EUROPEAN COMMISSION
DG Competition

Case M.7893 - PLASTIC OMNIUM / FAURECIA EXTERIOR AUTOMOTIVE BUSINESS

Only the English text is available and authentic.

REGULATION (EC) No 139/2004
MERGER PROCEDURE

Article 6(1)(b) in conjunction with Art 6(2)
Date: 11/07/2016

In electronic form on the EUR-Lex website under document number 32016M7893

EUROPEAN COMMISSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Brussels, 11.7.2016
C(2016) 4572 final

PUBLIC VERSION

MERGER PROCEDURE

To the Notifying Party

Dear Madam(s) and/or Sir(s),

Subject: Case M.7893 – Plastic Omnium / Faurecia Exterior Automotive Business Commission decision pursuant to Article 6(1)(b) in conjunction with Article 6(2) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

(1) On 23 May 2016, the European Commission (the "Commission") received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which Compagnie Plastic Omnium S.A. ("Plastic Omnium" or "PO", France) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the automotive exterior business[3] ("the Target") of

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").

3 The automotive exterior business of Faurecia S. A. consists of a number of subsidiaries operating businesses in France (production plants of Marles-les-Mines, Burnhaupt, Audincourt and Marines), Spain (production plants of Almusafes, Barcelona, Tudela, Valladolid and Villaverde/Madrid), Germany (production plants of Friedrichschall, Rappenau, Essen, Ingolstadt, Köln, Neuburg, Offenau, Pappenheim, Reinsdorf, Renningen, Sterbfritz and Weissenburg), Slovakia (production plant of Hlohovec), Belgium (production plant of Brussels), United States of America (production plants of Sterling Heights and Belvidere), Argentina (production plant of Malvinas) and Brazil (production plants of Sao Bernanrdo, Porto Real and Taubate). Faurecia S.A intends to exit the exterior part business with the exception of its Hambach production site, the manufacturing of unpainted "black"

Faurecia S.A. ("the Seller", France) by way of purchase of assets of the target companies (the "Transaction").[4] Plastic Omnium is also referred to as the "Notifying Party" and collectively with the Target as the "Parties".

I. THE PARTIES

(2) Plastic Omnium is a global company specialised in manufacturing automotive equipment and waste management and environment products. The automotive division is made up of two distinct branches: the Auto Exterior Division and the Auto Inergy Division. The Auto Exterior Division is engaged in the manufacturing, painting and supply of automotive exterior components and modules in plastic to original equipment manufacturers ("OEMs"). The Auto Inergy Division manufactures and supplies fuel systems comprising fuel tanks, safety mechanisms and emission control systems. Plastic Omnium is ultimately solely controlled by Burelle S.A. ("Burelle", France).

(3) Plastic Omnium is also engaged in the assembly and supply of front end modules ("**FEMs**") to OEMs through its joint-controlling participation in HBPO. [5]

(4) The Target consists of the bulk[6] of the automotive exterior business of Faurecia S.A., established in France, Spain, Germany, Slovakia, Belgium, United States of America, Argentina and Brazil. The Target is engaged in the manufacturing and supply of painted plastic automotive exterior components and the assembly of FEMs for light vehicles to OEMs. The Target also has a marginal production of engine cooling systems ("**ECS**"). The Target is ultimately controlled by Peugeot S.A.

II. CONCENTRATION

(5) The Transaction involves the acquisition of all assets related to the Target by Plastic Omnium from Faurecia S.A. As a result, Plastic Omnium will solely control the Target. The Transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. UNION DIMENSION

(6) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million[7] (Burelle: EUR 5 231 million in 2014; the Target: EUR [turnover]). Each of them has a Union-wide turnover in excess of EUR 250 million (Burelle: EUR [turnover]; the Target: EUR [turnover]), but they do not achieve more than two-thirds of their Union-wide turnover within one and the same

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bumpers in Russia, Romania and Turkey, its composite business and the manufacturing of plastic front-end carriers by Faurecia Interior Systems.

4 Publication in the Official Journal of the European Union No C192 of 31.05.2016, p. 3.

5 HBPO is a joint-venture between Plastic Omnium, Hella KG Hueck & Co and Mahle GmbH, respectively lighting and air conditioning systems manufacturers, each owning 33.33% of HBPO. The formation of HBPO by the three JV partners was notified to and authorised by the Commission in 2004 (Case COMP/M.3433 - *Hella / Behr / Plastic Omnium / JV*).

6 See footnote 3.

7 Turnover calculated in accordance with Article 5 of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C 95, 16.04.2008, p.1).

Member State. The notified concentration therefore has a Union dimension within the meaning of Article 1(2) of the Merger Regulation.

IV. RELEVANT MARKETS

IV.1. Relevant product markets

IV.1.1. Plastic Front and Rear Bumpers

(7) Both Parties are active in the production of plastic front and rear bumpers for passenger cars and light commercial vehicles ("LCV").

(8) Bumpers are the main parts of an automotive front and rear end, with smaller devices such as grills, head and fog lamps, lamp wipers or park distance controls being integrated to result in the front or rear "look" of a car, but originally designed to allow the car to sustain an impact without damage to the vehicle's frame or safety system".[8] OEMs generally purchase painted bumpers, but at times (for some specific type of vehicles that do not require painted bumpers or for sale to the original equipment suppliers – OES, or for supplies to OEMs that have internal painting capacity) bumpers are purchased unpainted. Both Parties sell painted and unpainted bumpers.

The Notifying Party's view

(9) The Notifying Party argues that plastic front and rear bumpers form part of one and the same product market. According to the Notifying Party this is because of the following reasons.

(10) First, from the demand side OEMs generally source front and rear bumpers of any given vehicle model together from the same supplier. To support this claim the Notifying Party submits that between 2013 and 2015 in approximately [70-80]% of the cases, Plastic Omnium bid for both front and rear bumpers, either through a single tender or through paired tenders.

(11) Second, front and rear bumpers are designed and manufactured in the same way and using the same tooling, therefore they are substitutable from the supply side.

(12) With reference to the material of the bumpers, the Parties claim that whilst bumpers were originally made of steel or aluminium, they are now essentially made of plastic (thermoplastic or thermoset or composite). Steel bumpers are no longer used in the EEA and only very marginally in the US (on some trucks for instance). Plastic and metal bumpers do not appear to be viewed as substitutable by OEMs.

The Commission's assessment

(13) The Commission takes the view that plastic front and rear bumpers are part of one and the same product market for the following reasons.

(14) First, from the demand side, the Commission's market investigation demonstrated that the customers (OEMs) issue requests for quotation ("RFQs") for the front and

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8 Case COMP/M.5488 – *Magna/Cadence Innovation* (2009).

rear bumper together, a view confirmed by the majority of the customers responding to the market investigation. This is for several reasons. First, by bundling the sourcing of front and rear bumpers, OEMs try to achieve larger economies of scale. Second, those OEMs responding to the market investigation indicated that they prefer to source front and rear bumpers together to limit administrative and logistic complexity and to increase flexibility. Finally, the market investigation indicated that relying on a single supplier allows for more flexibility in the product development phase.[9]

(15) The market investigation also indicated that those OEMs that do not issue RFQs for the front and rear bumpers together, award the contracts for the supply of the front and rear bumper of the same model to different suppliers only in very limited instances, estimated to account for less than 20% of the cases.[10]

(16) Second, from the supply side, the manufacturing process of front and rear bumpers is exactly the same, both with regards to the injection process and the painting process. Also, all bumper manufacturers supply both front and rear bumpers.

(17) The Commission also considers that painted and unpainted bumpers are part of the same market.

(18) Bumpers can be sold painted (in the colour of the vehicle on which they will be installed) or unpainted. Unpainted bumpers can be sourced under two scenarios: (i) the bumpers will be mounted unpainted on the vehicle – so called "grey bumpers", generally on LCV, or (ii) the bumpers will be painted by the OEM if it has in-house painting capacity – so called "black bumpers".

(19) As regards a possible segmentation of the product market in painted and unpainted bumpers, from a demand side the market investigation indicated that OEMs source both painted and unpainted bumpers, depending on the vehicle on which the bumpers will be installed. The market investigation also indicated that some OEMs have in-house painting capacity and therefore could paint in-house unpainted bumpers. In some instances, therefore, painted and unpainted bumpers could be considered as substitutable from a demand side, although – as discussed further below[11] – this does not happen in a significant number of occasions.

(20) With regard to supply side substitutability, the Commission considers that generally manufacturers of plastic front and rear bumpers have painting capacity so that they can supply OEMs with bumpers. A supplier of painted bumpers can switch to producing unpainted bumpers immediately (the injection process is the same for painted and unpainted bumpers) and without incurring any cost (manufacturers already have the machineries) or risk. Hence, painted and unpainted plastic front and rear bumpers are likely substitutable from a supply side perspective. Finally, based on the information provided by the Notifying Party. The Commission considers that only a minor part ([10-20]% of all bumpers) is sold unpainted. Of this [10-20]%, the majority ([5-10]% of the total bumpers sold) is estimated to be used as grey bumpers (i.e. bumpers which will not be painted).

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9 Q1 – Questionnaire to customers, questions 6 and 6.1.

10 Q1 – Questionnaire to customers, questions 6.2. and 6.3.

11 See section V.2.1.6.b

IV.1.2. Front End Carriers ("FECs")

(21) The Commission has previously defined FECs as *the underlying structure for the whole front-end module. FECs are made of thermoplastic material, composites or metal/plastic hybrids,* although the exact product market definition was ultimately left open.[12]

(22) FECs are used on certain vehicles with an “open” front design, where the body of the vehicle is not closed until the engine has been inserted through the front of the (open) frame. The front of a vehicle with an open front design can be closed either by adding a FEC and all other components individually or with a FEM, where the FEC and the other components are pre-assembled.[13]

(23) FECs can be made of a variety of materials such as metal (steel or aluminium), plastic, or hybrid combinations which include reinforced plastic/metal parts. In the case of hybrid FECs, manufacturers may add the metal reinforcements onto a plastic FEC by either screwing them or bonding them with adhesive techniques, or by inserting the metal reinforcements in a mould before injecting the FEC.

(24) Both Parties are active in the production of FECs for light vehicles. PO manufactures only FECs made of plastic, while the Target also produces hybrid FECs.

The Notifying Party's view

(25) The Notifying Party agrees with the above definition and submits that the market for FECs should encompass FECs made of all materials.

(26) From the demand side point of view, the Notifying Party submits that hybrid FECs are fully substitutable with both plastic and metal FECs, because they all present similar characteristics, such as strength. The Notifying Party submits however that, in practice, the decision on the material of the FEC is generally made during the pre-development phase, before the RFQ is launched. RFQs for either metal or plastic FECs are therefore exceptional.

(27) From the supply side point of view, the Notifying Party acknowledges that not all types of FECs are substitutable, because the production of plastic and metal FECs requires different equipment and manufacturers of plastic do not have the equipment to work with metal and vice versa.

(28) Nevertheless, hybrid and plastic FECs can be considered part of the same market because the metal reinforcement components can be purchased in the market.

The Commission's assessment

(29) From the demand perspective, the market investigation showed that FECs made of all possible materials are interchangeable during the pre-development phase from a technical point of view, a view shared by the majority of customers.[14] The choice of

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12 Case COMP/M.6537 *Faurecia / Plastal* (2012).

13 FEMs are described in Section IV.1.4.

14 Q1 – Questionnaire to customers, question 8.

the material is based on commercial and technical criteria such as geometry and CO2 emissions. Also, the market investigation demonstrated that most of the customers that responded have switched material for their FECs in the last ten years.[15] Nevertheless, the market investigation also indicated that the OEMs' decision on the material of the FEC is made before the development phase, and therefore before the tender specifications are available to FEC suppliers. Once the choice on the FEC material is made and the tender is launched, OEMs do not modify the specifications on the material.[16] In addition, the price differs significantly between FEMs made of plastic, metal or hybrid plastic/metal.

(30) From the supply perspective, the Commission found that most of the competitors that produce plastic or hybrid FECs do not produce metal FECs.[17] This is because the production of plastic and metal FECs requires different equipment and different production technologies. However, a large majority of the Parties' competitors that produce plastic FECs produce also hybrid FECs and vice versa. Plastic FEC suppliers are generally able to also produce post-moulded reinforced hybrid FECs by outsourcing the metal reinforcements to a metal stamping supplier.

(31) In light of the above, the Commission considers that metal FECs should be excluded from the product market for the purpose of the assessment of the Transaction. The Commission will assess the effects of the Transaction on a market for FECs made only of plastic and for FECs made of either plastic or hybrid reinforced plastic/metal.

IV.1.3. Plastic Hatchbacks/Tailgates

(32) A hatchback/tailgate is the door on the back of a vehicle. Hatchbacks are used in hatchback car models, while tailgates are used in station wagon/estate car models. In past decisions, the Commission has considered hatchbacks/tailgates to be a separate product market but ultimately left the market definition open.[18]

(33) While most hatchbacks/tailgates are made of metal, PO supplies plastic hatchbacks/tailgates, and the Target has started production of plastic hatchbacks/tailgates in 2016.

(34) More specifically, PO manufactures three types of plastic hatchbacks/tailgates that differ in the material and production technology used: pure thermoset, “hybrid” thermoset/thermoplastic and full thermoplastic hatchbacks/tailgates reinforced with steel. The Target only produces hybrid thermoset/thermoplastic hatchbacks/tailgates.

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15 Q1 – Questionnaire to customers, question 8.1.

16 Q1 – Questionnaire to customers, question 10.1

17 Q1 – Questionnaire to competitors, question 7.

18 Case COMP/M.4239 *Plastic Omnium / Inopart* (2006).

The Notifying Party's view

(35) The Notifying Party submits that the relevant product market should be a market for outsourced hatchbacks/tailgates regardless of the material used.

(36) From the demand side, plastic and metal hatchbacks/tailgates are substitutable when a new car model is created according to the Notifying Party. The OEM generally choses one or other technology following a make-or-buy study in order to compare and test the technical and commercial advantages of metal versus plastic hatchbacks/tailgates.

(37) From the supply side, however, the Notifying Party submits that metal hatchbacks/tailgates are not substitutable to plastic ones due to significant differences in the materials, production tools and technology used.

The Commission's assessment

(38) In the course of the market investigation the Commission found that about half of the customers that participated in the market investigation use only metal hatchbacks/tailgates[19] or have never changed from metal to plastic (or vice versa) over the last ten years.[20] The choice of the material is made early in the pre-development process and is driven by the OEM's commercial strategy and the vehicle specifications, such as geometry or weight.[21] In addition, plastic hatchbacks/tailgates are significantly more expensive than metal ones.[22] Accordingly, a large majority of customers state that once the material of the hatchback/tailgate is selected, it cannot be changed thereafter.[23] This implies that once the decision on the material is made there is no longer any demand side substitutability.

(39) From the suppliers' point of view, none of the competitors to the Parties producing plastic hatchbacks/tailgates that participated in the market investigation produces also metal hatchbacks/tailgates.[24] The suppliers' reply supports the Notifying Party's view that the production of metal hatchbacks/tailgates requires different production tools and technology.

(40) In light of the above, the Commission considers that hatchbacks/tailgates made of metal should be excluded and that a separate market for plastic hatchbacks/tailgates should therefore be considered for the purpose of the proposed Transaction.

(41) As regards a narrower sub-segmentation between pure thermoset, “hybrid” thermoset/thermoplastic and full thermoplastic hatchbacks/tailgates, reinforced with steel, it can be left open, since it would not materially change the outcome of the Commission's assessment.

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19 Q1 – Questionnaire to customers, question 15.

20 Q1 – Questionnaire to customers, question 18.

21 Q1 – Questionnaire to customers, question 15.1.

22 Q1 – Questionnaire to customers, question 18.1.

23 Q1 – Questionnaire to customers, question 16.

24 Q2 – Questionnaire to competitors, question 12.

IV.1.4. Front End Modules ("FEMs")

(42) FEMs are a pre-assembled combination of components such as lamps, fans, bumper systems etc., which is fastened on to the front of the chassis of a motor vehicle[25] and are used to close vehicles which have an open frame design. Contrary to vehicles with closed frame design, the body of the vehicle is in this case not closed until the engine has been inserted through the front of the frame.

(43) FEMs may include a number of components made of plastic and metal (FEC, air guides, grilles, bumpers, etc.) as well as electronics (lamp, sensors, etc.). There is no standardised list of components, as OEMs decide on a model by model basis. FEMs however always include a FEC and some of the following components: (i) crash beam; (ii) cooling components such as engine cooling systems; (iii) headlamps; (iv) bumpers; (v) other components such as grilles, brackets, wire harness or screws. Both the majority of competitors[26] and customers[27] confirmed in the market investigation that FECs, crash beams and cooling components are considered essential for a FEM.

(44) The Parties' activities overlap on the market of FEMs as PO is active on the market through the jointly controlled HBPO, a joint venture with two German automotive equipment manufacturers, Hella and Mahle Behr. [28]

The Notifying Party's view

(45) The Notifying Party submits that in line with the Commission's decisional practice, the development[29], assembly and supply of FEMs should constitute a separate relevant product market. It however considers that there is a trend towards a wider market for all automotive modules.

The Commission's assessment

(46) The Commission has previously considered that modules[30], and specifically FEMs[31] constitute a separate relevant market, but ultimately left this question open. Indeed, the assembly of FEMs is a specific activity, which is separate from the manufacturing of the components. OEMs generally source directly these parts[32]; therefore the suppliers' activity is limited to the assembly of the FEMs.

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25 Case COMP/M.3433 *Hella / Behr / Plastic Omnium / JV* (2004).

26 Q2 – Questionnaire to competitors, question 9.

27 Q1 – Questionnaire to customers, question 13.

28 See footnote 5.

29 Some OEMs have the capacity to conduct the development phase in-house and outsource only the assembly of the FEMs.

30 Cases COMP/M.6537 *Faurecia / Plastal* (2012); COMP/M.5977 *Faurecia / Plastal* (2010); and COMP/M.5799 *Faurecia / Plastal* (2010).

31 Case COMP/M.3433 *Hella / Behr / Plastic Omnium / JV* (2004).

32 The free sourcing by the suppliers is usually limited to less expensive functional parts such as FECs, fasters and screws, foams.

(47) On the basis of the above, the Commission considers that FEMs constitute a separate product market, encompassing the assembly and the supply of front end modules.

IV.1.5. Engine Cooling Systems ("ECSs")

(48) ECSs are used to prevent an automotive engine from overheating. They contain several parts such as a radiator, cooling fluid, radiator fan and thermostat. Only the Target produces ECSs in the EEA.

The Notifying Party's view

(49) The Notifying Party submits that – in line with the Commission's decisional practice – ECSs may constitute a separate relevant market.

The Commission's assessment

(50) The Commission has previously considered a separate product market for ECSs but has not taken a final position in this respect.[33] The Commission has also considered that some parts of the ECS such as radiators might constitute a separate relevant market.[34]

(51) For the purpose of the Transaction, the Commission considers that the exact product market definition for ECSs can be left open as it does not influence the competitive assessment of the transaction.

IV.1.6. Front grilles

(52) Front grilles cover an opening in the body of a vehicle, allowing air to enter. Its primary purpose is to prevent overheating but it also plays an important ornamental role. Grilles can be made of aluminium, steel and thermoplastic.[35] Front grilles are usually included in the bumper or in the hood. A bumper may include up to three grilles, one upper and one or two lower grilles.

The Notifying Party's view

(53) The Notifying Party submits that - in line with the Commission's decisional practice – front grilles constitute a separate relevant market.

The Commission's assessment

(54) The Commission has previously considered a separate product market for front grilles but ultimately left the question open.[36] The Commission considers that for the purposes of the present case, the exact definition of the product market for

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33 Case COMP/M.7564 *Mahle / Behr / Delphi Thermal Systems Business* (2015).

34 Cases COMP/M.7564 *Mahle / Behr / Delphi Thermal Systems Business* (2015); and COMP/M.2366 *Denso / MMC* (2001).

35 Plastic upper grilles might be chromed as a decorative feature. Due to the specificities of this process, chromed upper grilles are manufactured by specialised companies, who produce the plastic grilles themselves or source them from third parties.

36 Case COMP/M.6537 *Faurecia / Plastal* (2012).

grilles can be left open as it does not ultimately influence the competitive assessment of the transaction.

IV.2. Relevant geographic markets

IV.2.1. The Notifying Party's view regarding the geographic scope of all affected markets.

(55) The Notifying Party claims that the various markets for automotive components and assembly of automotive modules, as well as for all the other affected markets, should be regarded as being EEA-wide in scope.

(56) According to the Notifying Party, this is because supply distances are relatively high (up to at least 350-400km) while barriers to geographical expansion are low, implying that all main competitors are able to competitively constrain the Notifying Party, and will be able to constrain the merged entity, throughout the EEA.

(57) As regards the markets for the assembly of automotive modules, while supply distances are more limited compared to automotive components, the Notifying Party claims that barriers to geographical expansion are so low that the vast majority of suppliers is competing without any existing assembly capacity set up in the vicinity of the OEM. Thus, competition takes place at an EEA-wide level, with all existing suppliers competing in tender procedure across the EEA.

(58) Further, in all the affected markets, OEMs deal with the same set of suppliers in many geographic areas within the EEA (and outside). Suppliers in one area are therefore constrained by the competitive situation in other areas in which they are active, given the threat of retaliation by the OEM.

IV.2.2. The Commission's assessment

IV.2.2.1. Plastic Front and Rear Bumpers

(59) Contrary to the Parties' claim, the Commission takes the view that the geographic scope of the market for plastic front and rear bumpers is regional in scope, encompassing a catchment area of 250 km around each of the OEMs' production plants. This is so for the following reasons.

(60) First, the information provided by the Notifying Party indicates that the vast majority of plastic front and rear bumpers are delivered within 250 km from where they are produced. Particularly, 80% of all bumpers manufactured by PO in the EEA are delivered within [sales strategy] km and 80% of the bumpers manufactured by the Target within [sales strategy] km.[37] Longer delivery distances, especially those above 500 km are possible, but the analysis of the actual supply streams provided by the Notifying Party indicates that these are exceptional.

