



EUROPEAN COMMISSION
DG Competition

***Case M.8019 - ADVENT INTERNATIONAL / NUPLEX
INDUSTRIES***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 01/09/2016

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EUROPEAN COMMISSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE

To the notifying party:

Dear Sir/Madam,

**Subject: Case M.8019 - ADVENT INTERNATIONAL / NUPLEX INDUSTRIES
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹ and Article 57 of the Agreement on the European Economic
Area²**

- (1) On 27 July 2016, the European Commission received notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertaking Advent International Corporation ("Advent", USA), acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of Nuplex Industries Ltd. ("Nuplex", New Zealand), by way of purchase of shares.³ Advent is further referred to as the "Notifying Party" and together with Nuplex as the "Parties".
- (2) The case was initially notified on 25 May 2016. In the course of the market investigation, a number of customers and competitors of the Parties raised concerns based on a different definition and segmentation of the market than the one proposed by the Parties. For example, one of the main customers of the Parties submitted a complaint to the Commission (which was subsequently withdrawn) arguing that

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 Publication in the Official Journal of the European Union No C 282, 04.08.2016, p. 13.

Allnex and Nuplex are the two main producers of resins for coatings for the automotive sector, for both the original equipment manufacturers ("OEM") and the refinish business segments. Neither of these markets was treated as affected in the Form CO. The customer argued that the loss of competition resulting from the transaction would have negative repercussions for the producers of (automotive) coatings in terms of pricing, security of supply, incentive to innovate and continuously improve (or even maintain) the quality of the resins. Also, a competitor of the Parties in the production of resins for automotive coatings argued that post-transaction the merged entity would become dominant across the board in the market of resins for automotive coatings, which could result in other producers of these resins ultimately losing market shares.

- (3) In light of those remarks, the Commission requested the Notifying Party to provide data based on the segmentation of the market revealed by the market investigation. The notification was withdrawn on 22 June 2016⁴ and re-filed on 27 July 2016. The Parties' new data identified a number of additional affected markets.
- (4) Furthermore, due to the fact that market participants suggested that the combined market shares of the Parties might be higher than the ones provided in the Form CO and because the Parties claimed that there are no available data to properly assess their position in the market, the Commission decided to proceed to a reconstruction of the market shares in the markets for resins for automotive OEM and automotive refinish in order to verify the accuracy of the Parties' estimates.
- (5) For the market reconstruction, various elements were taken into account, including: the actual volumes sold by different competitors which were known to have significant sales, the Parties' own volumes as reported in the Form CO, and various estimates made by the Parties of volumes sold by other, smaller competitors.

1. THE PARTIES

- (6) Advent is a globally active private equity investor. Advent's portfolio companies are active across a range of industries, including chemicals, media, communications, information technology, financial services, retail, industrials and healthcare. One of the companies controlled by Advent is Allnex S.A. ("Allnex", Belgium), which is a global producer of industrial coating resins for architectural, industrial, protective, automotive and special purpose coatings and inks.
- (7) Nuplex is a global producer of industrial coating resins, specializing in the development and manufacture of resins used in the formulation of surface coatings.

2. THE OPERATION AND THE CONCENTRATION

- (8) The Proposed Transaction will be executed, through a scheme of arrangement under New Zealand law, via Allnex and its newly incorporated acquisition vehicle registered in New Zealand Allnex New Zealand Ltd ("NZ BidCo"). NZ BidCo will directly acquire all issued shares in Nuplex. As a result of the Proposed Transaction, Advent will acquire sole control over Nuplex.

⁴ Publication in the Official Journal of the European Union No C 242, 2 July 2016, p.3.

- (9) The Transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. EU DIMENSION

- (10) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million⁵ (Advent⁶: EUR [...], Nuplex: EUR 909 million). Each of them has an EU-wide turnover in excess of EUR 250 million (Advent: EUR [...], Nuplex: EUR [...]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.

