the proposed transaction could lead to horizontally affected markets in the Netherlands on a narrower market according to the type of product. Under such a narrow a hypothetical market definition, the merged entity's market shares would be [15-20]% in wet corn gluten feed with an increment of [0-5]%. There are at least 4 other strong competitors (Duynie, Beuker, Jan Bakker and Agrifirm with another smaller competitor). Regarding the whey market used as a moisture-rich single feed the merged entity would have a market share of [20-25]% with an increment of only [0-5]%. There are also 4 other strong competitors in the market (Tontje, Baks, Bonda and Van Triest). Furthermore, the majority of third parties who replied to the market investigation were unconcerned about the competition effects of the transaction on these markets.

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<sup>28</sup> A cross border region consisting of the Benelux, certain parts of Northern France and the Northern half of Germany.

51. The wide majority of respondents to the market investigation expect no impact on the market. They also indicated that contracts are generally short (1 year) and switching to another supplier is possible.

52. In light of all the above factors, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement in relation to the market for supply of single feed.

## 2. Compound feed

53. Both Farmers and Hendrix are active in the production and sale of compound feed in the Netherlands, Belgium and Germany.

54. On the overall market for the production and sale of compound feed in the geographic area proposed<sup>29</sup>, the parties' combined market share would be [5-10]%. On a national level, the parties' combined market share would be [15-20]% (the Netherlands), [5-10]% (Belgium) and [5-10]% (Germany).

55. If the market for the production and sale of compound feed were further divided into separate product markets based on either different species of animals (cattle, pigs and poultry) or different type of compound feed (concentrates, starter nutrition, milk replacers and complete feed) the parties' combined market share would lead to affected markets only in the Netherlands<sup>30</sup>. In none of the other sub-segments do the Parties' combined market shares exceed 25%.

Table 1: Market shares of the Parties in the Netherlands in the different sub-segments (2010)

	Types								Animals					
	Concentrates		Starter Nutrition		Milk Replacers		Complete feed		Cattle		Pigs		Poultry	
	kT	%	kT	%	kT	%	kT	%	kT	%	kT	%	kT	%
Forfarmers			[...]	[10-15]	[...]	[0-5]	[...]	[10-15]	[...]	[10-15]	[...]	[10-15]	[...]	[0-5]
Hendrix			[...]	[10-15]	[...]	[0-5]	[...]	[10-15]	[...]	[10-15]	[...]	[5-10]	[...]	[10-15]
Combined			[...]	<b>[20-25]</b>	[...]	[0-5]	[...]	<b>[20-25]</b>	[...]	<b>[20-25]</b>	[...]	<b>[20-25]</b>	[...]	<b>[15-20]</b>

<sup>29</sup> The notifying party proposed that the market for the production and sale of compound feed is at least macro-regional in scope, covering the Benelux, certain parts of Northern France and Northern half of Germany.

<sup>30</sup> According to the notifying party, the parties' combined market shares are below 10% in any possible sub-segmentation of the market for the production and sale of compound feed in Belgium and Germany.

Total	[...]	100	[...]	100	[...]	100	[...]	100	[...]	100	[...]	100	[...]	100
	]					31								

Source: Form CO

56. According to the notifying party, the proposed transaction does not result in any competition concerns because customers would have sufficient supply alternatives. In particular, Agrifirm ([20-25]%), De Heus ([10-15]%) in the Netherlands and four other smaller competitors will be able to exert competitive constraint post transaction.
57. Indeed, the wide majority of customers and competitors do not expect the transaction will have any anti-competitive effect on the market and all customers indicated that several suppliers in addition to the Parties are available. They also indicated that switching to another supplier is possible and there is enough capacity on the market for compound feed.
58. In the light of above, it can be concluded that the proposed transaction does not raise serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement in relation to the market for compound feed.

### 3. Broiler breeders

59. As indicated above, the Parties are active in the market for breeding and sale of broiler breeders in the Netherlands, Belgium and Germany.
60. On the basis of the geographic definition submitted by the notifying party<sup>32</sup>, the Parties' combined market share is [10-15]%. On a national level, the Netherlands is the only country where the proposed transaction gives rise to an affected market<sup>33</sup>. The Parties' combined share in the market for the breeding and sale broiler breeders in the Netherlands is [30-35]%.  
61. The notifying party is of the opinion that the proposed transaction is unlikely to give rise to competition concerns since (i) there are a number of significant other competitors in the market in the Netherlands such as Agrifirm (30-35%), De Heus (10-15%) and Brameco-Lagerwey (10-15%), (ii) the barriers to entry are low and (iii) the customers on this market are able to secure themselves the breeding and broiler breeders.  
62. The market investigation confirmed the presence of strong competitors. Customers like competitors do not think the transaction will have any anti-competitive effect on the market. Competitors also mentioned that they do not expect any impact on their business. All respondents to the market investigation indicated that there are sufficient alternative suppliers available in the market for broiler breeder.