(61) Supply distances are important because of three elements: (i) the risk of scratching the paint of the bumper, (ii) the need to deliver the finished bumper on the customers' production line within a very precise time frame, and (iii) the price of the bumper since transport costs can increase with the distance and therefore lead to less attractive prices.

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[37] See also case M.7567 *BALL / Rexam*, section 7.1.3.5, where a customer-centric approach to the definition of the geographic market was used.

(62) The vast majority of plastic front and rear bumpers are delivered to the OEMs painted. The painting process generally occurs at the same location as the moulding. Transporting the painted bumpers entails the risk of scratching and breaking the finished product, a risk which increases with distance. Hence, except for exceptional circumstances, OEMs choose to limit this logistic risk by sourcing painted bumpers in the proximity of the manufacturing plant where they will be installed on the vehicle.

(63) OEMs organise their production process according to the Just in Sequence ("JIS") model, which requires that the components to be mounted on the vehicle in production must reach the production line at a specific point in time. OEMs schedule the production order in advance of the start of production of the individual vehicle, but the advance period ranges from some hours to a few days.

(64) Bumpers are customised products, in the sense that (i) when painted, the colour has to match the colour of the car body and (ii) they often include a number of options chosen by the final customer. The bumper manufacturer knows the exact requirement of the bumpers to be delivered only when the OEM defines the production schedule and orders all the components. The suppliers' capability to comply with the JIS is strongly reduced with the increase of the distance of the production facility from the OEM assembly plant. If the distance between the production facility and the OEM's assembly facility increases, some additional facility to manage the inventory and the (re)sequencing would be required. This generates additional costs likely affecting the competiveness of the supplier's plant.

(65) The local nature of competition on the market for plastic front and rear bumpers is also recognised by the Notifying Party. In an internal document prepared by the Target assessing the competitive conditions of the market,[38] the following is stated:

[Information on market characteristics]

(66) Minimising travel distances can also be important to minimise transport costs and therefore allowing suppliers to offer attractive prices to the OEMs. On the other hand, the Notifying Party argues that transport represents only a small percentage of the final prices for bumpers: for Plastic Omnium (respectively Faurecia), outbound transport costs represent [0-5]% (resp. [0-5]%) of product sales in 2015 and [0-5]% (resp. [0-5]%) of variable costs.[39] [40] However, the Commission notes that the Notifying Party's submission considers only outbound transport costs, while inbound transport costs to the OEM plants are included into the cost of

38 Faurecia Automotive Exteriors – Investor Day – November 25, 2013 (slide 4 and slide 6).

39 See "*Plastic Omnium / Faurecia: Assessment of delivery distances for bumpers*", [company], dated 18 May 2016.

40 The Commission notes that the Notifying Party's submission does not concern the non-cost advantages for a supplier to be close to the OEM plant (see paragraphs (61)-(64)).

material.[41] Transport costs in percentage of the total prices and of the variable costs would be more important if inbound transport costs were added to the outbound transport costs. In any event, the importance of the transport costs to get attractive prices can be left open since other non-cost advantages of being close to the OEMs are sufficient to justify the relevance of supply distances (see paragraphs (61)-(64)).

(67) Second, the market investigation indicated that OEMs generally organize tendering at plant level rather than at central level, OEMs invite only those suppliers having a production facility in the vicinity of the assembly facility to participate in RFQ, and suppliers that decide to participate in a tender by submitting a firm offer are located even closer to the assembly facility. Overall, the analysis of tender information gathered during the market investigation indicates that distance is an important parameter to determine the competitiveness of the suppliers.

(68) In particular, the tender information received from the OEMs indicates that the majority of OEMs send RFQ only to the suppliers having a manufacturing plant located within a certain geographic radius and suppliers that submit a firm offer or are shortlisted in tenders are located within an even smaller geographical area. More precisely, the information gathered during the market investigation shows that plants of suppliers invited to RFQs are on average located within 210 Km from the OEM assembly plant, suppliers that submit a firm offer are located on average at 154 km, shortlisted suppliers are located on average at 144 km, and winners are located on average at 99 km[42]. The decrease in the distance at the different stages of the tender process and the significant difference of the average distance between the suppliers invited to tenders and the suppliers who submit a firm offer (210 km vs 154 km) suggest that being close to the OEMs is an important competitive advantage for the suppliers.[43]

(69) The exact maximum supply distance considered varies from OEM to OEM and from plant to plant, but - on average – it is rare for suppliers' plants located beyond 250 km from the relevant OEM assembly plant to be perceived as possible sources of supply by OEMs. The analysis of the tender information received also indicates that, on average, the supplier who is finally awarded the contract has a production facility located within 100 km from the OEM.[44] Also, this analysis shows that in only 4 instances out of 31 recorded the winning plant is located beyond 250 km from the OEM's assembly plant.

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41 See footnote to Figure 1, "*Plastic Omnium / Faurecia: Assessment of delivery distances for bumpers*", [company], dated 18 May 2016.

42 Using the median (which represents 50% of the observations on tenders), these figures are even smaller: suppliers that are invited are located at 110 km from the OEM assembly plant, suppliers that submit a firm offer are located at 80 km, shortlisted suppliers are located at 80 km, and winners are located at 61 km.

43 The difference between the distances of the suppliers invited to tenders (210 km in average) and of the suppliers who submit a firm offer (154 km in average) suggests that suppliers consider distance as being an important parameter to determine their competitiveness and therefore their participations in tenders. This difference between the distances of the suppliers invited to tenders and the suppliers who submit a firm offer is also robust when the median is considered (110 km vs 80 km).

44 This is also consistent with an average bumper delivery distance of [distance] km for the Parties (see the Parties' submission, "*Plastic Omnium / Faurecia: Assessment of delivery distances for bumpers*", [company], dated 18 May 2016, footnote to Figure 1).

IV.2.2.2. Front End Carriers ("FECs")

(70) With regard to the geographic market, the Commission considered in its previous decisions that the market for FECs was at least EEA-wide.[45] This wider geographic scope can be explained as FECs, contrary to bumpers, are not visible car components and thus do not require painting. FECs are also smaller than bumpers and can be more easily transported. Furthermore, FECs are less constrained by the JIS production models since they are standardised products that can be produced in advance.

(71) A large majority of customers are supplied with FECs delivered to their manufacturing plants at national or EEA-wide level.[46] Moreover, while a large majority of customers take into consideration the distance between their car manufacturing plants and the location of their FEC suppliers' production facilities,[47] they concur that the driving distance between the car manufacturing plant and the FECs' suppliers facilities can be beyond 500km.[48]

(72) In view of the above, the Commission considers the geographic market for FECs to be considered EEA-wide for the purpose of the assessment of this transaction.

IV.2.2.3. Plastic Hatchbacks/Tailgates

(73) The Commission has considered in its previous decisions that the market for automobile components such as hatchbacks is EEA-wide.[49]

(74) The market investigation has indicated that the geographic market may be narrower than EEA-wide. A large majority of customers takes into consideration the distance between their car manufacturing plant and the suppliers' production facility.[50] Even if there are instances where plastic hatchbacks/tailgates are delivered from further away than 500 km, more than half of the customers that participated in the market investigation would only consider delivering distances below 150 km as acceptable for plastic hatchbacks/tailgates.[51] Moreover, one OEM submitted that it would invite only suppliers within 150km when launching a RFQ for plastic hatchbacks/tailgates.[52]

(75) The Commission considers that it can be left open whether the geographic market is EEA-wide or narrower in scope (that is a distance below 150 km), as the concentration raises serious doubts as to its compatibility with the internal market, under both alternative market definitions.

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45 Case COMP/M.6537 *Faurecia / Plastal* (2012).

46 Q1 – Questionnaire to customers, question 20.

47 Q1 – Questionnaire to customers, question 21.

48 Q1 – Questionnaire to customers, question 22.

49 Case COMP/M.4239 *Plastic Omnium / Inopart* (2006).

50 Q1 – Questionnaire to competitors, question 21.

51 Q1 – Questionnaire to competitors, question 22.

52 Q1 – Questionnaire to competitors, question 23.

IV.2.2.4. Front End Modules ("FEMs")

(76) The Commission has previously considered the relevant market for components supplied through the OEM channel to be EEA-wide in scope.[53] Although the Parties supply the vast majority ([80-90]-[90-100]%) of their FEMs within […] km[54], the Commission takes the view that the competition takes place on an EEA-wide level for the following reasons.

(77) The actual supply streams of the Parties are determined by the necessity of JIS delivery and likely the quality risk that the transport entails. However, as the activity consists of the assembly of different components, there is no manufacturing involved and the necessary tools for the assembly are less costly. Hence, suppliers can participate in tenders without owning a facility close to the OEM plant in question and open a new facility without significant capital investment after winning the tender. Indeed, […] of the HBPO plants and […] out of the […] plants of the Target assembling FEMs were open following the award of the contract. This is further supported by the fact that renting an assembly facility from the OEMs or from third parties is common practice on the market. HBPO for example rents […] of its facilities from third parties.

(78) The Commission therefore considers that the market for assembly and supply of FEMs is EEA-wide in scope.

IV.2.2.5. Engine Cooling Systems ("ECSs") and Front Grilles

(79) The Commission has previously considered the relevant market for components supplied through the OEM channel to be EEA-wide in scope.[55] With regard to ECSs and front grilles there is no indication that the geographic market should be defined narrower as these components are not sensitive to transportation with regard to size, timing or quality issues.

(80) The Commission therefore considers that the markets of ECSs and front grilles are EEA-wide in scope.

V. COMPETITIVE ASSESSMENT

V.1. Introduction

(81) Under Articles 2(2) and (3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

(82) As regards the assessment of horizontal overlaps, the Commission guidelines on the assessment of horizontal mergers distinguish between two main ways in which mergers between actual or potential competitors on the same relevant market may significantly impede effective competition, namely non-coordinated and coordinated effects. Non-coordinated effects may significantly impede effective

53 Case COMP/M.4239 *Plastic Omnium / Inopart* (2006).

54 Form CO, Tables 109 and 110.

55 Case COMP/M.4239 *Plastic Omnium / Inopart* (2006).

competition by eliminating important competitive constraints on one or more firms, which consequently would have increased market power, without resorting to coordinated behaviour. In that regard, the Horizontal Merger Guidelines consider not only the direct loss of competition between the merging firms, but also the reduction in competitive pressure on non-merging firms in the same market that could be brought about by the merger.

(83) The Horizontal Merger Guidelines list a number of factors which may influence whether or not significant non-coordinated effects are likely to result from a merger, such as the large market shares of the merging firms, the fact that the merging firms are close competitors, the limited possibilities for customers to switch suppliers, or the fact that the merger would eliminate an important competitive force. Not all of these factors indicated in the Horizontal Merger Guidelines as relevant to the analysis of non-coordinated effects need to be present to make significant non-coordinated effects likely. Also, the list of factors is not exhaustive.

(84) As regards the assessment of vertical relationships, the Commission guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (the "Non-Horizontal Merger Guidelines") distinguish between two main ways in which mergers between actual or potential competitors on vertically related relevant markets may significantly impede effective competition, namely through input or customer foreclosure.

V.2. Non-Coordinated Horizontal Effects

V.2.1. Plastic front and rear bumpers

(85) The Transaction leads to a further concentration on already highly concentrated markets. It reinforces the leading market position of the Target by removing an important and close competitor on the markets for plastic front and rear bumpers. Switching, barriers to entry and expansion as well as countervailing buyer power of the customers are not a sufficient competitive constraint on the combined entity.

V.2.1.1. Market Structure

(86) On an EEA-wide basis, the market structure on the market for plastic front and rear bumpers would be the following:

Table 1: Plastic front and rear bumper market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house								
	2012		2013		2014		2015	
	M €	%	M €	%	M €	%	M €	%
Plastic	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Target	[revenues]	[30-40]%	[revenues]	[30-40]%	[revenues]	[30-40]%	[revenues]	[30-40]%
Combined	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**
Magna	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Rehau	[revenues]	[5-10]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
SMP	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Plastal	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
IAC	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plakor	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
AD	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Faurecia	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Others	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	**[revenues]**	**100%**	**[revenues]**	**100%**	**[revenues]**	**100%**	**[revenues]**	**100%**

Table 2: Plastic front and rear bumper projected market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house, projected 2016-2018						
	2016		2017		2018	
	M €	%	M €	%	M €	%
Plastic Omnium	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Target	[revenues]	[30-40]%	[revenues]	[20-30]%	[revenues]	[20-30]%
Combined	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**
Magna	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Rehau	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[5-10]%
SMP	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Plastal	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
IAC	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plakor	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
AD	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Faurecia	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Others	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	**[revenues]**	**100%**	**[revenues]**	**100%**	**[revenues]**	**100%**

(87) As emerges from the table above, on an EEA-wide basis the Transaction would result in the creation of the largest player having a market share more than double of the second largest market player (Magna).

(88) Since 2012 the combined market share of the Parties has been consistently above [40-50]% and that of Magna has been between [10-20]% and [10-20]%. Of the other competitors, Rehau and SMP both have a market share around [10-20]% since 2012 whereas others (Plakor, Plastal, IAC, and AD) have negligible market shares between [0-5]% and [0-5]%.

(89) The increment brought about by the Transaction is comparable to the market share of Magna and significantly higher than that of Rehau and SMP in 2013, 2014 and 2015. Under this framework of analysis the post-Transaction HHI index will be [HHI index] (2015) with a delta of [HHI index].

56 The Seller will retain the production of bumpers in Hambach, [transaction details].

57 Ibid.

(90) Based on the catchment area of 250 km around each of the OEMs' assembly plants, the Transaction leads to very high combined capacity shares[58] in a number of markets. Particularly, the Transaction will impact the following areas: (i) North of France (Renault Douai, Renault Maubeuge, Sevel Nord, Toyota Valenciennes), (ii) West of France (PSA Poissy, Renault Flins and Renault Sandouville), (iii) East of France (PSA Sochaux, PSA Mulhouse), (iv) Belgium (VW Brussels and Volvo Ghent), (v) Slovakia (Kia Zilina, PSA Trnava and VW Bratislava), (vi) Hungary (VW Gyor and Suzuki Esztergom), (vii) the Czech Republic (Hyundai Ostrava) and (viii) Spain (Renault Valladolid). The precise analysis of the market structure is presented below.

V.2.1.1.a. North France Cluster

Renault Douai

(91) In the catchment area centred on Renault's plant in Douai only three suppliers are present in the 250 km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [70-80]% (PO [30-40]%, Faurecia [40-50]%) and that of Plastal will be [20-30]%. For this catchment area, the tendering information received by the Commission indicated that the Parties competed against each other for tenders issued by Renault's plant in Douai.

Renault Maubeuge

(92) In the catchment area centred on Renault's plant in Maubeuge only three suppliers are present in the 250 km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%) and that of Plastal will be [30-40]%. For this catchment area, the tendering information received by the Commission indicated that the Parties competed against each other for tenders issued by Renault's plant in Maubeuge.

FIAT/PSA - Sevel Nord

(93) In the catchment area centred on Sevel Nord's plant (FIAT/PSA) only three suppliers are present in the 250 km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [70-80]% (PO [30-40]%, Faurecia [40-50]%) and that of Plastal will be [20-30]%. For this catchment area, the tendering information received by the Commission indicated that the Parties competed against each other for tenders issued by Sevel Nord's plant (Fiat/PSA).

Toyota Valenciennes

(94) In the catchment area centred on Toyota's plant in Valenciennes only three suppliers are present in the 250Km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [70-80]% (PO [20-30]%, Faurecia [40-50]%) and that of Plastal will be [20-30]%. The Notifying Party submits that

58 The analysis presented below is based on capacity shares. This means that for the analysis of each cluster the total production capacity of each of the suppliers present in the 250km catchment area is considered, irrespective of the fact that they are currently supplying the OEM plants around which the catchment area is centred. Also in carrying out this analysis the Commission accounted 100% of the production capacity of those bumper manufacturing plants included in different catchment areas for each of the catchment areas served.

this is a fully integrated plant, and therefore it does not issue RFQs for plastic front and rear bumpers.

Conclusion

(95) On the basis of the above, , the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the market for plastic front and rear bumper in a catchment area of 250 km centred on Toyota Valenciennes' plant. The local markets of Renault Douai, Renault Maubeuge and Sevel Nord (Fiat/PSA), on which the Parties have very high combined capacity shares, are further analysed below.[59]

V.2.1.1.b. Western France Cluster

PSA Poissy, Renault Flins, Renault Sandouville

(96) In the catchment areas centred on PSA's plant in Poissy, Renault's plant in Flins and Renault's plant in Sandouville only the Parties are active. Therefore in these geographic markets the merged entity will have a monopoly post-transaction.

(97) As regards this cluster, the available tendering information confirms that the Parties competed against each other in RFQs issued concerning all of the OEM plants identified. The local markets of PSA Poissy, Renault Flins and Renault Sandouville, on which the Parties have very high combined capacity shares, are further analysed below[60]

V.2.1.1.c. Eastern France Cluster

PSA Mulhouse

(98) In the catchment area centred on PSA's plant in Mulhouse only three suppliers are present in the 250 km radius, namely PO, Faurecia and Magna. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%) and that of Magna will be [20-30]%. Other marginal suppliers make up the remaining [5-10]%. For this catchment area, the tendering information received by the Commission indicated that the Parties do indeed compete against each other for RFQs. In addition, the Notifying Party indicated in the Form CO that PO and Faurecia participated in [tender information] RFQs and Rehau only in [tender information] occasions. For some of the RFQs issued by PSA Mulhouse the Transaction would have therefore resulted in a merger to monopoly.

PSA Sochaux

(99) In the catchment area centred on PSA's plant in Sochaux only the Parties are present in the 250 km radius. Therefore in this geographic market the merged entity will have a monopoly post-transaction. The tendering and supply stream information received concerning this catchment area indicates that the majority of supplies to this plant ([70-80]%) is supplied by the Parties, whereas a small proportion ([0-5]%) is supplied by Rehau's [supply data], located outside the catchment area (408 km away from PSA Sochaux). In terms of participation to

59 See paragraph 142 below.

60 See paragraph 143 below.

RFQs, the Notifying Party submits that PO and Faurecia participated in [tender information] of them, whereas Magna and Rehau (both outside the catchment area) in only [tender information]. These two suppliers however do not seem to impose a significant competitive constraint on the Parties as Magna did not win any of these tenders and Rehau only supplies very limited volumes ([0-5]%). This is also confirmed by the tender information collected during the market investigation, showing that the Parties compete against each other for PSA's plant in Sochaux.

Renault Batilly

(100) In the catchment area based on a 250 km radius and centred on Renault's plant in Batilly, the proposed Transaction would not generate any overlap. However, the Commission considers that the 250 km catchment area is less relevant for Renault's plant in Batilly since there are no possible suppliers within this catchment area. From the analysis of the actual supply streams it emerges that this plant is currently served by PO from its [supply data] and [supply data] facilities ([distance] km and [distance] km respectively) as well as from Faurecia's [supply data] ([distance] km). No other manufacturer supplies bumpers to this production facility. Therefore with respect to this production facility the merged entity will have a monopoly post-transaction.

Conclusion

(101) The local markets of PSA Mulhouse, PSA Sochaux, on which the Parties have very high combined capacity shares, and Renault Batilly, for which the Parties are the only suppliers, are further analysed below.[61]

V.2.1.1.d. Belgian Cluster

VW Brussels

(102) In the catchment area centred on VW's plant in Brussels only three suppliers are present in the 250 km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%) and that of Plastal will be [30-40]%.

(103) However, with regard to VW Brussels, the analysis of tender information shows that PO and Faurecia are not competing against each other. This customer requires [details on technical specifications]. Therefore, there is no competitive interaction between the Parties in tenders launched by VW Brussels.

(104) The Commission therefore considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the markets for plastic front and rear bumper encompassing a catchment area of 250 km centred on VW Brussels.

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61 See paragraph 145 below.

Volvo Ghent

(105) In the catchment area centred on Volvo's plant in Ghent only three suppliers are present in the 250 km radius, namely PO, Faurecia and Plastal. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%) and that of Plastal will be [30-40]%. The tender information available to the Commission indicates that both Parties participate against each other in RFQs for this plant, with Faurecia participating from its plant in [tender and supply information] located [distance] km away.

Conclusion

(106) The Commission therefore considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the market for plastic front and rear bumper encompassing a catchment area of 250 km centred on VW Brussels. The local market of Volvo Ghent, on which the Parties have a very high combined capacity share, is further analysed below.[62]

V.2.1.1.e. Slovak Cluster

KIA Zilina

(107) In the catchment area centred on KIA's plant in Zilina four suppliers are present in the 250 km radius, namely PO, Faurecia, Mobis and Plakor. The combined capacity share of the Parties will be [60-70]% (PO [50-60]%, Faurecia [10-20]%), that of Mobis [20-30]% and that of Plakor [10-20]%. The supply stream information available to the Commission indicates that this plant is currently solely supplied by Mobis. The biding information available indicates that only [tender information] and [tender information] participated in tenders. On this catchment area, therefore the Parties do not compete.

PSA Trnava

(108) In the catchment area centred on PSA' s plant in Trnava four suppliers are present in the 250 km radius, namely PO, Faurecia, Rehau and Plakor. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%), that of Rehau [10-20]% and that of Plakor [20-30]%. The supply stream information available to the Commission indicates that this plant is currently supplied [tender and supply information]. The tender information available to the Commission indicates that the Parties competed against each other in [tender and supply information] tender, with [tender and supply information] additional competitor, [tender and supply information], located outside the 250 km catchment area.[63] For this customer, the impact of the Transaction could therefore be even greater than what emerges from the analysis of the capacity share and could result in a 3 to 2 in that catchment area.

62 See paragraph 146 below.

63 See tender information collected by the Commission and see also the Notifying Party submission, "Memorandum on Spain and Central Europe" (paragraph 74), submitted on 20 June 2016.

VW Bratislava

(109) In the catchment area centred on VW's plant in Bratislava three suppliers are present in the 250 km radius, namely PO, Faurecia and Rehau. The combined capacity share of the Parties will be [80-90]% (PO [50-60]%, Faurecia [20-30]%) and that of Rehau [10-20]%.