- (11) The Transaction therefore has an EU dimension pursuant to an Article 1(2) of the Merger Regulation.

4. MARKET DEFINITION

4.1. Product market definition

4.1.1. Introduction

- (12) In the value chain of the manufacture of coatings⁷ (the end products), the following are the most relevant chemical components: resins, pigments, solvents, additives, crosslinkers. Allnex and Nuplex specialise in developing and manufacturing all of the above components, with the exception of pigments and solvents.

- a) Resins are intermediate ingredients that are used in the production of coatings, paints and inks. The resin binds the various components of a coating or paint together into a film, and bonds the film to the substrate, e.g., a car door, a piece of wooden furniture or the exterior of a fridge. The film protects the substrate and improves its decorative appeal. Resins are essential elements of the coatings formulation as they determine the performance characteristics of the coatings, such as weathering, resistance to chemicals and corrosion, gloss, durability, smoothness and flexibility.⁸
- b) Additives are optional auxiliary products that can be included in coatings, plastics and printing inks to improve particular technical properties (i.e., anti-corrosion, biocide, flame retardancy, enhanced flexibility, preservation against fungal proliferation, thickening and stabilisation, etc.).⁹

⁵ Turnover calculated in accordance with Article 5 of the Merger Regulation.

⁶ The turnover of Advent includes the turnover of Allnex.

⁷ "Coating" means any preparation, including all the organic solvents or preparations containing organic solvents necessary for its proper application, which is used to provide a film with decorative, protective or other functional effect on a surface (Article 2 (8) of Directive 2004/42/CE). Usually coatings are applied in a factory setting (e.g. automotive OEM coatings, coil coatings, etc.). Sometimes coatings are referred to as "paints". Paints are coatings that mostly have dual uses of protecting the substrate and being decorative. Most commonly, architectural coatings are called "paints". However, varnishes are also coatings.

⁸ Case COMP/M.3060 – UCB/Solutia, paragraph 9.

⁹ Cases COMP/M.5243 – CVC/RAG/Evonik, paragraph 21, COMP/M.6778, Advent International Corporation / Cytec's Resin Business, paragraph 100.

- c) Crosslinkers are types of resins used in most coating formulations to create bonds between the resin molecule chains to harden a coating and enhance its performance. They are chemical compounds that are reacted with coating resins to form tri-dimensional networks between the resin molecule chains. This increases the hardness of the coating and improves its ability to resist mechanical, thermal or chemical influences. Crosslinkers are mixed with other resins in a coating formulation. After the coating has been applied and the solvent has evaporated, the cross-linking reaction takes place at ambient or increased temperature.
- (13) The chemical components mentioned above are subsequently used as raw materials in the composition of coatings for different industrial applications. Among those, the Parties' are active in the manufacturing of resins for coatings used in a variety of applications, including: (i) Automotive OEM, which includes car and light commercial vehicle and SUV, automotive OEM plastic and metal parts; (ii) Automotive refinish; (iii) Industrial Wood; (iv) Coil and PCM, which includes coil, pre-coated sheet (including powder for appliances) - strips and aluminium extrusions; (v) Other Industrial, which includes agriculture, construction, aerospace, heavy duty trucks, buses, other land transportation, electrical, plastic, general metal, and other non-wood and non-coil products; (vi) Marine; (vii) Special Purpose, which includes protective, industrial maintenance, traffic paint, and other performance air-drying applications; (viii) Packaging; (ix) Architectural, including decorative and protective paints coatings; and (x) Adjacent coating and non-coating applications which includes resins not assigned to specific coatings applications (such as textile or inks), and/or resins used for non-coatings applications such as rubber and tires or adhesives.