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<sup>31</sup> For the calculation of the total market for complete feed in the Netherlands, Belgium and Germany the figures for starter nutrition (piglet feed), milk replacers and concentrates were combined and subtracted from the FEFAC figures for the total national markets.

<sup>32</sup> The notifying party proposes to include in the relevant geographic market a region comprising Benelux, Germany and the Northern parts of France and Austria.

<sup>33</sup> The parties' combined market share in Germany is [10-15]% and in Belgium is [5-10]%.

63. In the light of the above, it can be concluded that the proposed transaction does not raise serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement in relation to the market for broiler breeder.

#### **Vertical relationships (upstream to animal feed)**

##### **4. Single feed (upstream) - compound feed (downstream)**

64. The Parties are active in the supply of single feed to compound feed manufacturers and in the supply of single feed (rough and moisture-rich single feed) to farmers. Therefore, the only potential vertical link between the Parties' activities would concern the supply of raw material (upstream) to compound feed producers (downstream) as neither of the Parties has "farming" activities.

65. In any possible sub-segmentations of the market for supply of single feed (raw material and roughage and moisture-rich single feed) the Parties' [...] vertical links do not give rise to vertically affected markets<sup>34</sup>.

66. In the overall market for single feed the Parties' combined market share is [30-35]% in the Netherlands and [5-10]% at EU level. In the downstream supply of compound feed, the Parties have a combined market share of [15-20]% in the Netherlands and [0-5]% at EU level.

67. The likelihood is slim that the merged entity would have the ability to engage in an input or customer foreclosure given its limited share in the Netherlands and the competitive constraint imposed by the remaining upstream suppliers. Furthermore, the majority of third parties who replied to the Commission's market investigation expressed no concerns as regards the vertical relationship arising between the Parties.

68. Therefore, the Commission considers that the proposed transaction does not raise serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement with regard to a possible foreclosure of the supply of single feed to the compound feed industry.

##### **5. Compound feed (upstream) - broiler breeders (downstream)**

69. Both Forfarmers and Hendrix are active in the market for production and sale of compound feed and in the market for breeding and sale of broiler breeders. The Parties use compound feed as an input for the production of broiler breeders. The Parties' combined market share

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<sup>34</sup> In the overall market for raw materials for compound feed, Forfarmer's market share (the only active in this market) is [0-5]% in the EU market. In the overall market for roughage and moisture-rich single feed the combined market shares is [10-15]% in the Netherlands. There is only a hypothetical market "the market for the wholesales/flow management of wet corn gluten feed to the market for the supply of wet corn gluten feed to farmers" where the combined market shares above 15% ([15-20]%). However, this market is a sub-segment of a type of moisture-rich single feed product (wet corn gluten) which has never been defined as a single market by the Commission.

in the Netherland in the upstream market is [15-20]% and in the downstream market is [30-35]%.

70. Forfarmers submits that based on these market shares and the low percentage of broiler breeder production costs which relate to compound feed, it lacks the ability to engage into customer or input foreclosure. In fact, the notifying party considers that the proposed transaction will not have any vertical effects in relation to these markets since both Parties [...] the compound feed which they need for raising their respective broiler breeders.
71. The transaction shall not give rise, thus, to input foreclosure since the Parties' market share upstream is not significant and, in any event, alternative suppliers exist such as Agrifirm and De Heus. The existence of these suppliers and the availability of compound feed post transaction have been confirmed by respondents to the market investigation.
72. The transaction shall also not lead to customer foreclosure since the volumes sourced by the Parties on the market for compound feed are insignificant. The market investigation did not reveal concerns in this regard either.
73. In the light on above, it can be concluded that the transaction does not raise serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement with regard any foreclosure concerning the supply of compound feed to broiler breeders.

## **VII. CONCLUSION**

74. 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 functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission*

*(signed)*  
*Joaquín ALMUNIA*  
*Vice-President*