Analysis of tender information

(110) With reference to all catchment areas included in the Slovak cluster the analysis of tender information shows that PO (with its plant in Lozorno) and Faurecia (with its plant in Hlohovec) are not closely competing against each other. With regard to KIA Zilina the Parties do not compete in tenders. While PO and Faurecia own the two closest plants to both PSA-Trnava and VW-Bratislava within the catchment area of 250 km, the analysis of bidding data suggests that they are not close competitors for the following reasons:

i. As regards VW-Bratislava, [supply strategy][64].[65]

ii. As regards PSA-Trnava, among the [tender information] tenders launched since 2013, the Parties competed against each other in [tender information] tender.[66] For the [tender information] tender [tender information], while [tender information], even though it has been invited to the tender. This lack of participation from [tender information] in the second tender suggests a limited competitive interaction between the Parties for the tenders launched by PSA-Trnava. During the market investigation, PSA also states that the proposed Transaction does not pose a concern because of the current limited supplies from PO Lozorno.[67]

iii. Moreover, while two other suppliers within the 250 km catchment area were not invited by PSA-Trnava in past tenders since they were not included in the PSA's suppliers portfolio,[68] this will change in the future for one supplier due to the improvement of its partnership with PSA. PSA stated that this supplier can now deliver to the highest standard and it is now included in PSA' suppliers portfolio and therefore will be invited in future tenders.[69]

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[64] See VW's response on 21 June 2016 to the request for information sent on 17 June 2016.

[65] See VW's response on 21 June 2016 to the request for information sent on 17 June 2016.

[66] Another supplier, Magna, also participated in this tender (see paragraph (108) and won it.

[67] See minutes with PSA, dated 20 June 2016.

[68] See paragraph 111 below.

[69] See minutes with PSA, dated 20 June 2016.

iv. In addition, Magna, even if it is outside the 250 km catchment area, is considered as a credible alternative and actually won the last tender run by PSA-Trnava.[70]

v. Finally, PSA-Trnava and VW-Bratislava did not raise concerns about the proposed Transaction in the Slovak cluster.

(111) Therefore, in the Slovak cluster, (i) absent the proposed Transaction, four suppliers would be capable to participate in future tenders in the Slovak cluster, namely PO, Faurecia, Magna, and an additional supplier who is now included in PSA's suppliers portfolio, (ii) the competitive interactions between the Parties are limited pre-merger [tender information and production facilities], and (ii) the fact that Faurecia exerts a limited competitive constraint with its plant of Hlohovec due to [tender information and production facilities]. Based on this, the Commission considers that PO (with its Lozorno plant) and Faurecia (with its Hlohovec plant) would not be closely competing in the Slovak cluster absent the proposed Transaction.

Conclusion

(112) In light of the above, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the markets for plastic front and rear bumpers encompassing a catchment area of 250 km centred on KIA's plant in Zilina, a catchment area of 250 km centred on PSA's plant in Trnava and a catchment area of 250 km centred on VW's plant in Bratislava.

V.2.1.1.f. Hungarian Cluster

VW Gyor

(113) In the catchment area centred on VW's plant in Gyor, four suppliers are present in the 250 km radius, namely PO, Faurecia, SMP and Rehau. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%), that of SMP [10-20]% and that of Rehau [10-20]%. The supply stream information available to the Commission indicates that currently Rehau is supplying all of this plant's needs of bumpers. Further to this, the tendering information provided by the Parties indicates that [tender information] did not participate in tenders for this specific plant.

Suzuki Esztergom

(114) On the catchment area centred on Suzuki's plant in Esztergom, four suppliers are present in the 250 km radius, namely PO, Faurecia, SMP and Rehau. The combined capacity share of the Parties will be [60-70]% (PO [40-50]%, Faurecia [20-30]%), that of SMP [10-20]% and that of Rehau [10-20]%. The Notifying Party submits that this plant self-supplies and therefore no competition takes place for this specific plant.

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70 See minutes with PSA, dated 20 June 2016.. See also the Notifying Party's submission "Memorandum on Spain and Central Europe", submitted on 20 June 2016.

Conclusion

(115) The Commission therefore considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with regard to the markets for plastic front and rear bumpers in the catchment area of 250 km centred on VW Gyor's and Suzuki Esztergom's plants.

V.2.1.1.g. Czech Cluster

(116) In the catchment area centred on Hyundai's plant in Ostrava, four suppliers are present in the 250 km radius, namely PO, Faurecia, Mobis and Plakor. The combined capacity share of the Parties will be [50-60]% (PO [40-50]%, Faurecia [10-20]%), that of Mobis [20-30]% and that of Plakor [10-20]%. The supply stream information available to the Commission indicates that currently Plakor is supplying all of this plant's need of bumpers. Further to this, the tendering information provided by the Parties indicates that [tender information] did not participate in tenders for this specific plant.

(117) The Commission therefore considers that the Transaction does not raise serious doubts as to its compatibility with the internal with regard to the market for plastic front and rear bumpers in the catchment area of 250 km centred on Hyundai's plant in Ostrava.

V.2.1.1.h. Spanish Cluster

(118) In the catchment area centred on Renault's plant in Valladolid three suppliers are present in the 250 km radius, namely PO, Faurecia and SMP. Renault's plant in Valladolid is served with unpainted bumpers, and the Notifying Party could not provide capacity shares. [71] The Notifying Party could provide neither actual supply stream information, nor tendering information. During the market investigation the Commission collected tendering information for Renault-Valladolid, indicating that the Parties competed against each other in tenders for this specific plant.[72]

(119) The local market of Renault Valladolid is further analysed below.

V.2.1.2. Closeness of competition

V.2.1.2.a. The Notifying Party's view

(120) The Notifying Party submits that bumpers can be more or less sophisticated depending on the car model and segment they are intended for, with prices varying from EUR 40 (grey bumper) to EUR 600-750. This is, firstly, because high-end bumpers tend to be larger and include more embellishment parts such as chrome grilles than more basic ones. Secondly, the additional parts, directed by the OEM, such as sensors, night vision cameras, are more complex and expensive.

[71] Renault's plant in Palencia is also supplied with unpainted bumpers. However, the 250km catchment area around Palencia would also include plants of SMP and IAC in addition to the Parties.

[72] PO's plant in Arevalo and Faurecia's plant in Valladolid would also be included in the catchment area centred on PSA's plant in Villaverde. However given that Faurecia's Valladolid plant does not supply painted bumpers (sourced by PSA), on this catchment area the Parties are not closely competing. In any event, the Final Commitments discussed below (see section VI) will completely remove the overlap.

(121) The Notifying Party also submits that the main criterion taken into account by OEMs when awarding a contract is the price offered by the manufacturer, and that all competitors have access to the required technology and are capable of providing bumpers of equivalent quality.

(122) With regard to the closeness between the two Parties for bumpers, the Notifying Party has provided information on [tender information] tenders for which PO and/or the Target were invited to bid in the EEA between 2013 and 2015. According to this data, both Parties were invited to bid on [tender information] occasions (26% of the [tender information] tenders). [73] The data provided with regard to the tenders where PO was invited to bid is more detailed. This data shows that the Target competed directly with PO for [tender information] out of [tender information] bids where PO participated (44%). If these tenders are weighted by the volume of bumpers tendered, the percentage would increase to 57%, making it apparent that the Parties are close competitors at EEA level.[74]

(123) The Notifying Party has also submitted information at national level which shows a strong competitive interaction between the Parties, particularly for tenders launched by PSA and Renault. More precisely, both PO and the Target competed for [tender information] out of [tender information] launched by PSA and for [tender information] out of [tender information] launched by Renault.

(124) Furthermore, the Notifying Party submits that there would be [tender information] OEM plants where a third party was "*almost never*" invited to bid. [75] These tenders were launched for [tender information] car manufacturing plants in [tender information].

(125) In a submission "*Plastic Omnium / Faurecia Exteriors: Assessment of the relationship between Plastic Omnium margins and the number of competitors in the market for bumpers*",[76] the Notifying Party argues that there is no statistically significant relationship between PO's (expected) margins in tenders and the level of competition estimated by the number of identified bidders in tenders or by the number of competitors in a certain radius (250 km, 300 km, 350 km) from the OEMs. In other words, the Notifying Party argues that there is no clear trend of increasing margins for PO when the number of competitors is lower. Based on that, the Notifying Party claims that PO's margins (and hence PO's prices) are unlikely to be impacted materially by a reduction in the number of competitors resulting from the proposed Transaction.

V.2.1.2.b. The Commission's assessment

V.2.1.2.b.i. Results of the market investigation

(126) The customers that participated in the market investigation have identified several companies that are currently technically and commercially capable of supplying plastic bumpers in the EEA in addition to the Parties.[77] Nevertheless, when it

73 Form CO – Para 753 to 762.

74 Form CO – Table 123.

75 Form CO – Para 779.

76 [Company], 19 May 2016.

77 Q1 – Questionnaire to customers, question 28.

comes to ranking the most important suppliers, the market investigation shows that PO and the Target are very close competitors for the provision of bumpers, with two customers considering the Parties as the two most important bumper suppliers in the market. [78]

(127) The customers' replies to the question whether they perceive each of the Parties as an indispensable supplier depends on their current supply relationship for bumpers. Accordingly, both PO and the Target are perceived as indispensable by those car manufacturers with plants within the Parties' footprint, that is with a plant within the catchment area of 250 km.[79]

(128) A large majority of the competitors replying to the market investigation considers that each of PO and the Target are amongst the best positioned to successfully compete in tenders for bumpers[80] and that they are close competitors to each other.[81]

V.2.1.2.b.ii. Commission's assessment of the Notifying Party's submission on margins and number of competitors

(129) As discussed in detail below, the Commission considers that the Notifying Party's study on the relation between margins and number of competitors suffers from a number of important flaws. Therefore, the Commission considers that this study is not informative on the potential competitive effects of the proposed Transaction.

(130) First, as noted by the Notifying Party in its submission,[82] "*the data do not allow tomake inferences as regards the relative profitability of programs for which PO is the only credible competitor in comparison with programs for which there are multiple credible competitors, due to the small number of such instances in the data*". Therefore, this study is not informative on the cases where the number of competitors is reduced from two to one, which concerns the following areas: the Western France cluster with Renault-Flins, Renault-Sandouville, and PSA-Poissy,[83] and the Eastern France cluster with PSA-Sochaux.[84]

(131) Second, in its submission, using a sample of [tender information] tenders, the Notifying Party carried out several regression analyses to analyse the relation between PO's margins and the number of competitors after removing the potential influence of other factors (also called control variables) on the level of margins. The Commission considers that the regression analyses as carried out by the Notifying Party suffer from the following important technical issues.

78 Q1 – Questionnaire to customers, question 29.

79 Q1 – Questionnaire to customers, questions 30 and 31.

80 Q2 – Questionnaire to competitors, questions 20.1.

81 Q2 – Questionnaire to competitors, question 21.

82 See footnote 3 of the Notifying Party' submission *Plastic Omnium / Faurecia Exteriors: Assessment of the relationship between Plastic Omnium margins and the number of competitors in the market for bumpers*", dated 28 March 2016.

83 See section V.2.1.1.b.

84 See section V.2.1.1.c.

(132) The Commission notes that the regression analyses carried out by the Notifying Party explain only a small variation of the margins' data, generally in the range of 1%-10% depending on the regression model used.[85] In other words, a significant variation in the margins' data remains unexplained by the regression analyses. This lack of explanatory power of the regression analyses is likely to lead to imprecise estimates in the regression analyses, resulting in a statistically non-significant relation between PO's margins and the number of competitors. The Commission notes that, based on the regression analyses carried out by the Notifying Party, while the relation is not statistically significant, a higher (resp. lower) number of competitors is still associated with lower (resp. higher) PO margins in the vast majority of the regressions.[86]

(133) The Commission also notes that prices (and margins) can be higher in a first set of tenders with more participants than in a second set of tenders with fewer participants because the first set of tender is more valuable ("demand effect"). The same reasoning applies for entry in a specific geographic market, where prices (and margins) can be higher in a first set of geographic markets with more suppliers than in a second set of geographic markets with fewer suppliers because the first set of markets is more valuable. [87] In order to mitigate the demand effect and in order to identify the competitive effect of a higher number of competitors on prices and margins, it is important to control properly for this demand effect in the regression analysis. Otherwise, the estimated competitive effect corresponding to a higher number of competitors would be attenuated by the demand effect, and the regression model would fail to identify the true competitive effect of a higher number of competitors leading to lower margins of PO. In technical terms, the demand effect is an omitted variable and leads to an underestimation of the true competitive effects of a higher number of competitors on PO's margins. Given that the regression models provided by the Notifying Party do not explain generally more than 90% of the variation in the margins' data, it is likely that the issue of the omitted variable is quite important and thus undermines the reliability of the regression analyses.

(134) Another important variable that has been omitted in the Notifying Party's regression analyses concerns the cost for PO to provide the bumpers to the OEMs. This variable is typically used in this type of margin's regressions to take into account PO's characteristics and the scope of the offer made by PO.[88] For example, a higher scope with complicated RFQs required by the customers may be associated with fewer participants and smaller margins. If one does not take into account properly this effect, the regression analysis will fail to identify that fewer competitors can lead to higher margins of PO. Given that the regression models provided by the Notifying Party do not explain generally more than 90% of the variation in the margins' data, it is likely that the issue of omitted variable is quite important and undermines the reliability of the regression analysis.

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85 See the different tables of the study "*Plastic Omnium / Faurecia Exteriors: Assessment of the relationship between Plastic Omnium margins and the number of competitors in the market for bumpers*", [Company], 19 May 2016.

86 In the regression tables included in the Notifying Party's submission, the sign of the estimate corresponding to the number of competitors is negative in most of the cases.

87 In technical terms, participation in tenders or entry in a market is endogenous.

88 See for example technical annex in case M.7278 GE/Alstom, paragraph 328.

(135) The economic study submitted by the Notifying Party does not explain the motivation behind the choice of several control variables used in the regression analyses. For example, it is not clear why it is necessary to control whether the RFQ foresaw in a long-term agreement an automatic annual discount on quoted price, why the tender is for a new or a replacement model, the distance from the supplying plant to the OEM and the distance from the closest competing plant to the OEM. Moreover, the economic study does not provide the full results of the regression analyses (full regression tables are not presented), and therefore the Commission is not in a position to consider the coefficients of the control variables to assess the reliability of the regression analyses presented by the Notifying Party.[89] The Commission notes that the underlying raw data and codes to generate the results were not submitted, which did not allow a complete assessment of the Notifying Party's regression analyses.[90]

(136) The Commission is also not in a position to assess the reliability and the relevance of the data used by the Notifying Party since the study does not include descriptive statistics and the raw data was not provided.[91] For example, in the regression analyses, the proportion of painted bumpers in tenders is used as a control variable. However, is it not possible for the Commission to assess if the tenders included in the sample concern primarily painted bumpers, black bumpers, or grey bumpers. The Commission notes that the competitive concerns are mainly related to painted bumpers. Therefore, without the raw data and descriptive statistics, the Commission is not in a position to assess the reliability and the relevance of the data used in the regression analysis submitted by the Notifying Party to assess the competitive effects for painted bumpers.

(137) The Commission also notes that the Parties do not use variable margins (i.e. including only variable costs) in the regression analysis, but instead include in the margins some elements which are rather related to fixed costs like indirect cost of labour and depreciation of fixed assets. However, the relation between fixed costs and prices is less direct than the relation between variable costs and prices.[92] Therefore, variable margins are typically preferred in this type of margin's regressions to measure firms' market power. The study submitted by the Notifying Party does not include a detailed description of the margins and the different costs elements. In addition, no internal documents of PO were provided to justify the relevance of this data to measure variable margins. Moreover, the raw data were not provided. Therefore, the Commission is not in a position to assess the reliability of the margin and costs data used in the regression analyses.

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89 See paragraphs 32-36 of the "Best practices for the submission of economic evidence and data collection in cases and data collection in cases concerning the application of Articles 101 and 102 TFEU and in merger cases". (http://ec.europa.eu/competition/consultations/2010_best_practices/best_practice_submissions.pdf)

90 See paragraphs 20-23 and paragraph 32 of the "Best practices for the submission of economic evidence and data collection in cases and data collection in cases concerning the application of Articles 101 and 102 TFEU and in merger cases".

91 See paragraphs 20-23 and paragraph 32 of the "*Best practices for the submission of economic evidence and data collection in cases and data collection in cases concerning the application of Articles 101 and 102 TFEU and in merger cases*".

92 See for example paragraph 80 of the Horizontal Merger Guidelines.

(138) In its study, the Notifying Party focuses exclusively on the number of competitors in its margin analysis. Another alternative analysis would have been to consider instead the identity of the competitors, that is if PO's margins are lower in the tenders or markets where Faurecia is a competitor.[93] The Commission notes that this analysis was not provided.

(139) Despite the issues discussed above, the Commission notes that the coefficient in front of the number of competitors is generally negative (while not statistically significant), suggesting that a lower (resp. higher) number of competitor is associated with higher (resp. lower) PO's margins.

(140) To conclude, for the reasons discussed above, the Commission does not consider the economic study submitted by the Notifying Party to be sufficiently reliable to assess the competitive effect of the proposed Transaction.

V.2.1.2.b.iii. The Commission's quantitative analysis

(141) Based on the local scope of the geographic market, encompassing a catchment area of 250 km around each of the OEM production plant (see section IV.2.2.1), the Commission has conducted a quantitative analysis on the identity of the competing bumper plants for each OEM within a 250 km catchment area. In particular, the Commission presents in the tables below, for each cluster, the distances between the OEMs' production plants and the bumper plants of the suppliers located within the 250 km catchment area. Such an analysis provides a measure of the geographical closeness of the Parties, based on the location of their plants. The Commission has also complemented this analysis by analysing tender information from 2013 up to May/June 2016, collected during the market investigation.

(142) As regards the Northern France cluster (see Table 3), the analysis of geographic closeness and tender information shows that PO (with its plant in Ruitz) and Faurecia (with its plant in Marles-les-Mines) are closely competing against each other in the Northern France cluster for the supply of painted bumpers:

i. Within the 250 km catchment area, PO and Faurecia own the two closest plants to the OEMs. The next closest plant, owned by Plastal in Ghent, is located further away compared to the plants owned by the Parties.

ii. The analysis of tender information also shows that the Parties competed against each other in tenders for these OEMs.

93 See for example technical annex in case M.7278 GE/Alstom.

Table 3. Suppliers and tender information for the Northern-France cluster[94]

OEM	PO (Ruitz plant)	Faurecia (Marles-les-mines plant)	Other suppliers within 250 km catchment area	Did PO (Ruitz) and Faurecia (Marles-les-mines) both participate in recent tenders?
Renault-Douai	45 km	55 km	Plastal (Ghent): 111 km	Yes
Renault-Maubeuge	110 km	120 km	Plastal (Ghent): 143 km	Yes
Sevel Nord (Fiat/PSA)	75 km	85 km	Plastal (Ghent): 135 km	Yes

(143) As regards the Western France cluster (see Table 4), the analysis of geographic closeness and tender information shows that PO (with its plant in Vernon) and Faurecia (with its plant in Marines) are closely competing against each other in the Western France cluster for the supply of painted bumpers:

i. Within the 250 km catchment area, PO and Faurecia own the two closest plants to the OEMs. There is no other plant owned by another supplier within 250 km;

ii. The analysis of the tender information also shows that the Parties competed against each other in tenders for these OEMs.

Table 4. Suppliers and tender information for the Western-France cluster

OEM	PO (Vernon plant)	Faurecia (Marines plant)	Other suppliers within 250 km catchment area	Did PO (Vernon) and Faurecia (Marines) both participate in recent tenders?
Renault-Flins	48 km	30 km	None	Yes
Renault-Sandouville	115 km	166 km	None	Yes
PSA-Poissy	58 km	34 km	None	Yes

(144) As regards the Eastern France cluster (see Table 5), the analysis of geographic closeness and tender information shows that PO (with its plant in Langres) and Faurecia (with its plant in Audincourt) are closely competing against each other in the Eastern France cluster for the supply of painted bumpers:

i. Within the 250 km catchment area, PO and Faurecia own the two closest plants to the OEMs;

ii. As regards PSA-Sochaux, the additional supplier within a 250 km radius has a very limited importance given that it represents only [0-5]% in term of capacity share, while the Parties represent [90-100]% in term of capacity shares.

94 Toyota Valenciennes is not included in the closeness analysis since it is a fully integrated plant (see paragraph 0).

Therefore, no other plants owned by another supplier are able to exert a competitive constraint within 250 km;

iii. As regards PSA-Mulhouse, the next closest plant, owned by Magna in Sulzbach, is located at a significant distance compared to the plants owned by the Parties.

iv. The analysis of tender information also shows that the Parties competed against each other in tenders for these customers.

Table 5. Suppliers and tender information for the Eastern-France cluster

OEM	PO (Langres plant)	Faurecia (Audincourt plant)	Other suppliers within 250 km catchment area	Did PO (Langres) and Faurecia (Audincourt) both participate in recent tenders?
PSA-Sochaux	140 km	5 km	Other[95]	Yes
PSA-Mulhouse	184 km	61 km	Magna (Sulzbach, 243 km), Others[96]	Yes

(145) In addition, in the Eastern France cluster, the Commission also considers that the Parties are the closest competitors for the supply of unpainted bumpers to Renault-Batilly for the following reasons:

i. As discussed in paragraph (100), based on the analysis of the actual supply streams, only the Parties supply Renault-Batilly for unpainted bumpers: PO serves this plant from its Amiens and Fontaine facilities (344 km and 268 km respectively) and Faurecia from its Burnhaupt facility (307 km).

ii. Renault also stated that, while Magna and Rehau could be potential suppliers from Germany, it is questionable that these undertakings would be able to exert a significant competitive pressure for the supply of unpainted bumpers to Renault-Batilly given that: first, Rehau's plant is located further away than the plants of PO and Faurecia, and second, Rehau and Magna have a different business focus based on the supply of very high added value bumpers to German OEMs, while

95 In the submission "*Capacity shares for hypothetical local markets of 250 km radius for plastic front and rear bumpers*", the Parties mention a category "other supplier" without mentioning the identity of this supplier. This additional supplier within a 250 km radius has a very limited importance given that it represents [0-5]% in term of capacity share, while the Parties represent [90-100]% in term of capacity shares.