4.1.2. *The Notifying Party's view*

- (14) The Notifying Party considers that coating resins should be distinguished according to a combination of: (i) the delivery technology for the end product (e.g., liquid or powder), and (ii) their base chemical component (resin chemistry).
- (15) As a result, by delivery technology, the coating resins market comprises the following groups:
- **Liquid resins** - include a broad range of systems differentiated according to the delivery mode (water-borne and solvent-borne products for liquid coatings).¹⁰ The Commission has also suggested that solvent-based resins and water-based resins are part of different relevant product markets.¹¹ On the basis of the classification by chemistry, the Parties further distinguish coating resins by the base chemical compound of the resin: on the one hand (i) water-borne acrylics; (ii) water-borne alkyds; (iii) water-borne epoxies;¹² and (iv) water-borne polyurethane dispersions (PUDs) and on the other hand (i)

¹⁰ Cases COMP/M.6778, Advent International Corporation / Cytec's Resin Business, paragraph 79; COMP/M.6178 – Arkema/Total's Resin Division, paragraph 12; COMP/M.3060 – UCB/Solutia, paragraph 8.

¹¹ Cases COMP/M.3060 – UCB/Solutia, paragraph 16; IV/M.933 – ICI/Unilever, paragraph 13; COMP/M.6178 – Arkema/Total's Resin Division, paragraphs 13 et seq.

¹² Only Allnex produces this type of resins.

solvent-borne acrylics; (ii) solvent-borne alkyds; (iii) solvent-borne epoxies and (iv) solvent-borne unsaturated polyesters.

- **Specialty Liquid Resins**¹³ – include cathodic electro deposition resins, based on water-borne resins, and urethane specialties.
- **Radiation-Curable Resins** (Radcure™)¹⁴ - supplies resins and related components for coating systems that are cured through exposure to ultraviolet (UV) or electron beam (EB) radiation. These resins could be further segmented into a) Radcure Monomers/Oligomers/Acrylates; b) Radcure UV-Curable Polyurethane Dispersions (PUDs); and c) Radcure Glass Laminates (Uvekol).
- **Powder Coating Resins** – are applied in dry powder form and cured by heating. The Parties produce two different types of powder coating resins: a) thermally curable polyester powder coating resins, and b) UV-curable powder coating resins¹⁵ which differ in terms of how the relevant coating is applied to the substrate.

(16) Crosslinkers are generally also distinguished by their base chemical component into a) crosslinkers-amino resins (the amino resins are crosslinkers derived from amine precursors) and b) crosslinkers-phenolic resins.¹⁶ This distinction is supported by previous Commission decisions where it was pointed out that aminos and phenolics impart different performance characteristics on the relevant coatings and are used for different purposes.¹⁷ The Parties claim that crosslinkers-amino resins could be replaced in different industrial application by isocyanates, which are another class of crosslinkers for high-end performance coatings that require low temperature cure and that have excellent chemical and mechanical properties.

(17) Additives ¹⁸- the properties of the additives vary depending on whether they are used for liquid, radiation-curable or powder coatings. The Commission explored in the past whether rheology modifiers (additives that adjust the viscosity of liquid coating) constitute a distinct relevant product market and whether, within rheology modifiers, a distinction should be drawn between rheology modifiers for solvent-based applications and rheology modifiers for water-borne applications.¹⁹

(18) This segmentation is viewed by the Parties as providing the most accurate picture for a competitive analysis of the Proposed Transaction and also being in line with

¹³ Only Allnex produces this type of resins.

¹⁴ Only Allnex produces this type of resins.

¹⁵ Only Allnex produces this type of resins.

¹⁶ In Case COMP/M.2396 - Industri Kapital/Perstorp, paragraph 26, the Commission further distinguished between liquid phenolics (resols) and solid phenolics (novolacs), but this segmentation is not necessary for this case as only Allnex produces this type of crosslinkers.

¹⁷ Case COMP/M.3593 – Apollo/Bakelite, paragraph 9.

¹⁸ Only Allnex produces additives in the EEA.

¹⁹ Cases COMP/M.6778, Advent International Corporation / Cytec's Resin Business, paragraph 101; COMP/M.5424 – Dow/Rohm and Haas, paragraph 219.

previous decisions of the Commission.²⁰ The Parties also point out that the industrial applications are not relevant when making the distinction between different types of resins or crosslinkers.