96 In the submission "*Capacity shares for hypothetical local markets of 250 km radius for plastic front and rear bumpers*", the Parties mention a category "other suppliers" without mentioning the identity of these suppliers. These additional suppliers within a 250 km radius have a very limited importance given that they represent only [10-20]% in term of capacity share, while the Parties and Magna represent [90-100]% in term of capacity shares.

Renault-Batilly requires mainly low-value added unpainted bumpers.[97]

(146) As regards the Belgian cluster (see Table 6), the analysis of geographic closeness and tender information shows that PO and Faurecia are close competitors in the Belgium cluster for the supply of painted bumpers to Volvo-Ghent:

i. Both parties own two of the three plants located within the 250 km catchment area.

ii. Both parties participated against each other in a recent tender for Volvo-Ghent. The Commission also notes that while one would have expected Faurecia to participate with its plant in Marles-les-Mines which is located within the 250 km radius, it has actually participated with its plant in Essen located at 260 km from Volvo-Ghent.

Table 6. Suppliers and tender information for the Belgium cluster

OEM	PO (Ruitz plant)	Faurecia (Marles-les-Mines plant)	Other suppliers within 250 km catchment area	Did PO and Faurecia both participated in recent tenders?
Volvo Ghent	143 km	154 km	Plastal (Ghent, 2 km)	Yes. Note: Faurecia participated with its plant in Essen (260 km)

(147) As regards the Spanish cluster (see Table 7), the analysis of geographic closeness and tender information shows that PO (with its plant in Arevalo) and Faurecia (with its plant in Valladolid) are closely competing against each other in the Spanish cluster for the supply of unpainted bumpers:

i. Within a 250 km catchment area, PO and Faurecia own two of three plants;

ii. The analysis of tender information also shows that the Parties competed against each other in tenders for Renault-Valladolid.

Table 7. Suppliers and tender information for the Spanish cluster

OEM	PO (Arevalo plant)	Faurecia (Valladolid plant)	Other suppliers within 250 km catchment area	Did PO and Faurecia have participated in recent tenders?
Renault-Valladolid	71 km	5 km	SMP (Palencia, 55 km)	Yes

97 See minutes with Renault, DOC ID 486.

(148) According to the above, the Commission considers that the Parties are closely competing against each other for the provision of plastic bumpers for the following areas and customers:

i. The Northern France cluster, for the customers Renault-Douai, Renault-Maubeuge, and Sevel Nord (Fiat/PSA);

ii. The Western France cluster, for the customers PSA-Poissy, Renault-Flins, Renault-Sandouville;

iii. The Eastern France cluster, for the customers PSA-Mulhouse, PSA-Sochaux, and Renault-Batilly;

iv. The Belgium cluster, for the customer Volvo-Ghent;

v. The Spanish cluster, for the customer Renault-Valladolid.

V.2.1.3. Switching

V.2.1.3.a. The Notifying Party's view

(149) The Notifying Party submits that OEMs are able to switch suppliers regularly through new tenders. In addition, the Notifying Party submits that switching during the lifetime of the contract is also easy.

(150) The Notifying Party claims that for OEMs there are no switching costs from one contract to the next given that sourcing is organised via tenders on a model by model basis. Therefore, according to the Notifying Party, OEMs can award the tendered contract to any of the suppliers located within the relevant catchment area.

(151) As regards suppliers located outside that area, the Notifying Party claims that they can also participate in tenders and later build up a plant in the vicinity of the OEM plant if the contract is awarded.

(152) The Notifying Party claims that switching is also possible when the mid-life facelift RFQs are issued as well as during both the development and the production phase, if permitted by the contract. The Notifying Party however submits that this is a rare occurrence.

V.2.1.3.b. The Commission's assessment

(153) The Commission considers that the possibility of the OEMs to switch suppliers does not counterbalance the important competitive constraint eliminated by the Transaction.

(154) First, the Commission considers that although switching is possible for a tender for a new car model, contrary to the Notifying party's view, it is only possible to switch to suppliers with a manufacturing plant close to the OEM's plant.[98] Accordingly, the customers only have an ability to switch if there are enough alternative suppliers in the catchment area. Therefore, the customers would face difficulties

98 See section IV.2.2.

switching to other suppliers on the regional markets defined by a catchment area of 250 km around the manufacturing plant of the OEM. In the case at hand switching will therefore prove particularly difficult since:

i. in the North France cluster post-transaction there will be only a single alternative to the merged entity;

ii. in the West France cluster post-transaction there will be no alternative to the merged entity;

iii. in the catchment area centred on PSA's plant in Mulhouse (East France cluster) post transaction there will be only a single alternative to the merged entity;

iv. in the catchment area centred on PSA's plant in Sochaux post-transaction there will be no alternative to the merged entity;

v. in the catchment area centred in Renault's plant in Batilly post-transaction there will be no alternative to the merged entity;

vi. in the catchment area centred around Volvo's plant in Ghent post-transaction there will be only a single alternative to the merged entity;

vii. in the Spanish cluster post-transaction there will be only a single alternative to the merged entity.

(155) Second, the market investigation indicates that the majority of customers never or at best occasionally switch suppliers between the development and the production phase.[99]

(156) Third, the market investigation indicates that switching during the production phase of the contract is very limited. Both customers[100] and competitors[101] stated that this never happens or at best occasionally. With regard to switching at the time of the mid-life facelift, the market investigation showed that, although the switching could occur, the majority of the OEMs generally award the contract to the incumbent supplier.[102]

V.2.1.4. Barriers to entry

V.2.1.4.a. The Notifying Party's view.

(157) The Notifying Party claims that barriers to entry on the market for plastic front and rear bumpers are low.

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99 Q1 – Questionnaire to customers, question 33; and Q2 – Questionnaire to competitors, question 23.1.

100 Q1 – Questionnaire to customers, question 34.

101 Q2 – Questionnaire to competitors, question 24.1.

102 Q1 – Questionnaire to customers, question 35; and Q2 – Questionnaire to competitors, question 25.1.

(158) First, the Notifying Party claims that there are no legal or regulatory barriers preventing entry into this market. Second, the Notifying Party claims that there are no proprietary technologies in the market and existing patents do not prevent market entry. Third, the Notifying Party claims that entry into any of these markets is relatively easy and achievable within a two year period at most.

V.2.1.4.b. The Commission's assessment.

(159) Contrary to the Notifying Party's claim, the Commission considers that barriers to entry on the markets for plastic and front rear bumpers are high.

(160) First, both competitors and customers responding to the market investigation indicated that there was no entry into the markets for plastic and front rear bumpers in the last five years. Also, none of the competitors and customers expects entry of a new player to occur in the near future.

(161) Second, competitors responding to the market investigation indicated that the main barrier would be the set-up of a plant, which includes the set-up of a new painting line. For a greenfield entrant, the plant would need to be built and audited by the customers before being invited to participate in tenders. The new plant (or plants) would also need to be built in the proximity of the customers' (OEMs) manufacturing facility.

(162) The market investigation supported the Notifying Party's claim that the indicative time-frame required to set up a new plant is two years and the investment required has been indicated in the range of circa 50 million Euros. The Commission considers that this investment is quite significant, especially for a greenfield entrant in light of the fact that the approximate time of amortization of the investment cost is estimated to take at least 10 years.

(163) On average, a contract for the supply of bumpers runs for approximately 3.5 years, and 6 to 7 years if also the supply contract for the mid-life face lift is awarded to the incumbent suppliers. Therefore, the award of two subsequent contracts and the running of the plant at full capacity for that period of time would be required to recoup the investment cost. A new entrant would therefore face a high financial risk which makes entry less likely.

(164) OEMs are generally not willing to commit to sourcing obligations exceeding the lifetime of a vehicle model, and therefore the award of subsequent contracts is not given. Also, when awarding supply contracts to bumper manufacturers, OEMs do not commit themselves to minimum volumes, but only provide non-binding volume indications. If the targets are not met, the time of amortization of the investment is further extended and the supplier is generally not entitled to any sort of financial compensation.

(165) A new entrant will also need to start building customer relations in order to be invited, and eventually awarded a supply contract which could require additional time and efforts, thus making the amortization of the entry costs even longer.

(166) Third, the Commission considers that the majority of competitors responding to the market investigation indicated that for a successful entry it is paramount to have specific know-how, which is an "*in depth understanding of automotive standards, injection moulding and painting capabilities*". According to one competitor, "*Without know-how you will never receive an order from the customer*". Customers

also stated that extensive customer relations with established suppliers represent a significant hurdle for a new entrant in securing business opportunities from OEMs.

(167) Finally, a number of competitors that replied to the market investigation indicated that the market for plastic front and rear bumpers is not growing in the near future which makes entry of new competitors less likely.

V.2.1.5. Barriers to expansion

V.2.1.5.a. The Notifying Party's view.

(168) The Notifying Party claims that expansion of existing market players into new geographical areas, particularly if sponsored by OEMs, is possible. The main argument put forward by the Notifying Party is that an established player can participate in a tender issued for supplies in a geographic area where is not present and build a manufacturing plant only if and when the contract is finally awarded

(169) According to the Notifying Party this is possible because tenders usually take place two years before production is due to start, which leaves sufficient time to build a plant or a JIS facility once the business has been awarded.

V.2.1.5.b. The Commission's assessment.

(170) Contrary to the Notifying Party's claim, the Commission considers that the barriers to expansion remain high, even when the OEM would sponsor the initial entry.

(171) First, the time and cost of expansion for an existing market participant remain the same described in section V.2.1.4 above. Expansion in a new geographical region in fact requires the setting up of a greenfield production facility in that area which – as explained above – implies considerable cost and time to carry out. It also entails a considerable financial risk in view of the long time required for the recuperation of the investment.

(172) Second, the market investigation indicated that it is uncommon for a market participant to actually build a new manufacturing facility when awarded a new contract. A number of OEMs contacted in the course of the market investigation in fact indicated that they did not experience such an occurrence in the past 3 years.[103]

V.2.1.6. Buyer power

V.2.1.6.a. The Notifying Party's view.

(173) The Notifying Party claims that OEMs have significant countervailing buyer power emanating from a number of key facts: (i) the product is homogenous, as all suppliers are able to meet the technical requirements specified by the OEM and as such are perfectly interchangeable; (ii) competition takes place through tender processes in which a limited number of bidders is sufficient to ensure a competitive outcome; (iii) OEMs have a near-perfect visibility on the costs and margins of their suppliers, creating a situation of information asymmetry which the OEMs can exploit to their advantage in the negotiation process; and (iv) OEMs are able to control the number and identity of bidders in each tender through their ability to attract suppliers from further afield and their ability to sponsor expansion of existing suppliers or entry of new suppliers.

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[103] Minutes of the calls with customers, 18/2/2016 and 23/2/2016.

(174) In addition, the Notifying Party submits that an OEM's buyer power is further strengthened by their ability to in-source part or all of the production process. Furthermore, suppliers are highly dependent on OEMs as they have strong incentives to fully utilise capacity and thus to win programs. Also, suppliers may fear retaliation by the OEM in other tenders should the supplier attempt to raise prices above the competitive level, as OEMs deal with each supplier in a number of geographic areas within and outside the EEA.

V.2.1.6.b. The Commission's assessment.

(175) The Commission takes the view that any countervailing buyer power of the OEMs will likely not be sufficient to counter the increase in market power that the merger is likely to create.

Not sufficient alternative suppliers

(176) Firstly, with regard to the argument that all manufacturers can satisfy the technical requirement specified by the OEMs and therefore compete for RFQs, the market investigation indicated that this is not necessarily true. For example, the Notifying Party itself indicated that Faurecia could not participate in RFQs issued by VW Brussels due to [details on technical specifications].[104] Therefore the Commission takes the view that not all suppliers are necessarily interchangeable.

(177) Countervailing buyer power may exist if a customer could credibly threaten to resort, within a reasonable timeframe, to alternative sources of supply. This does not apply to the present case.

(178) With regard to the threat to switch to alternative suppliers the Commission considers that any possibility of switching which existed pre-merger will be eliminated or significantly reduced as a result of the merger in a number of geographic markets.[105]

No credible threat of in-house production

(179) The Commission also considers that OEMs can generally not credibly threaten to turn to in-house production of plastic front and rear bumpers.

(180) First, the Notifying Party indicated that only few OEMs have the capability to carry out all steps of the production process in-house. Of these manufacturers, only a few in-sourced 100% of their bumper needs while the others only a part thereof. More precisely, Nissan and Honda insource [insourced volumes] of their bumpers requirement, Toyota insources [insourced volumes], Suzuki [insourced volumes], BMW [insourced volumes] and Volkswagen [insourced volumes]. Other OEMs opted for a partial in-sourcing of the production process, and in this case two different solutions are possible.

(181) The first option consists in painting and assembling the bumpers in-house, but buying unpainted (black) from the market. This is the case for Suzuki for less than half of its 2014 bumper needs in Hungary. For this part of its bumper requirement Suzuki bought black bumpers from Plastimat (subsidiary of Magna) and painted

104 See paragraph 103 above.

105 See paragraph 154 above.

and assembled them in-house. Similarly, Renault painted and assembled [insourced volumes] of its 2014 bumper requirements in-house, using painting line capacity in Spain (Palencia and Valladolid) and Romania (Pitesti-Colibasi).

(182) The second option consists in buying unassembled painted bumpers i.e., bumpers without any components, and assemble them in-house. In 2014, the Notifying Party did not assemble the bumper for [5-10]% of the total bumper volume it sold in the EEA.

(183) In terms of total EEA production capacity of plastic bumpers, 11% are fully produced in-house (injection, painting, assembly), 4% are painted and assembled in-house while 7% are only assembled in house. Therefore, only 22% of the bumpers produced in the EEA have at least one step of their production process carried out by the OEM.

(184) From the above information submitted by the Notifying Party it can also be inferred that a number of high-volume OEMs, including PSA, Volvo, Daimler, General Motors and JLR, fully externalise the complete production process. For these OEMs the disciplining effect of the threat to internalise the production process would therefore arguably be even less credible than for those who have internalised at least part of that process in the past.

(185) Second, of those OEMs that have the capacity to in-source at least one step of that production process, most do not have that capacity in all the production facilities but in only some of them. This is for example the case of Renault: from the information submitted by the Notifying Party, it emerges that Renault has a painting line only in Spain and Romania but not in the plants located elsewhere in the EEA. This means that any possible disciplining effect of the threat of in-sourcing is limited to those few markets centred on plants with in-house moulding or painting capacity.

(186) Third, the analysis of tender information submitted by OEMs indicated that in none of the RFQs analysed, the participants (irrespective of whether the Parties participated or not) had to compete against in-house production of the relevant OEMs. This is an indication that the threat of internalizing the production of bumpers is only of a limited disciplining effect in the majority of the markets concerned.

(187) Fourth, and in line with what was described in paragraph 162, setting up production capacity of bumpers requires important investments and lead time. This applies also to OEMs – or at least part of them – as the production process of automotive plastic components is a specific process, different from the production process of metal components. For a full internalisation of the bumpers demand, that investment would have to be replicated at each OEM plant. In light of the above, and as confirmed in the market investigation, the decision to internalise bumper production would probably need a very strong business case supporting it and in any event it will take the OEMs a considerable amount of time to fully deploy it.

(188) Finally, some of the OEMs responding to the market investigation also indicated that a total or partial internalisation of that production process is not part of their strategic priorities.

No sponsoring of entry

(189) With regard to the ability of OEMs to sponsor new entrants in the markets, the Commission takes the view that – albeit theoretically possible – the entry barriers discussed above in section V.2.1.4. will render that option only a long term one, not allowing OEMs to quickly switch to any alternative source of supply for newly issued RFQs .

(190) First, OEMs responding to the market investigation indicated that they refrain from committing any volume to suppliers, but at best provide indicative volumes that they expect to source. These indications are however not binding and if not met, do not trigger any compensation in favour of the supplier.

(191) Second, the market investigation indicated that OEMs generally prefer to allocate the sourcing needs of any given plant to more than one supplier. This is for the purpose of diversifying the logistic and quality risk. Therefore it is unlikely that an OEM will switch all the sourcing needs of any given plant to a new entrant. Volumes allocated would therefore not likely be extremely significant for the first years of operation of a new entrant.

(192) Finally, the time required for entry – even when sponsored – will remain considerable, not allowing OEMs to invite to RFQs alternative or additional players within a sufficiently short period of time, and therefore the threat to switch to a sponsored entrant would not materialise in a sufficiently short period of time.

Margins and cost structure

(193) With regard to the argument of near-perfect visibility of the OEMs on the suppliers' cost structure, the information provided by the Notifying Party in its submission, "Assessment of the relationship between Plastic Omnium margins and the number of competitors in the market for bumpers", indicates that PO's average margin for plastic front and rear bumpers is between […]% and […]%. According to that submission, those margins take into account most of the costs, i.e. the cost of raw material (including the cost of subcontracted components and inbound transport costs), the cost of direct and indirect labour related to the production of the program, the cost of production (including outbound transport costs) and the depreciation of fixed assets directly linked to the program.

(194) This evidence contradicts the Notifying Party's claim that OEMs have near perfect visibility of the cost structure of the suppliers and exploit that information to their advantage in negotiations. If that were the case, bumper manufacturers would be limited to significantly lower profit margins as a result of the negotiations with OEMs. Hence, either OEMs do not have good visibility on the suppliers' cost structure or they do not exploit that information in the negotiation process.

V.2.1.7. Conclusion on bumpers

(195) The Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the markets for plastic front and rear bumpers in the local markets of a 250 km catchment area in Northern France around Renault Douai, Renault Maubeuge, Sevel Nord (Fiat/PSA), in Western France around Renault Flins, Renault Sandouville and PSA Poissy, in Eastern France around PSA Mulhouse, PSA Sochaux and Renault Batilly, in Belgium around Volvo Ghent and in Spain around Renault Valladolid as a result of non-coordinated horizontal effects.

V.2.2. FECs

(196) The Transaction leads to a further concentration in an already highly concentrated market for FECs. It reinforces the leading market position of the Target by removing an important and close competitor on the market for FECs in the EEA. Switching, barriers to entry and expansion as well as countervailing buyer power of the customers are not a sufficient competitive constraint on the combined entity.

V.2.2.1. Market Structure

(197) On an EEA-wide market for plastic and hybrid (reinforced plastic/metal) FECs, the market shares in terms of revenue, excluding in-house production, would be the following:

Table 8: Plastic and reinforced plastic/metal FEC market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house

	2012		2013		2014		2015	
	M€	%	M€	%	M€	%	M€	%
Plastic Omnium	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[10-20]%
Target	[revenues]	[40-50]%	[revenues]	[30-40]%	[revenues]	[40-50]%	[revenues]	[30-40]%
Combined	**[revenues]**	[40-50]%	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**
Magna	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Rehau	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Simoldes	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Montaplas	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
FPK	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Valeo	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Mahle	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plastivaloir	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Faurecia	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Other	[revenues]	[0-5]%	[revenues]	[10-20]%	[revenues]	[5-10]%	[revenues]	[0-5]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

106 The Seller will retain FEC activities within Faurecia Interior Systems which will not be subject to a non-compete clause.

Table 9: Plastic and reinforced plastic/metal FEC market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house						
	2016		2017		2018	
	M €	%	M €	%	M €	%
Plastic Omnium	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Target	[revenues]	[30-40]%	[revenues]	[30-40]%	[revenues]	[30-40]%
Combined	**[revenues]**	**[50-60]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**
Magna	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Rehau	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Simoldes	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Montaplast	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
FPK	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Valeo	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Mahle Behr	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plastivaloire	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Faurecia Interior	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Other Plastic Suppliers	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[5-10]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

(198) If the product market were to be defined narrower to include only plastic FECs, the market shares would be the following:

Table 10: Plastic FEC market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house								
	2012		2013		2014		2015	
	M€	%	M€	%	M€	%	M€	%
Plastic	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	10-20]%
Target	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[20-30]%
Combined	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**	**[revenues]**	**[40-50]%**
Magna	[revenues]	[5-10]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Rehau	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[0-5]%	[revenues]	F0-5]%
FPK	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[30-40]%
Valeo	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[0-5]%
Mahle Behr	[revenues]	[5-10]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plastivaloire	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Faurecia	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

107 Ibid.

108 Ibid.

Table 11: Plastic FEC market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house						
	2016		2017		2018	
	M €	%	M €	%	M €	%
Plastic Omnium	[revenues]	[20-30]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Target	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[20-30]%
Combined	[revenues]	**[40-50]%**	[revenues]	**[40-50]%**	[revenues]	**[30-40]%**
Magna	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Rehau	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
FPK	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[20-30]%
Valeo	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[0-5]%
Mahle Behr	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Plastivaloire	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[10-20]%
Faurecia Interior Systems[109]	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[0-5]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

(199) Post-Transaction the combined entity would become the market leader with market shares above [40-50]% regardless of whether the market for FECs is considered to comprise only plastic materials or plastic and hybrid altogether.

(200) The only other competitor with a significant market share is FPK. However, its market share does not exceed [20-30]% on the market for FECs made only of plastic, where its market share is expected to gradually decrease remaining below [10-20]% by 2018.

(201) All other competitors have market shares which are currently below [10-20]% and which are not expected to increase significantly.

V.2.2.2. Closeness of competition

V.2.2.2.a. The Notifying Party's view

(202) The Notifying Party submits that FECs vary in shape or material, but nonetheless remain homogeneous products with no high-end or low-end versions regardless of the car category.

(203) The Notifying Party also submits that the main criterion taken into account by OEMs when awarding a tender is the price offered by the manufacturer, and that all competitors in the affected markets have access to the required technology and are capable of providing products of equivalent quality.

V.2.2.2.b. The Commission's assessment

(204) The Commission considers that the Parties are closely competing against each other for the provision of FECs.

(205) The customers that participated in the market investigation have identified several companies that are currently technically and commercially capable of supplying FECs in the EEA in addition to the Parties.[110] Nevertheless, when it comes to

109 Ibid.

110 Q1 – Questionnaire to customers, question 28.

ranking the most important suppliers in terms of capacity, geographic coverage or know-how, the market investigation shows that PO and the Target are very close competitors for the provision of FECs, with two customers considering the Parties as the two most important FEC suppliers in the market. [111]

(206) A large majority of the competitors that participated in the market investigation consider that PO and the Target are both amongst the best positioned to successfully compete in a tender for FECs.[112] The vast majority of customers also submit that PO and the Target are close competitors.[113]

V.2.2.3. Switching

V.2.2.3.a. The Notifying Party's view

(207) The Notifying Party's view with regard to switching FEC suppliers corresponds broadly to its opinion set out in section V.2.1.3 concerning the markets for plastic front and rear bumpers. It submits that switching is easy and entails no significant cost or time before or during the production. The Notifying Party submits that tooling can be duplicated at a limited cost (less than EUR [cost assessment] million per tool) in approximately […] months. Tools can be transferred as well, which costs around EUR [cost assessment] and can be achieved in about […] months.

V.2.2.3.b. The Commission's assessment

(208) The market investigation showed similar results with regard to FECs as to bumpers. Switching occurs never or at best occasionally between the development and production phase[114] or during the duration of the supply contract.[115] In addition, and contrary to bumpers, FECs are not modified during its lifetime (through a mid-life face lift) as they are not visible parts. In view of the limited switching opportunities, the Commission considers that switching is not likely to counterbalance the important competitive constraint eliminated by the Transaction.

V.2.2.4. Barriers to entry and expansion

V.2.2.4.a. The Notifying Party's view.

(209) The arguments put forward by the Notifying Party as regards barriers to entry on the market for plastic front and rear bumpers apply as well to entry and expansion on the market for FECs.

V.2.2.4.b. The Commission assessment.

(210) The market investigation showed similar results with regard to FECs as to bumpers. No respondent to the market investigation observed entry onto the market in the past and no respondent expects entry in the near future.[116] As for entry into

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111 Q1 – Questionnaire to customers, question 29.

112 Q2 – Questionnaire to competitors, question 20.2.

113 Q2 – Questionnaire to competitors, question 21.

114 Q1 – Questionnaire to customers, question 33; and Q2 – Questionnaire to competitors, question 23.2.

115 Q1 – Questionnaire to customers, question 34; and Q2 – Questionnaire to competitors, question 24.2.

116 Q1 – Questionnaire to customers, questions 36 and 37; and Q2 – Questionnaire to competitors, questions 26 and 27.

the market, similarly to those observed for plastic front and rear bumpers, competitors responding to the market investigation indicated that the main barriers to entry are the possession of, or access to, production know-how, the creation of customer relations and the set-up of a sufficient geographic footprint.[117]

(211) As regards the setting up of production facilities, the competitors responding to the market investigation estimated the required investment to amount to EUR 5 to 5.5 million and the lead time around two years. Notwithstanding this investment being significantly lower than the one required to set up a plastic bumper manufacturing facility, the estimated time required to amortise the costs remains substantial, i.e. around 10 years.[118]

(212) Barriers to entry to this market, albeit similar to those for entry into the market for plastic front and rear bumpers pose a more significant hurdle as the size of the FEC market is significantly smaller than that of plastic front and rear bumpers. Hence, a potential entrant would have significantly lower incentives to actually make the necessary investments to enter this market.

(213) Finally, an eventual expansion of the production by the existing FEC suppliers seems unlikely given the lower value of plastic and hybrid FECs as compared to other injected/moulded plastic components and the minor variations of the market shares over the last years (which are furthermore expected to remain).

V.2.2.5. Buyer power

V.2.2.5.a. The Notifying Party's view

(214) As regards countervailing buyer power of the OEMs on the supply of FECs, the arguments put forward by the Notifying Party are the same as those put forward for the market for plastic front and rear bumpers. Particularly, the Notifying Party claims that the OEMs buyer power mainly emanates from the strong competitive constraint imposed by in-house production.

V.2.2.5.b. The Commission's assessment

(215) Similarly to the market for plastic front and rear bumpers, the Commission considers that the OEMs' countervailing buyer power over FEC suppliers does not counterbalance the important competitive constraint eliminated by the Transaction.

(216) First, some OEMs submit that they do not have the know-how to produce FECs in-house, and of those who do have the know-how, only a minority produces FECs in-house.[119] Secondly, those OEMs who have in-house production capacity for FECs nonetheless still outsource the vast majority of their needs. [120] Third, the incentives of OEMs to insource the production of a low value component such as FECs - which would take 10 years to recoup the investment costs - would be very low.

(217) Finally, a number of OEMs responding to the market investigation indicated that insourcing the production of FECs is not a strategic priority. Hence, the threat of

117 Q2 – Questionnaire to competitors, question 28.2.

118 Q2 – Questionnaire to competitors, question 29.

119 Q1 – Questionnaire to customers, question 27.

120 Q1 – Questionnaire to customers, question 27.1.

insourcing all or part of the FEC demand is – at least for those OEMs – not sufficiently strong to discipline the merged entity.

(218) Hence, the Commission takes the view that OEMs are not likely to have a significant degree of buyer power. Given the significant market position that the merged entity will acquire as a result of the Transaction, as well as seen the lack of strategic interest for OEMs to internalise that production and the lack of incentive of potential (sponsored) entrants due to the small size of the market and the limited opportunities offered, such countervailing buyer power will likely not be sufficient to discipline the merged entity post transaction.

V.2.2.6. Conclusion on FECs

(219) The Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market for plastic and hybrid FECs as a result of non-coordinated horizontal effects.

V.2.3. Plastic Hatchbacks/Tailgates

(220) The Transaction leads to a further concentration in an already highly concentrated market. It reinforces the leading market position of the Notifying Party by removing an important and close competitor on the market for plastic hatchbacks/tailgates in the EEA. Switching, barriers to entry and expansion as well as countervailing buyer power of the customers are likely not a sufficient competitive constraint on the combined entity.

V.2.3.1. Market Structure

(221) If an EEA-wide market is considered for plastic hatchbacks/tailgates, the market shares in terms of revenue, excluding in-house production, would be the following:

Table 12: Outsourced plastic hatchback/tailgates market shares for light vehicles for OEMs (by revenue)

	2012		2013		2014		2015	
	M €	%	M €	%	M €	%	M €	%
Plastic Omnium	[revenues]	[70-80]%	[revenues]	[80-90]%	[revenues]	[80-90]%	[revenues]	[80-90]%
Magna	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Target	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Faurecia	[revenues]	[10-20]%	[revenues]	[10-20]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Polytec	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Inapal	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

121 Faurecia out-of-scope includes the activities retained by the Seller in Hambach, [business strategy relating to the Transaction] and Faurecia's composite activity in Theillay, [business strategy relating to the Transaction].

Table 13: Outsourced plastic hatchback/tailgates projected market shares for light vehicles for OEMs (by revenue)						
	2016		2017		2018	
	M €	%	M €	%	M €	%
Plastic Omnium	[revenues]	[70-80]%	[revenues]	[70-80]%	[revenues]	[70-80]%
Target	[revenues]	[5-10]%	[revenues]	[10-20]%	[10-20]%	[10-20]%
Combined	[revenues]	**[80-90]%**	[revenues]	**[80-90]%**	[revenues]	**[80-90]%**
Magna	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Faurecia out-of-	[revenues]	[10-20]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Polytec	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Inapal	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	[revenues]	**100.0%**	[revenues]	**100.0%**	[revenues]	**100.0%**

Source: Form CO

(222) The Transaction would therefore reinforce the already stronghold position of PO, achieving a combined market share of [80-90]% by 2018. The Transaction would eliminate the only significant competition constraint given that Faurecia is the only competitor expected to achieve a market share above [0-5]% since the introduction of plastic hatchbacks/tailgates in the late 1990s.

(223) In addition, Faurecia Out-of-scope, albeit listed as a competitor post-transaction with an estimated market share of [10-20]% in 2016, would not be able to exert a competition constraint on the merged entity because of a non-compete clause concluded in the Sales and Purchase Agreement. If the estimated revenue by Faurecia Out-of-scope is excluded, the Parties' combined market share would reach almost [90-100]% by 2018.

(224) Furthermore, if a narrower product market were to be considered for hatchbacks/tailgates made only of hybrid thermoset/thermoplastic technology, the Parties' combined market shares would increase even further, since the Target only produces hybrid thermoset/thermoplastic hatchbacks/tailgates and only Inapal would be in a position to compete with the Parties.[123]

V.2.3.2. Closeness of competition

(225) The Commission considers that the Parties are closely completing against each other for the provision of plastic hatchbacks/tailgates.

(226) The Notifying Party submits that hatchbacks/tailgates are rather homogeneous products and that any competitor with a track record of supplying plastic components to the automotive industry has the ability to bid for tenders and acquire a market share in the provision of plastic hatchbacks/tailgates.

(227) The customers that participated in the market investigation have identified some companies that would currently be technically and commercially capable of supplying plastic hatchbacks/tailgates in the EEA in addition to the Parties.[124]

122 Ibid.

123 Reply by the Notifying Party of 27.05.2016 to question 1.d of the Commission's request for information dated 20.05.2016.

124 Q1 – Questionnaire to customers, question 28.

Nevertheless, when it comes to ranking the most important suppliers, the market investigation shows that PO and the Target are indeed very close competitors for the provision of plastic hatchbacks/tailgates.[125] Furthermore, in its response to the market investigation, a customer replied that no realistic good alternative to PO exists for tailgates. [126]

(228) A large majority of the competitors that participated in the market investigation considers that PO and the Target are both amongst the best positioned to successfully compete in a tender for hatchbacks/tailgates. [127] The vast majority of customers also submitted that PO and the Target are close competitors to each other.[128]

V.2.3.3. Switching

V.2.3.3.a. The Notifying Party's view

(229) The Notifying Party's view with regard to switching hatchback/tailgate suppliers corresponds broadly to its opinion set out in section V.2.1.3 concerning the market for plastic front and rear bumpers. The Notifying Party states that regular switching is possible via tenders for new vehicles and for the mid-life facelift. The Notifying Party submits that during the production phase switching is rare but possible either through duplication of the tools which would cost EUR [cost assessment] and take around […]-[…]or by transferring the tools. The latter is however not the preferred option as the transfer and the storage are risky and complex processes to implement.

V.2.3.3.b. The Commission's assessment

(230) The market investigation showed similar results with regard to hatchbacks/tailgates as for bumpers. Switching occurs only occasionally or never after the development phase[129], at the time of the mid-life facelift[130] and during the duration of the contract.[131] Therefore, the Commission considers that switching does not counterbalance the important competitive constraint eliminated by the Transaction.

V.2.3.4. Barriers to entry and expansion

V.2.3.4.a. The Notifying Party's view

(231) The Notifying Party claims that barriers to entry on the market for plastic hatchbacks/tailgates are low since entry is constrained neither by (1) the need for painting and injection capacity, nor by (2) the need for assembly capacity and gluing / welding capacity in particular, or by (3) any exclusive know-how linked to the manufacturing and gluing / welding process for hatchbacks/tailgates. While a number of patents covering a variety of techniques were filed, the Notifying Party

125 Q1 – Questionnaire to customers, question 29.

126 Q1 – Questionnaire to customers, question 31.1.

127 Q2 – Questionnaire to competitors, question 20.4.

128 Q2 – Questionnaire to competitors, question 21.

129 Q1 – Questionnaire to customers, question 33; and Q2 – Questionnaire to competitors, question 23.4.

130 Q1 – Questionnaire to customers, question 35; and Q2 – Questionnaire to competitors, question 25.4.

131 Q1 – Questionnaire to customers, question 34; and Q2 – Questionnaire to competitors, question 24.4.

claims that no IP rights are necessary to enter the market for outsourced hatchbacks/tailgates.

(232) Concerning the entry of a new player already active in the injection and painting of plastic parts for the automotive industry, the Notifying Party claims that it is not necessary to set up dedicated production facilities. The injection and painting technique is the same and no specific painting lines are required in general, as the existing machinery may be adapted. The Notifying Party claims that a plastic hatchback/tailgate can be made of either thermoset or thermoplastic or both so that the press used for other parts and the painting line can also be used to manufacture the tailgates. In this scenario, the only additional piece of equipment required would be a gluing machine, which generally costs up to Euro [cost assessment].

(233) As to entry of a new player not yet active in the injection and painting of plastic parts for the automotive industry, the Notifying Party submits that the investment required to set up a production facility are those set out in paragraph 162 above concerning plastic bumpers.

(234) As regards the required know-how, outsourced hatchbacks/tailgates can be manufactured in various materials (thermoset, “hybrid” thermoset/thermoplastic and thermoplastic reinforced with steel) and various technologies (in-mould, gluing, welding, etc.). According to the Notifying Party, the market is therefore accessible to a variety of players, not only manufacturers of injected plastic parts for instance.

V.2.3.4.b. The Commission's assessment

(235) Contrary to the Notifying Party allegations, the Commission takes the view that barriers to entry on the market for plastic hatchbacks/tailgates are high.

(236) First, the Target is the only undertaking that has successfully managed to enter the market and it has started supplying plastic hatchbacks/tailgates in [year]. However, the Target first attempted to enter the market for plastic hatchbacks/tailgates with the acquisition of its competitor Plastal Germany in 2010 and then Sora/Sotira in 2012. Since then, Faurecia [business strategy][132] will only establish a significant presence in the market in 2016 following an investment of EUR [business strategy] million[133].

(237) Second, in addition to the financial investment needed, some competitors submit that know-how and a well-established commercial relationship with the customer are also barriers to enter the market for plastic hatchbacks/tailgates. [134]

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[132] Since the Target entered the market in 2010, it has participated in tenders for the supply of plastic hatchbacks/tailgates for the car models [tender information] – Reply by the Notifying Party of 27.05.2016 to question 6 of the Commission's request for information dated 20.05.2016.

[133] The EUR [business strategy] million investment can be broken down in EUR [business strategy] million on the development of [business strategy] and [business strategy] million on gluing equipment, compression machines, finishing lines and the expansion on the premises of the Audicourt manufacturing plant – Reply by the Notifying Party of 18.05.2016 to question 11 of the Commission's request for information dated 12.04.2016.

[134] Q1 – Questionnaire to customers, question 28.4.

(238) Finally, and in line with the above, only a minority of respondents to the market investigation expect new entry into the market for plastic hatchbacks/tailgates. [135]

(239) As regards the barriers to expansion, the Commission takes the view that these are significant. This is clearly indicated by the fact that none of the existing players other than the Notifying Party managed to achieve a sizable market share in the past. Also, the Target managed to gain a more significant market share only after consistent investment and in a long time frame.

V.2.3.5. Buyer power

V.2.3.5.a. The Notifying Party's view

(240) The arguments put forward by the Notifying Party regarding countervailing buyer power on the market for plastic hatchbacks/tailgates are similar to those put forward as regards the market for plastic front and rear bumpers and the market for FECs. Particularly, the Notifying Party claims that OEMs will have a significant degree of countervailing buyer power as it is ultimately them who decide on the technology used (metal or plastic) and as they have the ability to attract new entrants and facilitate the expansion of smaller players. In addition, OEMs also have the ability to start producing plastic hatchbacks/tailgates themselves.

V.2.3.5.b. The Commission's assessment

(241) Similarly to front and rear bumpers and FECs, the market investigation indicated that any countervailing buyer power that could be attributed to the customers (OEMs) does not counterbalance the important competitive constraint eliminated by the Transaction.

(242) First, only a few OEMs have the know-how to produce plastic hatchbacks/tailgates in-house and of those having such in-house know-how only a few are actually engaged in the production of those components.[136]

(243) Second, each of the very few OEMs that are engaged in in-house production of hatchbacks/tailgates also outsource a proportion of their needs. The proportion of components outsourced varies considerably depending on the OEM.[137]

(244) Third, the majority of OEMs not having in-house production capacity indicated that they would not turn to in-house production of plastic hatchback/tailgates in reaction to a price increase from manufacturers.[138]

(245) Fourth, as regards the ability of OEMs to attract new players, and further to what already discussed in section V.2.3.4. above, the market investigation indicated that there are currently no credible alternatives to the Parties. As one OEM stated "*currently no other supplier that have the same technology at a competitive price*".[139]

135 Q1 – Questionnaire to customers, question 27; and Q2 – Questionnaire to competitors, question 37.

136 Q1 – Questionnaire to customers, question 27.

137 Q1 – Questionnaire to customers, question 27.

138 Q1 – Questionnaire to customers, question 40.

139 Q1 – Questionnaire to customers, question 40.1

(246) Finally, the Commission takes the view that the threat of internalizing the production of plastic hatchback/tailgates or to sponsor the entry of new players is also weakened by the long lead time necessary for it to materialize. As explained in section V.2.3.4 above, in fact, Faurecia – notwithstanding the fact that it tried to enter the market by acquiring an existing player – managed to enter the market in an appreciable manner only after a considerable amount of time and investment.

(247) As regards the competitive pressure posed by metal hatchbacks/tailgates over plastic and hybrid ones, it is correct that the OEMs can choose between the various types of material in the early stages of the development of each model. However, firstly that decision is dictated by a number of technical considerations and secondly when that decision is taken, the OEMs cannot change the materials chosen. Following such decision, metal hatchbacks/tailgates no longer impose a competitive constraint on plastic and hybrid hatchbacks/tailgates.

(248) Hence, once the material is chosen, the ability of OEMs to produce metal hatchbacks/tailgates in-house does not influence their countervailing buyer power because that technology does no longer represent an alternative source of supply they could resort to.

(249) Finally as regards the possibility to sponsor new entrants, the high barriers to entry as well as the difficulty in developing and successfully bringing to market a product discussed in section V.2.3.4 above are an indication that the threat to sponsor a new entrant would require a considerable amount of time to materialize.

(250) Hence, the Commission takes the view that OEMs, due to very significant market position that the merged entity will acquire as a result of the Transaction and the considerable R&D time required to develop a competitive product, will not have sufficient countervailing buyer power to discipline the merged entity post transaction.

V.2.3.6. Conclusion on hatchbacks/tailgates

(251) The Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market (or a narrower local market) for plastic hatchbacks/tailgates as a result of non-coordinated horizontal effects.

V.2.4. FEMs

(252) The Transaction leads to a further concentration on an already highly concentrated market. It reinforces the leading market position of the Notifying Party by removing an important and close competitor on the market for FEMs in the EEA. Switching, barriers to entry and expansion as well as countervailing buyer power of the customers are not a sufficient competitive constraint on the combined entity.

V.2.4.1. Market Structure

(253) On an EEA-wide market for FEMs the market shares of the Parties and their competitors in the last four years are as follows:

Table 14: Front-end module market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house								
	2012		2013		2014		2015	
	M€	%	M€	%	M€	%	M€	%
HBPO	[revenues]	[40-50]%	[revenues]	[50-60]%	[revenues]	[50-60]%	[revenues]	[50-60]%
Target	[revenues]	[20-30]%	[revenues]	[20-30]%	[revenues]	[10-20]%	[revenues]	[10-20]%
Combined	**[revenues]**	**[60-70]%**	**[revenues]**	**[70-80]%**	**[revenues]**	**[70-80]%**	**[revenues]**	**[70-80]%**
Magna	[revenues]	[10-20]%	[revenues]	[5-10]%	[revenues]	[10-20]%	[revenues]	[5-10]%
Montajes	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Valeo	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Denso	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Others	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	[revenues]	**100%**	[revenues]	**100%**	[revenues]	**100%**	[revenues]	**100%**

Source: Form CO

(254) The expected market shares of the Parties and their competitors in the next three years are as follows:

Table 15: Front-end module projected market shares for light vehicles on the OEM/OES market (by revenue) excluding in-house, projected 2016-2018						
	2016		2017		2018	
	M€	%	M€	%	M€	%
HBPO	[revenues]	[50-60]%	[revenues]	[40-50]%	[revenues]	[40-50]%
Target	[revenues]	[10-20]	[revenues]	[10-20]	[revenues]	[10-20]
Combined	**[revenues]**	**[70-80]%**	**[revenues]**	**[60-70]%**	**[revenues]**	**[60-70]%**
Magna	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Montajes	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
SMP	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Valeo	[revenues]	[5-10]%	[revenues]	[5-10]%	[revenues]	[5-10]%
Denso	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Sesé	[revenues]	[0-5]%	[revenues]	[5-10]%	[revenues]	[10-20]
Benteler	[revenues]	[0-5]%	[revenues]	[0-5]%	[revenues]	[0-5]%
Total	**[revenues]**	**100%**	**[revenues]**	**100%**	**[revenues]**	**100%**

Source: Form CO

(255) The Transaction would entail the largest market player ([50-60]%) acquiring the second largest ([10-20]%), achieving a combined market share of [70-80]%, which is expected to be further reinforced by 2016 ([70-80]%). The closest competitor, Magna, has a market share of [5-10]%, less than half of the increment brought by the Target. In addition, no other competitor is expected to achieve a market share significantly higher than [10-20]% in the next three years.

V.2.4.2. Closeness of competition

V.2.4.2.a. The Notifying Party's view

(256) The Notifying Party submits that FEMs are functional products with little added value and that, as with the previous components, the main criterion taken into account by OEMs to award a contract is the price offered by the manufacturer. Any competitor can bid for the assembly of a particular FEM model and then set up a dedicated assembly line facility following the award of a supply contract. The price

of an FEM is essentially driven by the components requested by the OEM, varying from EUR 250 to EUR 900 for one FEM unit. [140]

V.2.4.2.b. The Commission's assessment

(257) The Commission considers that the Parties are closely competing with each other. Information provided by the Parties on tender procedures confirms that HBPO and the Target have been bidding for the same contract in a very significant number of instances. The Parties have provided information on [tender information] tender procedures in which either HBPO and/or the Target were invited to bid between 2011 and 2015 in the EEA. HBPO was invited to bid in [tender information] tenders and the Target was invited to bid in [tender information] tenders. The Parties directly competed against each other on [tender information] instances. This means that the Target bid in 34.2% of the tenders where HBPO participated ([tender information] out of [tender information]), and HBPO bid in 65.0% of the tenders where the Target participated ([tender information] out of [tender information]). [141]

(258) The closeness of the Parties was also confirmed by the market investigation. A majority of the customers that use FEMs in their car production and who have participated in the market investigation consider that HBPO and the Target are the two most important suppliers in the market. [142] A vast majority of customers therefore conclude that PO and the Target are close competitors to each other.[143] A large majority of the competitors that participated in the market investigation consider that PO/HBPO and the Target are both amongst the best positioned to successfully compete in a tender for FEMs.[144]

V.2.4.3. Switching

V.2.4.3.a. The Notifying Party's view

(259) The Notifying Party's view with regard to switching FEM suppliers corresponds broadly to its opinion set out in section V.2.1.3 concerning bumpers. It states that switching is regularly possible via tenders for new vehicles and for the mid-life facelift. The Notifying party submits that OEMs rarely change FEM suppliers during the production phase and such switch is generally due to major non-performance, financial issue or quality problems. The switching would cost approximately EUR [cost assessment] million and would take [cost assessment].