- (19) The Notifying Party stresses that the value of a coating is not set by the value and quality of its individual components (resins, additives, crosslinkers, pigments, solvents) but of their blending which is the know-how of the coatings' producers. In fact, the Notifying Party claims that often resins' producers do not know the industrial application of a given resin and that the same resin can be used for more than one industrial application.
- (20) In addition, according to the Notifying Party there is a high degree of supply side substitutability between the different categories of resins, meaning that if a manufacturer is active in the production of a certain resin, then it will be able to produce virtually all other resins within a reasonably short period of time and switch between the production of those resins within a very short time frame and for a limited financial investment.
- (21) Finally, the Notifying Party argues that in past decisions the Commission considered that a distinction based on application was not appropriate in view of the supply side substitutability.²¹

4.1.3. *Results of the market investigation and Commission's assessment*

- (22) The market investigation results indicated, contrary to the Parties' views, that a segmentation of the market based on (i) the delivery technology (e.g. liquid or powder) / resin chemistry (e.g. acrylics or alkyds) and (ii) industrial application (e.g. automotive OEM or architectural) is likely to be the most suitable (e.g. solvent-borne acrylics for automotive OEM).²²
- (23) Market participants, both customers and competitors of the Parties, indicated that resins used for the production of different types of coatings are specific to that particular type of coating and cannot be substituted with resins for other applications. The characteristics/properties of a specific resin can vary depending on the end application it will be used for.²³ Competitors and customers of the Parties stated, for instance:

²⁰ Case COMP/M.6778, Advent International Corporation / Cytec's Resin Business, paragraph 66.

²¹ Cases COMP/M.4071 – Apollo/ AkzoNobel IAR, paragraph 40, COMP/M.6178 – Arkema/Total's Resin Division.

²² Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 7. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 5. Questionnaire Q3 – Competitors – Architectural Coatings, responses to question 7. Questionnaire Q4 – Customers – Architectural Coatings, responses to question 5. Questionnaire Q5 – Competitors – Other Industrial Coatings, responses to question 7. Questionnaire Q6 – Customers – Other Industrial Coatings, responses to question 5.

²³ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 8. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 6. Questionnaire Q3 – Competitors – Architectural Coatings, responses to question 8. Questionnaire Q4 – Customers – Architectural Coatings, responses to question 6. Questionnaire Q5 –

*"[...] each application may require different characteristics of a resin. For example, a resin can be made in a variety of ways, for example: with higher or lower degree of etherification, with higher or lower viscosity, with better (or worse) solubility in solvents, water, etc. Depending on the application and other components of the final formulation, a proper type of resin must be used for the best possible efficiency."*²⁴

*"While the general industrial process of manufacturing a resin can be the same, there are always specifications according to the final use of the resin (the coating)."*²⁵

- (24) On the demand side, the view that resins must be tailored depending on their end application was confirmed by companies which are coatings producers, but also have in-house production of resins.²⁶

*"The same types of resins may be used but they would often have different chemical composition and properties depending on their application (automotive or refinish)".*²⁷

*"Typically vehicle refinishes is low-bake (<60°C) and OEM is high-bake (>120°C); hence resins and cross-linkers differ."*²⁸

*"[...] resins are customized to its application"*²⁹

- (25) Furthermore, the specifications of the automotive OEM coatings for example, as set by car manufacturers require coatings producers to undertake a very severe qualification process for the resins they use as input. Each resin needs to feature specific properties and will be tailor-made to fit the requirements of the end OEM customer. Long qualification periods, both of the product itself and of the producer (based on reputation and track record) appear to be the norm. Therefore, replacing resins that are qualified to be included in a given coating for automotive uses is a difficult and lengthy process, if at all possible.