V.2.4.3.b. The Commission's assessment

(260) The market investigation showed similar results with regard to FEMs as to bumpers. Switching occurs never or at most occasionally after the development phase[145], at the time of the mid-life facelift[146] and during the duration of the

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140 Form CO, Para. 749.

141 Form CO – Tables 128 and 129.

142 Q1 – Questionnaire to customers, question 29.

143 Q2 – Questionnaire to competitors, question 21.

144 Q2 – Questionnaire to competitors, question 20.3.

145 Q1 – Questionnaire to customers, question 33; and Q2 – Questionnaire to competitors, question 23.3.

146 Q1 – Questionnaire to customers, question 35; and Q2 – Questionnaire to competitors, question 25.3.

contract.[147] Therefore, the Commission considers that the switching does not counterbalance the important competitive constraint eliminated by the Transaction.

V.2.4.4. Barriers to entry and expansion.

V.2.4.4.a. The Notifying Party's view.

(261) The Notifying Party claims that barriers to entry into the market for FEMs are low. First, proprietary intellectual property ("IP") rights are not relevant for this market, second, setting up an assembly facility is inexpensive and can be done within a short period of time, and after the supply contract has been awarded.

(262) Third, plants are in the majority of cases rented and real estate is generally readily available.

(263) Finally, the Notifying Party also claims that entry has occurred in the last ten years. Particularly, the Notifying Party submits that 3 new players entered this market: Montajes Abrera, Benteler and Grupo Sesé.

V.2.4.4.b. The Commission's assessment.

(264) The Commission considers that in the present case significant barriers exist for potential entrants.

(265) First, although entry did occur in the past, new entrants were not able to pose a significant competitive constraint to the existing market participants.Of the entrants mentioned by the Notifying Party, Benteler achieved an estimated market share of [0-5]% in 2015, which is expected to decrease to [0-5]% by 2018. Benteler did not start its FEM activity yet and so far has won [tender information] tender, with projected market shares of [0-5]% in 2018. The market investigation also indicated that each of these two companies only operate a single assembly plant, providing a further indication of the limited impact of such entry.

(266) The above therefore indicates that these entrants cannot be considered as able to impose a significant competitive constraint post-merger.

(267) Different from Benteler and Montajes Abrera, Grupo Sesé is expected to achieve a larger market share, estimated at [10-20]% by 2018. Notwithstanding this larger market share, Grupo Sesé's activities are currently limited to the Spanish territory. Furthermore, none of the OEMs responding to the market investigation ranked the three above new entrants as being important market players, further strengthening the indication that they currently do not pose a significant competitive constraint.

(268) The Spanish logistics company Grupo Sesé will enter the market for FEMs after having been awarded a contract for the [car model]. As of 2017 Grupo Sesé will also supply FEMs for the [car model] in Martorell. Before, Grupo Sesé [tender information and supply streams]. This indicates that Grupo Sesé does not yet impose a significant competitive constraint on the market and the Commission considers this entry to be exceptional. Furthermore, that entry is limited to the

[147] Q1 – Questionnaire to customers, question 34; and Q2 – Questionnaire to competitors, question 24.3.

geographic region of Spain and respondents to the market investigation do not expect new entrants in the future.[148]

(269) Concerning barriers to entry, similarly to the markets for plastic front and rear bumpers and FECs, competitors responding to the market investigation indicated that the main barriers to entry are the possession of, or access to, production know-how, the creation of customer relations and the set-up of a sufficient geographic footprint.[149]

(270) Even if the investment and time required to set-up an FEM assembly plant are lower than for the set-up of a bumper or FECs manufacturing plant, the estimated time required to amortise the investment cost is, nevertheless, significant with a duration of approximately 5 years.

(271) As regards an eventual expansion of the production by existing FEM suppliers, the Commission takes the view that such is unlikely. The expansion of production by a competitor to the Parties could only take place following the award of new contracts. Since none of the competitors to the Parties have market shares above [10-20]%, they are all at a disadvantage against the Parties as regards the necessary know-how and well-established customer relationships that are required according to the market investigation.

V.2.4.5. Buyer power.

V.2.4.5.a. The Notifying Party's view.

(272) The arguments put forward by the Notifying Party as to the countervailing buyer power on the market for FEMs reflect those put forward concerning the other markets discussed above. Particularly, the Notifying Party claims that the countervailing buyer power of the OEMs results primarily from their ability to turn to in-house production of FEMs.

V.2.4.5.b. The Commission's assessment.

(273) The Commission takes the view that any countervailing buyer power of the OEMs will not be sufficient to counter the increase in market power that the merger is likely to create.

(274) The outcome of the market investigation for FEMs is similar to that of FECs and plastic hatchbacks/tailgates.

(275) First, with regard to the countervailing buyer power deriving from the OEM's possibility to switch suppliers, the Commission observes that the Proposed Transaction eliminates the only significant competitor. Remaining competitors will have marginal market shares and are generally focusing on specific regions and do not compete on an EEA-wide basis.

(276) Second, in-house production does not appear to be a credible threat. The market investigation indicated that OEMs have outsourced more than 80% of their FEM

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148 Q1 – Questionnaire to customers, question 37; and Q2 – Questionnaire to competitors, question 27.

149 Q2 – Questionnaire to competitors, question 28.2.

demand in the last 3 years, and only a proportion of OEMs using FEM in their assembly line actually assemble them in-house.

(277) Furthermore, some respondents to the market investigation again indicated that insourcing their FEM demand would not be in line with their commercial strategy. The Commission therefore considers that an increment of FEMs produced in-house is unlikely to materialise in the near future.

V.2.4.6. Conclusion on FEMs

(278) The Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market for FEMs as a result of non-coordinated horizontal effects.

V.3. Non-horizontal effects

(279) The Transaction gives rise to vertically affected markets with regard to the manufacture and supply of (1) plastic bumpers and (2) front grilles.

(280) The Transaction also gives rise to vertically affected markets with regard to (1) FEMs and (2) its components such as the FEC, ESC and grilles.

V.3.1. Bumpers – front grilles

(281) Bumpers include a certain number of subcomponents such as front grilles. The Parties' combined market share on an EEA-wide market of plastic rear and front bumpers is [40-50]%. Both Parties also manufacture plastic front grilles, but only PO supplies grilles to OEMs on a standalone basis, achieving a market share of [0-5]%.

V.3.1.1. The Notifying Party's view

(282) The Notifying Party submits that the merged entity would not have the ability to foreclose its competitors as the majority of the front grilles are manufactured for captive use and PO only has an insignificant market share with regard to standalone front grilles.

V.3.1.2. The Commission's assessment

(283) The Commission considers that the merged entity would not have the ability and incentive to engage in foreclosing behaviour for the following reasons.

(284) First, with regard to the production of standalone front grilles, PO has produced an insignificant volume. In 2014 it supplied as little as […] grilles to one customer corresponding to a market share which does not exceed [0-5]%.

(285) Second, [90-100]% of the front grilles produced by the Target and [80-90]% produced by PO were used for their own bumper manufacturing. The Parties were therefore not available customers for the supply of front grilles.

(286) On the basis of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of the vertically affected markets for plastic front and rear bumpers and front grilles.

V.3.2. FEMs and its components

(287) FEMs are an assembly of different subcomponents such as FECs, lights, grills and cooling systems ("ECS").[150] Each of the Parties manufactures FEMs, FECs and grilles. Their combined market shares are respectively [70-80]%, [40-50]% and [0-5]% (without overlap, as the Target does not produce standalone grilles)[151]. In addition, the Target also produces ECSs, achieving a market share of [0-5]% on the EEA-wide market.

V.3.2.1. The Notifying Party's view

(288) The Notifying Party submits that the merged entity would not have the possibility to engage in customer foreclosure as the OEMs source directly the parts of the FEMs.

V.3.2.2. The Commission's assessment

(289) The Commission considers that the merged entity would indeed not have the ability and incentive to engage in foreclosure.

(290) The supply agreement sets out the components which are to be sourced by the FEM supplier and those that are to be directed by the OEM. For those components for which the OEM directs the sourcing, the OEM selects the component supplier and negotiates the price with it. While the sale is ultimately concluded between the FEM supplier and the component supplier, the FEM supplier in practice has no opportunity to influence the price which is then systematically fully reimbursed by the OEM. All economic risks of sourcing are also borne by the OEM only. Therefore vertically integrated FEM suppliers have a very limited possibility to use their own subcomponents and therefore could not foreclose their competitors. Indeed, PO [supply streams] bumpers and [supply streams] of FECs (only for after sale services) to HBPO, which it jointly controls.

150 See section IV.1.4.

151 With regard to all – captive and standalone – front grilles, the Parties´ combined market share is [10-20]%, with an increment of [0-5]% brought by PO.

(291) Therefore, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of the vertically affected markets for FEMs on the one hand, and FECs, ECSs and front grilles on the other hand.

V.4. Conclusion on competitive assessment

(292) As notified, the Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the markets for plastic front and rear bumpers in the local markets of a 250 km catchment area in Northern France around Renault Douai, Renault Maubeuge, Sevel Nord (Fiat/PSA), in Western France around Renault Flins, Renault Sandouville and PSA Poissy, in Eastern France around PSA Mulhouse, PSA Sochaux and Renault Batilly, in Belgium around Volvo Ghent and in Spain around Renault Valladolid as a result of non-coordinated horizontal effects.

(293) Furthermore, the Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market for plastic and hybrid FECs as a result of non-coordinated horizontal effects.

(294) In addition, the Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market for plastic hatchbacks/tailgates (or a narrower local market) as a result of non-coordinated horizontal effects.

(295) Finally, the Commission considers that the Transaction leads to serious doubts as to its compatibility with the internal market with regard to the EEA-wide market for FEMs as a result of non-coordinated horizontal effects.

VI. PROPOSED REMEDIES

(296) The Parties submitted two successive sets of commitments on 20 June 2016 ("Initial Commitments") and on 30 June 2016 ("Final Commitments") in order to address the serious doubts raised by the Transaction. The Final Commitments are annexed to this decision and form an integral part thereof[152].

VI.1. Description of the Initial Commitments

(297) On 20 June 2016, the Notifying Party submitted as a remedy to divest the following manufacturing facilities initially forming part of the Target:

i. the manufacturing plant of Audincourt (France) for the production and supply of bumpers, hatchbacks/tailgates, FECs, and ECS, and the Headquarters and R&D centre currently operated by the Seller (the "**Audincourt Divestment Business**", and, together with Burnhaupt, the "**Audincourt-Burnhaupt Divestment Business**");

ii. the manufacturing plant of Burnhaupt (France) for the production and supply of bumpers and FECs, currently operated by the Seller (the "**Burnhaupt**

152 Revised Annex 7 and 8 to the Commitments have been submitted by the Notifying Party on 07 July 2016 which replace those submitted on 30 June 2016.

Divestment Business" and, together with Audincourt the "**Audincourt-Burnhaupt Divestment Business**");

iii. the manufacturing plant of Marines (France) for the production and supply of bumpers, FECs, and ECS, currently operated by the Seller (the "**Marines Divestment Business**");

iv. the manufacturing plant of Marles-les-Mines (France) for the production and supply of bumpers and FECs, as well as the interior business which manufactures instrument panels currently operated by the Seller (the "**Marles-les-Mines Divestment Business**");

v. the manufacturing plant of Ingolstadt (Germany) for the production and supply of FECs and FEMs, currently operated by the Seller (the "**Ingolstadt Divestment Business**");

Together, these are referred to as the "**Initial Divestment Businesses**".

VI.2. The results of the market test

(298) The Commission launched a market test of the Initial Commitments on 21 June 2016. Overall, the market test was positive as to the scope and general suitability of the Initial Commitments to remedy the serious doubts identified by the Commission as to the compatibility of the Transaction with the internal market. However the market test indicated the need for a Purchaser with a proven track record in the automotive sector.

(299) The further market investigation also confirmed serious doubts with regard to the supply of unpainted bumpers by the Target from its plant in Valladolid (Spain), since it only faces competition from PO's plant in Arevalo and SMP in Palencia for the supply of bumpers to Renault Valladolid.

(300) The market test also indicated a concern with regard to the remedy on FEMs paragraphs.

(301) The responding customers indicated that the Ingolstadt Divestment Business should have included also the centralised and R&D functions carried out at the Target's Neuburg centre as well as the Offenau manufacturing plant. [Supply contracts].

VI.3. Description of the Final Commitments

(302) Following the results of the market investigation, the Notifying Party submitted an improved and final version of the commitments on 30 June 2016.

(303) The Final Commitments include the divestiture of the following manufacturing facilities of the Seller initially forming part of the Target, in addition to the facilities included in the Initial Commitments:

i. the manufacturing plant of Valladolid (Spain) for the production and supply of unpainted bumpers, instrument panels, and unpainted small parts, currently operated by the Seller (the "**Valladolid Divestment Business**");

ii. the manufacturing plant of Offenau (Germany) for the production and supply of FEMs, currently operated by the Seller (the "**Offenau Divestment Business**"); and

iii. the Neuburg R&D/Customer Centre (Germany), currently operated by the Seller (the "**Neuburg Divestment Business**").

(304) The Audincourt-Burnhaupt, Marines, Marles-le-Mines and Valladolid Divestment businesses are together referred to as the "**Bumper Divestment Business**".

(305) The Ingolstadt, Offenau and Neuburg Divestment Businesses are together referred to as the "**FEM Divestment Business**".

(306) The Bumper Divestment Business and the FEM Divestment Business are together referred to as the "**Final Divestment Business**".

(307) The Final Divestment Business also includes:

i. intangible assets:

a) IT software and hardware used in the Divestment Businesses;

b) non-exclusive, royalty-free, transferable and irrevocable licences for the intellectual property rights (including patents) necessary for the operation of the Divestment Businesseses to the Purchaser; and

c) the current customer lists.

ii. the personnel currently employed by the Seller and working predominantly for the Divestment Businesses;

iii. key employees;

iv. contracts for the supply of parts/services to plants that will be retained by the Target or the Notifying Party;

v. contracts for the supply of parts/services by the Target or the Notifying Party to the Divestment Businesses.

VI.4. The Notifying Party's view on the extent to which the Final Commitments address the Commission's concerns

(308) According to the Notifying Party, the Final Commitments address the serious doubts raised. In particular:

i. The divestiture of the Audincourt-Burnhaupt Divestment Business would solve all the competition concerns identified in the East of France (PSA Sochaux, PSA Mulhouse and Renault Batilly) by completely removing the overlap brought about by the Transaction. The divestiture of this Business will also address the competition concern raised as regards plastic and hybrid hatchbacks/tailgates by removing the entire overlap. The Target, in fact, only produces hatchbacks/tailgates in Audincourt;

ii. The divestiture of the Marines Divestment Business would solve all the competition concerns identified in the West of France (Renault Flins, Renault Sandouville and PSA Poissy) completely removing the overlap brought about by the Transaction;

iii. The divestiture of the Marles-les-Mines Divestment Business would solve all the competition concerns identified in the North of France (Renault Maubeuge, Sevel Nord and Renault Douai) and in Belgium (Volvo Ghent and VW Brussels) by completely removing the overlap brought about by the Transaction. The Notifying Party submits that the plant in Marles-les-Mines, which is currently serving the North of France, could serve also the Belgian cluster by either increasing the utilisation rate of the plant by adding shifts at the weekend or by building a new production line;

iv. The divestiture of the Valladolid Divestment Business would solve the competition concerns identified in Spain (Renault Valladolid) by completely removing the overlap brought about by the Transaction;

v. The divestiture of the FEM Divestment Business would solve the competition concerns identified concerning FEMs by reducing the bulk of the overlap brought about by the Transaction. The divestment of the FEM Divestment Business would in fact reduce the overlap at EEA level from [10-20]% to [0-5]% in volume and from [10-20]% to [0-5]% in value (2015).

(309) Finally, the divestiture of the Final Commitments would solve all the competition concerns identified concerning FECs by removing the overlap brought about by the Transaction. On this market PO holds a market share of [10-20]% in value while the Target has a market share of [30-40]% in value and the Divestment Business generates a share of [10-20]% of the total market for plastic and hybrid FECs in value and [10-20]% in volume (2015).

VII. ASSESSMENT OF THE PROPOSED REMEDIES

VII.1. Framework for the Commission's Assessment of the Commitments

(310) Where a notified concentration raises serious doubts as to its compatibility with the internal market, the Parties may modify the notified concentration so as to remove the grounds for the serious doubts identified by the Commission with a view to having it declared compatible with the internal market pursuant to Article 6(1)(b) in conjunction with Article 6(2) of the Merger Regulation.

(311) As set out in the Commission Notice on Remedies,[153] commitments have to eliminate the Commission's serious doubts entirely, they have to be comprehensive and effective from all points of view and they must be capable of being implemented effectively within a short period of time, as the conditions of competition on the market will not be maintained until the commitments have been fulfilled.[154]

(312) In assessing whether or not commitments will restore effective competition, the Commission considers their type, scale and scope by reference to the structure and the particular characteristics of the market in which the Commission has identified

153 Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (2008/C 267/01), (the "Commission Notice on Remedies").

154 Commission Notice on Remedies, paragraph 9.

serious doubts as to the compatibility of the notified concentration with the internal market.[155]

(313) Divestiture commitments are the best way to eliminate serious doubts resulting from horizontal overlaps of the Parties' activities.[156] The divested activities must consist of a viable business that, if operated by a suitable Purchaser, can compete effectively with the merged entity on a lasting basis and that is divested as a going concern.[157]

(314) The business to be divested must include all the assets which contribute to its current operation or which are necessary to ensure its viability and competitiveness and all personnel which are currently employed or which are necessary to ensure the business' viability and competitiveness. Personnel and assets which are currently shared between the business to be divested and other businesses of the Parties, but which contribute to the operation of the business or which are necessary to ensure its viability and competitiveness, must also be included. Otherwise, the viability and competitiveness of the business to be divested would be endangered. Therefore, the business to be divested must contain the personnel providing essential functions for the business, at least in a sufficient proportion to meet the on-going needs of the business to be divested.[158]

(315) Furthermore, the intended effect of the divestiture will only be achieved if and once the business is transferred to a suitable Purchaser with proven relevant expertise and ability to maintain and develop the business to be divested as a viable and active competitive undertaking.

VII.2. The Commission's assessment of Commitments

VII.2.1. Suitability of the Commitments to remove the serious doubts

(316) The Final Commitments, consisting in the divestiture of the Final Divestment Business constitutes a structural measure. The sale of the Final Divestment Business to an independent and suitable Purchaser will eliminate the serious doubts identified by the Commission as to the compatibility of the Transaction with the internal market and will not require medium or long-term monitoring measures. The new commercial structure resulting from the implementation of the Final Commitments will be sufficiently workable and lasting to ensure that a significant impediment to effective competition will not materialise.

(317) The proposed divestment will eliminate the Parties' overlap in the in the following markets:

i. The markets for plastic front and rear bumpers:

- In the North of France:

155 Commission Notice on Remedies, paragraph 12.

156 Commission Notice on Remedies, paragraph 17.

157 Commission Notice on Remedies, paragraph 23.

158 Commission Notice on Remedies, paragraphs 25 and 26.

- The catchment area centred on Renault's plant in Douai;
- The catchment area centred on Renault's plant in Maubeuge;
- The catchment area centred on the Sevel Nord (Fiat/PSA) plant.

▪ In the West of France:

- The catchment area centred on PSA' plant in Poissy;
- The catchment area centred on Renault's plant in Flins;
- The catchment area centred on Renault's plant in Sandouville.

▪ In the East of France

- The catchment area centred on PSA's plant in Mulhouse;
- The catchment area centred on PSA's plant in Sochaux;
- The catchment area centred on Renault's plant in Batilly.

▪ In Belgium:

- The catchment area centred on Volvo's plant in Ghent.[159]

▪ In Spain:

- The catchment area centred on Renault's plant in Valladolid;

ii. The market for FECs – EEA wide: The Target manufactures FECs in most of the plants included in the Final Divestment Business and the proportion of FECs production divested accrues to a market share of [10-20]% in value, which is higher than that of PO ([10-20]%). Therefore the Final Commitments completely remove the Parties' overlap on this market.

iii. The market for plastic hatchbacks/tailgates: The Target manufactures plastic hatchbacks/tailgates only at the Audincourt plant, which is part of the Final Divestment Business.

iv. The market for FEMs: the divestiture of the Target's plants in Ingolstadt, Offenau and Neuburg (R&D centre) removes the bulk of the overlap on the market for FEMs. [160]

159 The Commission considered that the Target's plant located in Marles-les-Mines will in the future be able to act as a credible competitive force on this market, notwithstanding the fact that the Target participated in RFQs issued by [tender information] with its plant located in [tender information]. Production capacity can be increased at Marles-les-Mines, which is located closer to the OEM than [tender information], in a short period of time and without significant investments by [tender information].

(318) As regards the above mentioned markets the Commission considers the Final Commitments suitable to remove any serious doubts as to the compatibility of the concentration with the internal market.

VII.2.2. Viability of the Divestment Business

(319) The Divestment Business and all related assets are profitable. In 2015, the Divestment Business achieved a turnover of EUR [turnover] and a gross profit margin of EUR [turnover]. If this analysis is carried out on a plant by plant basis, the following emerges:

Table 16: Financial data – year 2015		
Plant	**Turnover (EUR M)**	**Gross profit margin (EUR M)**
Audincourt	[turnover]	[gross profit margin of each plant]
Burnhaupt	[turnover]	[gross profit margin of each plant]
Marines	[turnover]	[gross profit margin of each plant]
Marles-les-Mines	[turnover]	[gross profit margin of each plant]
Valladolid	[turnover]	[gross profit margin of each plant]
Ingolstadt	[turnover]	[gross profit margin of each plant]
Offenau	[turnover]	[gross profit margin of each plant]

(320) The Commission considers that the Divestment Business includes all the centralised and R&D functions needed to effectively carry out the business. Particularly, the divestment of the Audincourt Divestment Business includes the divestment of the Target's headquarters, including the centralised R&D facility for bumpers and plastic hatchbacks/tailgates. In the event that the Marles-les-Mines, Marines, and/or Valladolid Divestment Businesses were to be divested separately from the Audincourt-Burnhaupt Divestment Business, the Purchaser shall have sufficient resources in terms of support functions and R&D to operate these Divestment Businesses as viable and active competitive forces, without requiring any of the support currently provided by the Audincourt Headquarter and R&D centre. As regards the market for FEMs, the FEM Divestment Business includes the R&D/Customer Centre in Neubeurg necessary to operate the FEM Divestment Business. The FEM Divestment Business shall be sold to a single purchaser.

(321) The Divestment Business also includes all the contracts with both the customers and the suppliers in place, so that the Divestment Business will be immediately able to profitably operate on the market and have undisrupted access to all the raw material and components required in the production process. In case of rented real estate, the Divestment Business also includes the contracts for the real estate.

(322) Competitors responding to the market test largely indicated that the Divestment Business as a whole is a viable business so that a suitable purchaser can effectively compete on a lasting basis. According to one respondent, the Divestment Business as a whole "*stands for a good basis to run a sustainable business*".

160 The Notifying Party will operate the Target's plant in Brussels, which produces FEMs for Audi and will result in an increment of [0-5]% in the market for FEMs. However, Audi has plans to move the production from Brussels to Martorell (Spain) within two years and the identity of the supplier for FEMs has not yet been decided.

(323) Positive views as to the viability of the Divestment Business as a whole were also voiced by the responding OEMs.

(324) As regards the possibility of selling the various parts of the Divestment Business to different purchasers, the Commission considers that the individual plants were each operated as a going concern. The market test indicated that in principle the various divestment businesses can be viable, provided that the existing customer contracts are retained and the purchasers manage to establish a good business relationship with the OEMs in the vicinity of the plants or that the prospective purchaser has experience in the automotive sector.

(325) Whereas most market participants were not able to form a view on whether plants of the Divestment Business would be viable on a standalone-basis, some market participants considered that the plants would be viable also on a stand-alone basis.

(326) Based on the above, and in particular taking account of the profit margin for the individual plants of the Divestment Business, the Commission considers that the Divestment Business - whether sold as a whole or on a standalone basis - is a viable business that, if operated by a suitable purchaser, can compete effectively with the merged entity on a lasting basis.

VII.2.3. Purchaser criteria and buyers

(327) The market test revealed that the Divestment Business is perceived as an attractive offer for a purchaser. According to one respondent, in fact, the Divestment Business "*represents a considerable portion of the market in France for French OMEs and includes significant industrial and engineering capacity*".

(328) The market test indicated [number of potential buyers] possibly interested buyers for the Divestment Business or part of it, possibly subject to a more detailed analysis.

(329) Generally, competitors responding to the market test indicated that the potential purchaser needs to have some expertise in the markets where the Divested Business will be active or in markets which are related to such a market. The market test indicated that financial investors with no prior experience in the automotive sector would not qualify as suitable purchasers. As a result, the Final Commitments include a purchaser criterion which explicitly states that the Purchaser shall have experience in the supply of components in the automotive industry with regard to the Bumpers Divestment Business. With regard to the FEM Divestment Business the Final Commitments state that the purchaser shall have either experience in the automotive industry or alternatively, have been approved by the customers.

(330) Finally, the Initial Commitments included a specific Purchaser criterion in the event the Marles-les-Mines Divestment Business and/or the Marines Divestment Business were to be divested separately from the Audincourt-Burnhaupt Divestment Business, the Purchaser shall have the sufficient resources in terms of support functions and R&D to operate these Divestment Businesses as viable and active competitive forces, without requiring any of the support currently provided by the Audincourt Headquarter and R&D centre. The market test did not indicate any critical view as regards this latter Purchaser criterion, which has therefore been retained in the Final Commitments and extended to the Valladolid Divestment Business.

VII.3. Conclusion on the Commitments

(331) On the basis of the above, the Commission concludes that the Final Commitments are suitable and sufficient to remedy the serious doubts raised by the Transaction in the markets for plastic front and rear bumpers in the regions identified above, FECs, FEMs and plastic and hybrid hatchbacks/tailgates. Moreover, the Final Commitments are comprehensive and effective from all points of view, and are capable of being implemented effectively within a short period of time.

VIII. CONDITIONS AND OBLIGATIONS

(332) Pursuant to the first sentence of the second subparagraph of Article 6(2) of the Merger Regulation, the Commission may attach to its decision conditions and obligations intended to ensure that the undertakings concerned comply with the commitments they have entered into vis-à-vis the Commission with a view to rendering the concentration compatible with the internal market.

(333) The fulfilment of the measures that gives rise to the structural change of the market is a condition, whereas the implementing steps which are necessary to achieve this result are generally obligations on the Parties. Where a condition is not fulfilled, the Commission's decision declaring the concentration compatible with the internal market and the EEA Agreement no longer stands. Where the undertakings concerned commit a breach of an obligation, the Commission may revoke the clearance decision in accordance with Article 6(3) of the Merger Regulation. The undertakings concerned may also be subject to fines and periodic penalty payments under Articles 14(2) and 15(1) of the Merger Regulation.

(334) In accordance with the basic distinction between conditions and obligations, the commitments in Section B constitute conditions attached to this Decision, as only through full compliance therewith can the structural changes in the relevant markets be achieved. The other commitments set out in the Annex constitute obligations, as they concern implementing steps which are necessary to achieve the modifications sought in a manner compatible with the internal market. Accordingly, the decision not to raise objections is made conditional on full compliance by the Notifying Party with the requirements set out in Section B of the Final Commitments, which constitute condition and with the remaining sections of the Final Commitments which constitute obligations on the Notifying Party.

(335) The full text of the Final Commitments is annexed to this Decision as Annex I and forms an integral part thereof.

IX. CONCLUSION

(336) For the above reasons, the Commission has decided not to oppose the notified operation as modified by the commitments and to declare it compatible with the internal market and with the functioning of the EEA Agreement, subject to full compliance with the conditions in Section B of the Final Commitments annexed to the present decision and to the fulfilment of the obligations contained in the other sections of the said commitments. This decision is adopted in application of Article 6(1)(b) in conjunction with Article 6(2) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission
(Signed)
Margrethe VESTAGER
Member of the Commission

Date: 30 June 2016

Case M. 7893 – Project Body

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EC) No 139/2004 (the "**Merger Regulation**"), Compagnie Plastic Omnium SA (the "**Notifying Party**") hereby enter into the following Commitments (the "**Commitments**") vis-à-vis the European Commission (the "**Commission**") with a view to rendering the acquisition of the automotive exterior business of Faurecia SA (the "**Concentration**") compatible with the internal market and the functioning of the EEA Agreement.

This text shall be interpreted in light of the Commission's decision pursuant to Article 6(1)(b) of the Merger Regulation, to declare the Concentration compatible with the internal market and the functioning of the EEA Agreement (the "**Decision**"), in the general framework of European Union law, in particular in light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the "**Remedies Notice**").

A. DEFINITIONS

For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the "**Consolidated Jurisdictional Notice**").

Assets: the assets that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Businesses as indicated in Section B, paragraph 5(a), (b), (c) and (d) and described more in detail in the Schedule.

Closing: the transfer of the legal title to the Divestment Businesses to the Purchaser.

Closing Period: the period of [duration] months from the approval of the Purchaser and the terms of sale by the Commission.

Confidential Information: any business secrets, know-how, commercial information, or any other information of a proprietary nature that is not in the public domain.

Conflict of Interest: any conflict of interest that impairs the Trustee's objectivity and independence in discharging its duties under the Commitments.

Divestment Businesses: the business or businesses as defined in Section B and in the Schedule which the Notifying Party commits to divest.

Divestiture Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by the Notifying Party and who has/have received from the Notifying Party the exclusive trustee mandate to sell the Divestment Businesses to a Purchaser at no minimum price.

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of [duration] months from the Effective Date.

Hold Separate Manager: the person appointed by the Notifying Party for the Divestment Businesses to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: all personnel necessary to maintain the viability and competitiveness of the Divestment Business, as listed in the Schedule, including the Hold Separate Manager.

Monitoring Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by the Notifying Party, and who has/have the duty to monitor the Notifying Party's compliance with the conditions and obligations attached to the Decision.

Notifying Party: Compagnie Plastic Omnium, a *société anonyme* incorporated under the laws of France, having its registered office at 19 boulevard Jules Carteret, 69007 Lyon, registered with the Trade Register ("*Registre du Commerce et des Sociétés*") of Lyon under number 955 512 611, or any undertakings controlled by the Notifying Party.

Parties: the Notifying Party and the undertakings that are the target of the concentration.

Personnel: all staff currently employed by the Divestment Businesses, including staff seconded to the Divestment Businesses, shared personnel as well as the additional personnel listed in the Schedule.

Purchaser: the entity or entities approved by the Commission as acquirer of all or some of the Divestment Businesses listed in Section B in accordance with the criteria set out in Section D.

Purchaser Criteria: the criteria laid down in paragraph 17 of these Commitments that the Purchaser must fulfil in order to be approved by the Commission.

Schedule: the schedule to these Commitments describing more in detail the Divestment Businesses.

Seller: Faurecia S.A., a société anonyme incorporated under the laws of France, having its registered office at 2 rue Hennape, 92000 Nanterre, registered with the Trade Register ("Registre du Commerce et des Sociétés") of Nanterre under number 542 005 376 or any undertakings controlled by the Seller and/or by the ultimate parent of the Seller.

Trustee(s): the Monitoring Trustee and/or the Divestiture Trustee as the case may be.

Trustee Divestiture Period: the period of [duration] months from the end of the First Divestiture Period.

B. THE COMMITMENT TO DIVEST AND THE DIVESTMENT BUSINESS

Commitment to divest

1. In order to maintain effective competition, the Notifying Party commits to divest, or procure the divestiture of the Divestment Businesses by the end of the Trustee Divestiture Period as a going concern to a purchaser(s) and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 19 of these Commitments. To carry out the divestiture, the Notifying Party commits to find a purchaser(s) and to enter into a final binding sale and purchase agreement(s) for the sale of the Divestment Business within the First Divestiture Period. If the Notifying Party has not entered into such an agreement(s) at the end of the First Divestiture Period, the Notifying Party shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Businesses in accordance with the procedure described in paragraph 31 in the Trustee Divestiture Period.

2. The Notifying Party shall be deemed to have complied with this commitment if:

(a) by the end of the Trustee Divestiture Period, the Notifying Party or the Divestiture Trustee has entered into a final binding sale and purchase agreement(s) and the Commission approves the proposed purchaser(s) and the terms of sale as being consistent with the Commitments in accordance with the procedure described in paragraph 19; and

(b) the Closing of the sale of the Divestment Business to the Purchaser takes place within the Closing Period.

3. In order to maintain the structural effect of the Commitments, the Notifying Party shall, for a period of 10 years after Closing, not acquire, whether directly or indirectly, the possibility of exercising influence (as defined in paragraph 43 of the Remedies Notice, footnote 3) over the whole or part of the Divestment Businesses, unless, following the submission of a reasoned request from the Notifying Party showing good cause and accompanied by a report from the Monitoring Trustee (as provided in paragraph 45 of these Commitments), the Commission finds that the structure of the market has changed to such an extent that the absence of influence over the Divestment Businesses is no longer necessary to render the proposed concentration compatible with the internal market.

Structure and definition of the Divestment Businesses

4. The Divestment Businesses consist of:

(a) **The Bumper Divestment Businesses:**

(i) the manufacturing plant of Audincourt (France) for the production and supply of bumpers, hatchbacks/tailgates, FECs, and ECS, and the Headquarters and R&D centre currently operated by the Seller (the "**Audincourt Divestment Business**", and, together with Burnhaupt, the "**Audincourt-Burnhaupt Divestment Business**");

(ii) the manufacturing plant of Burnhaupt (France) for the production and supply of bumpers and FECs, currently operated by the Seller (the "**Burnhaupt Divestment Business**", and, together with Audincourt the "**Audincourt-Burnhaupt Divestment Business**");

(iii) the manufacturing plant of Marines (France) for the production and supply of bumpers, FECs, and ECS, currently operated by the Seller (the "**Marines Divestment Business**");

(iv) the manufacturing plant of Marles-les-Mines (France) for the production and supply of bumpers and FECs, as well as the interior business which manufactures instrument panels, currently operated by the Seller (the "**Marles-les-Mines Divestment Business**"); and

(v) the manufacturing plant of Valladolid (Spain) for the production and supply of unpainted bumpers, instrument panels, and unpainted small parts, currently operated by the Seller (the "**Valladolid Divestment Business**").

(b) **<u>The FEM Divestment Businesses:</u>**

(i) the manufacturing plant of Ingolstadt (Germany) for the production and supply of FECs and FEMs, currently operated by the Seller (the "**Ingolstadt Divestment Business**");

(ii) the manufacturing plant of Offenau (Germany) for the production and supply of FEMs, currently operated by the Seller (the "**Offenau Divestment Business**"); and

(iii) the Neuburg R&D/Customer Centre (Germany), currently operated by the Seller (the "**Neuburg Divestment Business**"). The FEM Divestment Businesses shall be sold to a single Purchaser to ensure it continues to benefit from the support and R&D functions currently provided by the Neuburg Divestment Business.

The FEM Divestment Businesses and the Bumper Divestment Businesses are together referred to as the "**Divestment Businesses**".

5. The legal and functional structure of the Divestment Businesses as operated to date is described in the Schedule. Save for the elements set out in paragraph 3 of the Schedule, the Divestment Businesses, include all assets and staff that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Businesses, in particular:

(a) all tangible and intangible assets (for intellectual property rights (including patents), only those necessary for the operation of the Divestment Businesses will be made available in the form of non-exclusive, royalty-free, transferable and irrevocable licences);

(b) all licences, permits and authorisations issued by any governmental organisation for the benefit of the Divestment Businesses;

(c) all contracts, leases, commitments and customer orders of the Divestment Businesses; all customer, credit and other records of the Divestment Businesses; and

(d) the Personnel.

6. In addition, the Divestment Businesses include the benefit, for a transitional period, of the agreements as detailed in the Schedule.

7. Strict firewall procedures will be adopted so as to ensure that any competitively sensitive information related to, or arising from such supply arrangements (for example, product roadmaps) will not be shared with, or passed on to, anyone outside the relevant business unit/division providing the product/service/operations.

C. RELATED COMMITMENTS

Preservation of viability, marketability and competitiveness

8. From the Effective Date until Closing, the Notifying Party shall preserve or procure the preservation of the economic viability, marketability and competitiveness of the Divestment Businesses, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Businesses. In particular the Notifying Party undertakes:

(a) not to carry out any action that might have a significant adverse impact on the value, management or competitiveness of the Divestment Businesses or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Businesses;

(b) to make available, or procure to make available, sufficient resources for the development of the Divestment Businesses, on the basis and continuation of the existing business plans;

(c) to submit to the Commission for approval any amendment to a supply contract with an OEM or its annexes in place at the time of the Closing to allow the Commission to verify that the amendments would not negatively affect the viability or competitiveness of the Divestment Businesses; and

(d) to take all reasonable steps, or procure that all reasonable steps are being taken, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Businesses, and not to solicit or move any Personnel to the Notifying Party's remaining business. Where, nevertheless, individual members of the Key Personnel exceptionally leave the Divestment Businesses, the Notifying Party shall provide a reasoned proposal to replace the person or persons concerned to the Commission and the Monitoring Trustee. The Notifying Party must be able to demonstrate to the Commission that the replacement is well suited to carry out the functions exercised by those individual members of the Key Personnel. The replacement shall take place under the supervision of the Monitoring Trustee, who shall report to the Commission.

Hold-separate obligations

9. The Notifying Party commits, from the Effective Date until Closing, to keep the Divestment Businesses separate from the businesses it is retaining and to ensure that unless explicitly permitted under these Commitments: (i) management and staff of the businesses retained by the Notifying Party have limited involvement in the Divestment Businesses as necessary to ensure their continuity in order to comply with the related commitments set out at paragraphs 8(a), (b), (c) and (d); (ii) the Key Personnel and Personnel of the Divestment Businesses have limited involvement in any business retained by the Notifying Party and do not report to any individual outside the Divestment Businesses.

10. Until Closing, the Notifying Party shall assist the Monitoring Trustee in ensuring that the Divestment Businesses are managed as distinct and saleable entities separate from the businesses which the Notifying Party is retaining. Immediately after the adoption of the Decision, the Notifying Party shall appoint a Hold Separate Manager. The Hold Separate Manager, who shall be part of the Key Personnel, shall manage the Divestment Businesses independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by the Notifying Party. The Hold Separate Manager shall closely cooperate with and report to the Monitoring Trustee and, if applicable, the Divestiture Trustee. Any replacement of the Hold Separate Manager shall be subject to the procedure laid down in paragraph 8(d) of these Commitments. The Commission may, after having heard the Notifying Party, require the Notifying Party to replace the Hold Separate Manager.

11. To ensure that the Divestment Businesses are held and managed as separate entities, the Monitoring Trustee shall exercise the Notifying Party's rights as shareholder in the legal entity or entities that constitute the Divestment Businesses (except for its rights in respect of dividends that are due before Closing), with the aim of acting in the best interests of the business, which shall be determined on a stand-alone basis, as an independent financial investor, and with a view to fulfilling the Notifying Party's obligations under the Commitments. Furthermore, the Monitoring Trustee shall have the power to replace members of the supervisory board or non-executive directors of the board of directors, who have been appointed on behalf of the Notifying Party. Upon request of the Monitoring Trustee, the Notifying Party shall resign as a member of the boards or shall cause such members of the boards to resign.

Ring-fencing

12. The Notifying Party shall implement, or procure to implement, all necessary measures to ensure that it does not, after the Effective Date, obtain any Confidential Information relating to the Divestment Businesses and that any such Confidential Information obtained by the Notifying Party before the Effective Date will be eliminated and not be used by the Notifying Party. This includes measures vis-à-vis the Notifying Party's appointees on the supervisory board and/or board of directors of the Divestment Businesses. In particular, the participation of the Divestment Businesses in any central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Businesses. The Notifying Party may obtain or keep information relating to the Divestment Businesses which is reasonably necessary for the divestiture of the Divestment Businesses or the disclosure of which to the Notifying Party is required by law.

Non-solicitation clause

13. The Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Businesses for a period of [duration] years after Closing.

Due diligence

14. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Businesses, the Notifying Party shall, subject to customary confidentiality assurances and dependent on the stage of the divestiture process:

(a) provide to potential purchasers sufficient information as regards the Divestment Businesses; and

(b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

15. The Notifying Party shall submit written reports in English on potential purchasers of the Divestment Businesses and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than 10 days after the end of every month following the Effective Date (or otherwise at the Commission's request). The Notifying Party shall submit a list of all potential purchasers having expressed interest in acquiring the Divestment Businesses to the Commission at each and every stage of the divestiture process, as well as a copy of all the offers made by potential purchasers within five days of their receipt.

16. The Notifying Party shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of any information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

D. THE PURCHASER

17. In order to be approved by the Commission, the Purchaser must fulfil the following criteria:

(a) the Purchaser shall be independent of and unconnected to the Notifying Party and its Affiliated Undertakings (this being assessed having regard to the situation following the divestiture);

(b) the Purchaser shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Businesses as a viable, and active competitive force in competition with the Parties and other competitors; in addition, [purchaser criteria];

(c) the acquisition of the Divestment Businesses by the Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Businesses; and

(d) furthermore, the Notifying Party committed at paragraph 8(c) of the Commitments that any amendment to any supply contract with an OEM and its Annexes shall be conditional upon the approval by the Commission which shall verify that the amendments would not negatively affect the viability or competitiveness of the Divestment Businesses.

18. In the event the Marles-les-Mines Divestment Business, the Marines Divestment Business and/or the Valladolid Divestment Business were to be divested separately from the Audincourt-Burnhaupt Divestment Business, the Purchaser of this shall have the sufficient resources in terms of support functions and R&D to operate these Divestment Businesses as viable and active competitive forces, without requiring any of the support currently provided by the Audincourt Headquarters and R&D centre.

19. The final binding sale and purchase agreement(s) (as well as ancillary agreements) relating to the divestment of the Divestment Businesses shall be conditional on the Commission's approval. When the Notifying Party has reached an agreement with a purchaser, it shall submit a fully documented and reasoned proposal, including a copy of the final agreement, within one week to the Commission and the Monitoring Trustee. The Notifying Party must be able to demonstrate to the Commission that the purchaser fulfils the Purchaser Criteria and that the Divestment Businesses are being sold in a manner consistent with the Commission's Decision and the Commitments. For the approval, the Commission shall verify that the purchaser fulfils the Purchaser Criteria and that the Divestment Businesses are being sold in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market. The Commission may approve the sale of the Divestment Businesses without one or more Assets or parts of the Personnel, or by substituting one or more Assets or parts of the Personnel with one or more different assets or different personnel, if this does not affect the viability and competitiveness of the Divestment Businesses after the sale, taking account of the proposed purchaser.

E. <u>TRUSTEE</u>

I. <u>Appointment procedure</u>

20. The Notifying Party shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. The Notifying Party commits not to close the Concentration before the appointment of a Monitoring Trustee.

21. If the Notifying Party has not entered into a binding sale and purchase agreement(s) regarding the Divestment Businesses one month before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by the Notifying Party at that time or thereafter, the Notifying Party shall appoint a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestiture Period.