As explained by a customer: "OEMs have very demanding quality requirements for the coatings, dedicated production technologies are required for their production, and distinct certification processes are needed. Additionally, there are specific regulatory/environmental requirements to be complied with. As a result, producers of

Competitors – Other Industrial Coatings, responses to question 8. Questionnaire Q6 – Customers – Other Industrial Coatings, responses to question 6.

²⁴ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, a response to question 8.

²⁵ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 5.1.

²⁶ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 9.1.

²⁷ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 9.1.

²⁸ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 9.1.

²⁹ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 9.1.

*resins have to possess specific technological knowledge, long standing reputation and experience, in order to sell their products to coating manufacturers."*³⁰

- (26) Competitors of the Parties did not fully validate the argument brought forward about supply side substitutability and the ability to produce all kinds of resins with the same equipment (resins are manufactured in dedicated reactors). Resins manufacturers explained that multi-purpose reactors have the capability to be used to manufacture different resins, although in practice they are generally dedicated to the production of one type of resin or a family of the same chemical component to avoid the costs incurred in cleaning the reactor when switching production and the implied risk of cross-contamination.³¹
- (27) However, competitors of the Parties confirmed that to some extent multi-purpose reactors can be used to produce different resins of the same type, for instance different types of water based resins or solvent based resins in one reactor, as well as different types of acrylic or alkyds resins.³² More importantly, multi-purpose reactors can easily be converted to start producing different resins in case of an increase in demand in a relatively short period of time.³³
- (28) The segmentation of the market based on chemistry/ delivery technology and industrial application is also evident in the internal documents of the Parties, as in various presentations, market studies, sales reports etc. they refer to resins for specific industrial applications.³⁴
- (29) The distinction by delivery technology/chemistry and industrial application was recently considered by the Commission as a possible segmentation for some resins, although the ultimate definition was left open.³⁵

4.1.4. Conclusion

- (30) On the basis of segmentation by delivery technology/chemistry, as proposed by the Parties, the case, although giving rise to two affected markets, would not give rise to any competition concerns.. Using the segmentation by delivery technology/chemistry and industrial application, there are thirteen affected markets including some which were seen as problematic by market participants. In consequence the Commission's assessment hereinbelow will concentrate on this possible segmentation of the market by delivery technology/chemistry and industrial application.

³⁰ Non-confidential minutes of a conference call with a customer, 9 June 2016.

³¹ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 21.2. Questionnaire Q3 – Competitors – Architectural Coatings, responses to question 19.2. Questionnaire Q5 – Competitors – Other Industrial Coatings, responses to question 20.2.

³² Non-confidential email exchange between a competitor and the European Commission, 15 August 2016.

³³ Non-confidential minutes of a conference call with a competitor, 23 June 2016.

³⁴ E.g. the document "Automotive Refinish – industry highlights" submitted as Annex 20.1 in response to the RFI dated 7 July 2016, the document "MT BT PC June 2016" submitted as Annex 21.2 in response to the RFI dated 7 July 2016, the document "BU EMEA Strategic Plan" from January 2016, submitted as Annex 21.6 in response to the RFI dated 7 July 2016.

³⁵ Case COMP/M.6778 – Advent International Corporation/ Cytec's Resin Business, paragraph 71.

- (31) Nonetheless, having carried out that assessment, the Transaction does not give rise to any competition concerns under any plausible market definition. Therefore, the market definition can be left open.

4.2. Geographic market definition

4.2.1. *The Notifying Party's view*

- (32) The Notifying Party submits that the relevant geographic market for each of the chemical products (including if they were to be sub-segmented by industrial applications) should be considered to be worldwide, but is at least EEA-wide for the following reasons: the Parties serve customers globally, global transportation costs are low, there are no legal barriers to selling in different jurisdictions on a wider basis, but also within the EEA, price levels tend to be similar globally (except in Asia, where prices are lower), and there has been a rise in imports in the Americas and the EEA from Asian producers.
- (33) The Notifying Party considers that this opinion is in line with the Commission's previous decisions.³⁶