22. The Trustee shall:

(a) at the time of appointment, be independent of the Notifying Party and its Affiliated Undertakings;

(b) possess the necessary qualifications to carry out its mandate, for example have sufficient relevant experience as an investment banker or consultant or auditor; and

(c) neither have nor become exposed to a Conflict of Interest.

23. The Trustee shall be remunerated by the Notifying Party in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Businesses, such success premium may only be earned if the divestiture takes place within the Trustee Divestiture Period.

Proposal by the Notifying Party

24. No later than two weeks after the Effective Date, the Notifying Party shall submit the name or names of one or more natural or legal persons whom the Notifying Party proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period or on request by the Commission, the Notifying Party shall submit a list of one or more persons whom the Notifying Party proposes to appoint as Divestiture Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the person or persons proposed as Trustee fulfil the requirements set out in paragraph 22 and shall include:

(a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under these Commitments;

(b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks; and

(c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or rejection by the Commission

25. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, the Notifying Party shall appoint or cause to be appointed the person or persons concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, the Notifying Party shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by the Notifying Party

26. If all the proposed Trustees are rejected, the Notifying Party shall submit the names of at least two more natural or legal persons within one week of being informed of the rejection, in accordance with paragraphs 20 and 25 of these Commitments.

Trustee nominated by the Commission

27. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom the Notifying Party shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. <u>Functions of the Trustee</u>

28. The Trustee shall assume its specified duties and obligations in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or the Notifying Party, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

29. The Monitoring Trustee shall:

(a) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision;

(b) oversee, in close co-operation with the Hold Separate Manager, the on-going management of the Divestment Businesses with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by the Notifying Party with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:

(i) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Businesses, and the keeping separate of the Divestment Businesses from the business retained by the Parties, in accordance with paragraphs 8 and 9 of these Commitments;

(ii) supervise the management of the Divestment Businesses as distinct and saleable entities, in accordance with paragraph 10 of these Commitments;

(iii) with respect to Confidential Information:

(A) determine all necessary measures to ensure that the Notifying Party does not after the Effective Date obtain any Confidential Information relating to the Divestment Businesses,

(B) in particular strive for the severing of the Divestment Businesses' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Businesses;

(C) make sure that any Confidential Information relating to the Divestment Businesses obtained by the Notifying Party before the Effective Date is eliminated and will not be used by the Notifying Party; and

(D) decide whether such information may be disclosed to or kept by the Notifying Party as the disclosure is reasonably necessary to allow the Notifying Party to carry out the divestiture or as the disclosure is required by law;

(iv) monitor the splitting of assets and the allocation of Personnel between the Divestment Businesses and the Notifying Party or Affiliated Undertakings;

(c) propose to the Notifying Party such measures as the Monitoring Trustee considers necessary to ensure the Notifying Party's compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Businesses, the holding separate of the Divestment Businesses and the non-disclosure of competitively sensitive information;

(d) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process:

(i) potential purchasers receive sufficient and correct information relating to the Divestment Businesses and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and

(ii) potential purchasers are granted reasonable access to the Personnel;

(e) act as a contact point for any requests by third parties, in particular potential purchasers, in relation to the Commitments;

(f) provide to the Commission, sending the Notifying Party a non-confidential copy at the same time, a written report within 15 days after the end of every month that shall cover the operation and management of the Divestment Businesses as well as the splitting of assets and the allocation of Personnel so that the Commission can assess whether the business is held in a manner consistent with the Commitments and the progress of the divestiture process as well as potential purchasers;

(g) promptly report in writing to the Commission, sending the Notifying Party a non-confidential copy at the same time, if it concludes on reasonable grounds that the Notifying Party is failing to comply with these Commitments;

(h) within one week after receipt of the documented proposal referred to in paragraph 19 of these Commitments, submit to the Commission, sending the Notifying Party a non-confidential copy at the same time, a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Businesses after the Sale and as to whether the Divestment Businesses are sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Businesses without one or more Assets or not all of the Personnel affects the viability of the Divestment Businesses after the sale, taking account of the proposed purchaser; and

(i) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision.

30. If the Monitoring and Divestiture Trustee are not the same legal or natural persons, the Monitoring Trustee and the Divestiture Trustee shall cooperate closely with each other during and for the purpose of the preparation of the Trustee Divestiture Period in order to facilitate each other's tasks.

Duties and obligations of the Divestiture Trustee

31. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Businesses to a purchaser, provided that the Commission has approved both the purchaser and the final binding sale and purchase agreement(s) (and ancillary agreements) as in line with the Commission's Decision and the Commitments in accordance with paragraphs 17 and 19 of these Commitments. The Divestiture Trustee shall include in the sale and purchase agreement(s) (as well as in any ancillary agreements) such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement(s) such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of the Notifying Party, subject to the Notifying Party's unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.

32. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Notifying Party.

III. Duties and Obligations of the Parties

33. The Notifying Party shall provide and shall cause its advisors to provide the Trustee with all such co-operation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of the Notifying Party's or the Divestment Businesses' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and the Notifying Party and the Divestment Businesses shall provide the Trustee upon request with copies of any document. The Notifying Party and the Divestment Businesses shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.

34. The Notifying Party shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Businesses. This shall include all administrative support functions relating to the Divestment Businesses which are currently carried out at headquarters level. The Notifying Party shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. The Notifying Party shall inform the Monitoring Trustee on possible purchasers, submit lists of potential purchasers at each stage of the selection process, including the offers made by potential purchasers at those stages, and keep the Monitoring Trustee informed of all developments in the divestiture process.

35. The Notifying Party shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale (including ancillary agreements), the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, the Notifying Party shall cause the documents required for effecting the sale and the Closing to be duly executed.

36. The Notifying Party shall indemnify the Trustee and its employees and agents (each an "**Indemnified Party**") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to the Notifying Party for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.

37. At the expense of the Notifying Party, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to the Notifying Party's approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should the Notifying Party refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard the Notifying Party. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 36 of these Commitments shall apply *mutatis mutandis*. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served the Notifying Party during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

38. The Notifying Party agrees that the Commission may share Confidential Information proprietary to the Notifying Party with the Trustee. The Trustee shall not disclose such information and the principles contained in Article 17 (1) and (2) of the Merger Regulation apply *mutatis mutandis*.

39. The Notifying Party agree that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties, in particular any potential purchasers, of the identity and the tasks of the Monitoring Trustee.

40. For a period of 10 years from the Effective Date the Commission may request all information from the Parties that is reasonably necessary to monitor the effective implementation of these Commitments.

IV. <u>Replacement, Discharge and Reappointment of the Trustee</u>

41. If the Trustee ceases to perform its functions under the Commitments or for any other good cause, including the exposure of the Trustee to a Conflict of Interest:

(a) the Commission may, after hearing the Trustee and the Notifying Party, require the Notifying Party to replace the Trustee; or

(b) the Notifying Party may, with the prior approval of the Commission, replace the Trustee.

42. If the Trustee is removed according to paragraph 41 of these Commitments, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 20-27 of these Commitments.

43. Unless removed according to paragraph 41 of these Commitments, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

F. THE REVIEW CLAUSE

44. The Commission may extend the time periods foreseen in the Commitments in response to a request from the Notifying Party or, in appropriate cases, on its own initiative. Where the Notifying Party requests an extension of a time period, it shall submit a reasoned request to the Commission no later than one month before the expiry of that period, showing good cause**.** This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. Only in exceptional circumstances shall the Notifying Party be entitled to request an extension within the last month of any period.

45. The Commission may further, in response to a reasoned request from the Notifying Party showing good cause waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these Commitments. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to the Notifying Party. The request shall not have the effect of suspending the application of the undertaking and, in particular, of suspending the expiry of any time period in which the undertaking has to be complied with.

G. ENTRY INTO FORCE

The Commitments shall take effect upon the date of adoption of the Decision.

[Signed]

……………………………………

duly authorised for and on behalf of
Compagnie Plastic Omnium SA

SCHEDULE

1. **The Divestment Businesses as operated to date have the following legal and functional structure:**

As indicated at paragraph **4** of the Commitments, the Divestment Businesses consist of:

1.1 **The Bumper Divestment Businesses:**

1.1.1 **Audincourt Divestment Business**

The plant at Audincourt is owned and operated by Faurecia Bloc Avant, a company which is currently held by Faurecia Exteriors International (France) (please see **Annex 1** for a structure chart) and that will be purchased by the Notifying Party. The divestment of the Audincourt Divestment Business will be carried out through the transfer of the shares of the legal entity Faurecia Bloc Avant from the Notifying Party to the Purchaser.

The Audincourt Divestment Business includes not only the manufacturing plant but also the Headquarters and R&D centre. Therefore, the acquisition of the Divestment Businesses would allow the Purchaser to develop automotive exterior parts across France and Spain.

1.1.2 **Burnhaupt Divestment Business**

The manufacturing plant at Burnhaupt is also owned and operated by Faurecia Bloc Avant, a company which is held by Faurecia Exteriors International (France) (please see **Annex 1** for a structure chart). The divestment of the Burnhaupt Divestment Business will be carried out through the transfer of the shares of the legal entity Faurecia Bloc Avant from the Notifying Party to the Purchaser.

1.1.3 **Marines Divestment Business**

The manufacturing plant at Marines is also owned and operated by Faurecia Bloc Avant, a company which is held by Faurecia Exteriors International (France) (please see **Annex 1** for a structure chart). The divestment of the Marines Divestment Business will be carried out through the transfer of the shares of the legal entity Faurecia Bloc Avant from the Notifying Party to the Purchaser.

If the Marines Divestment Business was to be divested separately from the Audincourt – Burnhaupt Divestment Business, it would be carved out from Faurecia Bloc Avant either into a NewCo or through the sale of all assets.

1.1.4 **Marles-les-Mines Divestment Business**

The manufacturing plant at Marles-les-Mines is owned and operated by Faurecia Automotive Marles, a company which is held by Faurecia Intérieur Industries (please see **Annex 1** for a structure chart). The divestment of the Marles-les-Mines Divestment Business will be carried out through the transfer of the shares of the legal entity Faurecia Automotive Marles.

1.1.5 **Valladolid Divestment Business**

The manufacturing plant at Valladolid (Spain) is owned and operated by Faurecia Automotive Exteriors Espana, a company which is held by Faurecia Automotive Espana SA (please see **Annex 1** for a structure chart). The divestment of the Valladolid Divestment Business will most likely be carried out through the carving out of the Valladolid plant, including (i) the JIT plant located in Valladolid; (ii) all contracts for parts that are injected in the Valladolid plant and sold directly to customers; and (iii) one employee based in Torino who handles the client relationship with Iveco, into a NewCo. Alternatively, it could be carried out through the sale of all assets.

1.2 **The FEM Divestment Businesses:**

1.2.1 **Ingolstadt Divestment Business**

The manufacturing plant at Ingolstadt is owned and operated by Faurecia Kunststoffe Automobilsysteme GmbH, a company which is held by Faurecia Automotive GmbH (please see **Annex 1** for a structure chart). The divestment of the Ingolstadt Divestment Business will most likely be carried out through the transfer of the shares of the legal entity Faurecia Kunststoffe Automobilsysteme GmbH from the Notifying Party to the Purchaser. Alternatively, it could be carried out through the sale of all assets.

1.2.2 **Offenau Divestment Business**

The manufacturing plant at Offenau is owned and operated by Faurecia Kunststoffe Automobilsysteme GmbH, a company which is held by Faurecia Automotive GmbH (please see **Annex 1** for a structure chart). The divestment of the Offenau Divestment Business will most likely be carried out through the transfer of the shares of the legal entity Faurecia Kunststoffe Automobilsysteme GmbH from the Notifying Party to the Purchaser. Alternatively, it could be carried out through the sale of all assets.

1.2.3 **Neuburg Divestment Business**

The Neuburg R&D/Customer Centre is owned and operated by Faurecia Kunststoffe Automobilsysteme GmbH, a company which is held by Faurecia Automotive GmbH (please see **Annex 1** for a structure chart). The divestment of the Neuburg Divestment Business will most likely be carried out through the transfer of the shares of the legal entity Faurecia Kunststoffe Automobilsysteme GmbH from the Notifying Party to the Purchaser. Alternatively, it could be carried out through the sale of all assets and transfer of personnel.

1.3 **The divestiture of the Divestment Businesses will be carried out in the following way:**

1.3.1 The transfer of the shares in Faurecia Bloc Avant (which includes the Audincourt Divestment Business, the Burnhaupt Divestment Business, and the Marines Divestment Business).

1.3.2 The transfer of the shares in Faurecia Automotive Marles (which consist of the Marles-les-Mines Divestment Business).

1.3.3 Most likely, the transfer of the shares in a NewCo still to be established which will include the Valladolid Divestment Business, or the sale of all assets.

1.3.4 Most likely, the transfer of the shares in Faurecia Kunststoffe Automobilsysteme GmbH (which includes the Ingolstadt Divestment Business, the Offenau Divestment Business and the Neuburg Divestment Business) or the sale of all assets.

1.4 The intention of the Notifying Party is to sell all Divestment Businesses to a single purchaser. In the alternative, the FEM Divestment Businesses and the Bumper Divestment Businesses could be sold to different purchasers.

1.5 With regard to the Bumper Divestment Businesses, the intention of the Notifying Party is to sell the Bumper Divestment Businesses to a single purchaser. As a consequence, the support currently provided by the Audincourt Headquarters, in particular in R&D, will remain in its current state.

1.6 However, the Notifying Party does not exclude the possibility of selling some of the Bumper Divestment Businesses separately; in this case, such businesses would be sold to a purchaser with sufficient central support, notably R&D. The purchaser of these businesses shall have the sufficient resources in terms of support functions and R&D to operate these Divestment Businesses as viable and active competitive forces, without requiring any of the support currently provided by the Audincourt Headquarters and R&D centre.

1.7 TSAs and supply agreements would be entered into by the Notifying Party or the Seller in order to ensure a smooth transition.

1.8 The FEM Divestment Businesses shall be sold to a single purchaser to ensure it continues to benefit from the support and R&D functions currently provided by the Neuburg Divestment Business.

2. **In accordance with paragraphs 4 and 5 of these Commitments, the Divestment Businesses include, but are not limited to:**

2.1 **the following main tangible assets:**

2.1.1 **Audincourt Divestment Business**

(a) […] m^2 of owned built surface and […] m^2 of rented built surface comprising:

(i) an industrial real estate complex located in Audincourt (Doubs),

(ii) comprising offices, factories and land with parking spaces;

(iii) a pumping station located in Valentigney (Doubs);

(iv) a water tower located in Seloncourt (Doubs); and

(v) an industrial real estate complex comprising eight buildings in Audincourt.

(b) Injection moulding machines:

(i) [injection moulding machines];

(ii) [injection moulding machines]; and

(iii) [injection moulding machines].

(c) Paint lines:

(i) [paint lines]; and

(ii) [paint lines].

2.1.2 **Burnhaupt Divestment Business**

(a) […] m2 owned built surface comprising land in the municipality of Burnhaupt le Haut in the "Zone artisanale du Pont d'Aspach", [address].

(b) Injection moulding machines:

(i) [injection moulding machines]; and

(ii) [injection moulding machines].

2.1.3 **Marines Divestment Business**

(a) Real estate comprising:

(i) […] m^2 owned built surface; and

(ii) […] m^2 of rented built surface on an industrial real estate complex located in Marines (Val d'Oise) comprising a factory, offices and land with parking spaces.

(b) Injection moulding machines:

(i) [injection moulding machines]; and

(ii) [injection moulding machines].

(c) Paint lines:

(i) [paint lines]; and

(ii) [paint lines].

2.1.4 **Marles-les-Mines Divestment Business**

(a) Real estate comprising:

(i) […] m^2 owned built surface; and

(ii) […] m^2 rented built surface.

(b) Injection moulding machines:

(i) [injection moulding machines];

(ii) [injection moulding machines]; and

(iii) [injection moulding machines].

(c) Paint lines:

(i) [paint lines].

2.1.5 **Valladolid Divestment Business**

(a) Real estate comprising:

(i) […] m^2 rented built surface at Valladolid FAE (Assembly – JIT facility); and

(ii) […] m^2 owned built surface and 1,025m^2 rented built surface at Valladolid FAE (Injection).

(b) Injection moulding machines:

(i) [injection moulding machines].

2.1.6 **Ingolstadt Divestment Business**

(a) […] m^2 rented built surface.

(b) Injection moulding machines:

(i) [injection moulding machines].

(c) Assembly lines:

(i) [assembly lines].

2.1.7 **Offenau Divestment Business**

(a) […] m^2 rented built surface.

(b) Assembly lines.

2.1.8 **Neuburg Divestment Business**

(a) […] m^2 rented built surface.

2.2 **the following main intangible assets:**

2.2.1 IT software and hardware, used in the Divestment Businesses (see **Annex 2**); and

2.2.2 the Notifying Party will award non-exclusive, royalty-free, transferable and irrevocable licences for the intellectual property rights (including patents) necessary for the operation of the Divestment Businesses to the Purchaser; the know-how and blueprints of the Divestment Business which are necessary for the operation of the Divestment Businesses will also be transferred together with the Audincourt and Neuburg R&D centres; and

2.2.3 the current customer lists as detailed in **Annex 3**.

2.3 **the following main contracts, agreements, commitments and understanding, subject to third parties' rights to the extent such consent is contractually required:**

2.3.1 the current customer contracts listed in **Annex 4**, subject to (the Commission's approval for any amendments as outlined in paragraph 17(d));

2.3.2 the agreements with the logistics providers that supply the relevant products in the EEA as set out in **Annex 5**;

2.3.3 the lease for the built surface in Marles-les-Mines;

2.3.4 the lease for the built surface in Marines;

2.3.5 the leases for the built surface in Valladolid;

2.3.6 the lease for the built surface in Ingolstadt;

2.3.7 the lease for the built surface in Offenau;

2.3.8 the lease for the built surface in Neuburg;

2.3.9 contracts for the supply of parts/services to plants that will be retained by the Seller or the Notifying Party including, in particular:

(a) Supply or parts/services *by the Purchaser to the Seller* (i.e. contracts between the Seller and the Notifying Party which will be transferred/partially transferred to the Purchaser)

(i) supply of [contract];

(ii) supply of some [contract];

(iii) supply of [contract];

(iv) supply of [contract]; and

(v) supply of certain [contract].

For further details on these, please refer to **Annex 6**[1].

[1] The list of contracts in **Annex 8** is not yet complete as the Notifying Party and the Seller are still in the process of establishing such contracts.

2.4 **the following Personnel**

2.4.1 the personnel currently employed by the Seller and working predominantly for the Divestment Businesses. As indicated at paragraph 3.3 below, the Notifying Party intends to retain a limited numbers of employees. However, these employees have not yet been identified to date, and **Annex 7** provides a full list of all employees currently working predominantly for the Divestment Businesses.

2.5 **the following Key Personnel**

2.5.1 employees who have at this stage been identified as indispensable to the Divestment Businesses are listed in **Annex 8**.

2.6 **the arrangement for the supply of the following products or services by the Notifying Party, or their Affiliated Undertakings or the Seller for a transitional period including, in particular:**

2.6.1 contracts for the supply of parts/services by the Seller or the Notifying Party to the Divestment Businesses:

(a) Supply of parts/services *by the Seller to the Purchaser* (i.e. contracts between the Seller and the Notifying Party which will be transferred/partially transferred to the Purchaser):

(i) supply [contract];

(ii) supply [contract];

(iii) supply [contract];

(iv) a general transitional service agreement with regard to [contract] as detailed in Annex 8 (covering a number of target plants in various jurisdictions) (the "**Transitory Services Agreement #1**"); and

(v) a general transitional service agreement with regard [contract] for the duration of [contract] months from the date of closing of the transaction between the Notifying Party and the Seller (also covering a number of target plants in various jurisdictions) (the "**Transitory Services Agreement #2**");

(b) Supply of parts/services *by the Notifying Party to the Purchaser*:

(i) supply of [contract].

For further details on these, please refer to **Annex 6**[2].

2 The list of contracts in **Annex 6** is not yet complete as the Notifying Party and the Seller are still in the process of establishing such contracts.

It should be noted that most supply/services agreements will be those entered into by the Notifying Party and the Seller, which are transferable to the Purchaser (to the extent that they are relevant). They will as such generally create contractual relations between the Purchaser and the Seller, subject to possible additional contracts between the Notifying Party and the Purchaser which could be required in the context of partial transfer of the initial contracts.

Further, the list of contracts, above and in **Annex 6**, is not yet complete and subject to changes as the Notifying Party and the Seller are still in the process of establishing these contracts.

3. **The Divestment Businesses shall not include:**

3.1 ownership of the intellectual property rights (including patents), as non-exclusive, royalty-free, transferable and irrevocable licences necessary for the operation of the Divestment Businesses will be awarded to the Purchaser as outlined in paragraph 2.2.2;

3.2 a limited number of development and innovation contracts that relate to programs in the plants to be retained by the Notifying Party; and

3.3 a limited number of employees: (i) working in the Audincourt Divestment Business who are working predominantly in executive positions at a global level in the automotive exterior business of the Seller to be acquired by the Notifying Party or on the development of programs in plants that will be retained by the Notifying Party; and (ii) working in the Neuburg R&D/Customer Centre who are working predominantly on the development of products manufactured in plants to be retained by the Notifying Party.

4. **If there is any asset or personnel which is not be covered by paragraph 2 of this Schedule but which is both used (exclusively or not) in the Divestment Businesses and necessary for the continued viability and competitiveness of the Divestment Businesses, that asset or adequate substitute will be offered to potential purchasers.**

Annexes to the Commitments

Annex 1 - Divestment businesses structure chart

[corporate structure]

Annex 2 - IT Software and Hardware

[IT system]

Annex 3 - Current customers of the divestment businesses

[list of customers]

Annex 4– Customer Contracts

[list of customers' contracts]

Annex 5 - Logistic Agreements

[logistics providers' agreements]

Annex 6 - Contracts for the supply of parts-services and transitional agreements

[contracts of supply]

Annex 7 - Personnel

[list of employees]

Annex 8 – Key personnel

[list of employees]