4.2.2. *Results of the market investigation and Commission's assessment*

- (34) The market investigation revealed that customers and competitors alike consider the geographical scope of the market to be EEA wide, rather than global.
- (35) Competitors sell a minor part (less than 20%) of their EEA resins production outside Europe. Not only because of the increase in transportation costs but also because of the delivery time, they prefer to dispatch their products inside the EEA.³⁷ In addition, some resins can be less efficiently transported over long distances than others due to their high content of liquid (e.g. water-borne resins):

*"[...] Typically [...], a range of approximately up to 1500 km can be supplied in an economical and efficient way. In case of oversea destinations, these distances are much bigger, although the freight costs in case of oversea transport are not necessarily more expensive than a local supply to EEA. By oversea shipments, the most critical parameter is delivery time, which is much longer (e.g. around 1 month)."*³⁸

- (36) Customers often demand just in time delivery (within 1-2 days, up to one week) as they are also frequently pressured by their clients to deliver within a very short period of time. While the lead times in the EEA are within the range required by customers and take maximum 2-3 weeks, sourcing from the US or Asia would require 8-10

³⁶ Cases COMP/M.6178 – Arkema/Total's Resin Division; COMP/M.5745 – AkzoNobel/Rohm and Haas Powder Coating Business; COMP/M.5243 – CVC/RAG/Evonik; COMP/M.4835 – Hexion/Huntsmann; COMP/M.3558 – Cytec/UCB-Surface Specialties and Case COMP/M.3593 – Apollo/Bakelite.

³⁷ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to questions 15, 16. Questionnaire Q3 – Competitors – Architectural Coatings, responses to questions 15, 16. Questionnaire Q5 – Competitors – Other Industrial Coatings, responses to questions 15, 16.

³⁸ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, a response to question 16.

weeks. Additional advantages of a supplier base close to customer's production sites are availability, rapid technical assistance, avoiding the risk of currency exchange, duties.³⁹

- (37) Even if the Parties claim that prices in Asia are lower, the majority of the customers did not purchase any resins from this region in 2015.⁴⁰ Customer indicated that a price increase for the resins in Europe will not significantly affect their purchasing patterns, taking into account the added difficulty of qualifying a new supplier.

4.2.3. Conclusion

- (38) For the purposes of the present case, the geographic market definition can be left open as the Transaction does not give rise to any competition concerns under any alternative geographic market definition.

5. COMPETITIVE ASSESSMENT

- (39) No affected markets arise when considering a worldwide scope of the market. For this reason, the competitive assessment will concentrate on a possible EEA geographic market definition.

- (40) Under the segmentation based on chemistry and delivery technology proposed by the Parties the Transaction gives rise to two horizontally affected markets in the EEA: water-borne alkyds and powder coatings-polyester resins.

- (41) Based on the segmentation by chemistry/delivery technology and by industrial application, the Transaction gives rise to several horizontally affected markets in the EEA: (i) water-borne PUDs for Automotive OEM coatings, (ii) crosslinkers-amino resins for Automotive OEM coatings, (iii) solvent-borne acrylics for Automotive Refinish coatings, (iv) solvent-borne alkyds for Automotive Refinish coatings, (v) crosslinkers – amino resins for Automotive Refinish coatings, (vi) powder coatings-polyester resins for Coil & PCM coatings, (vii) solvent-borne acrylics for Other Industrial coatings, (viii) solvent-borne alkyds for Other Industrial coatings, (ix) water-borne alkyds for Other Industrial coatings, (x) water-borne PUDs for Other Industrial coatings, (xi) powder coatings-polyester resins for Other Industrial coatings, (xii) solvent-borne acrylics for Special Purpose coatings, (xiii) water-borne alkyds for Architectural coatings.

- (42) The transaction does not give rise to any vertically affected relationship.

³⁹ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to questions 17 and 18. Questionnaire Q4 – Customers – Architectural Coatings, responses to questions 15 and 16. Questionnaire Q6 – Customers – Other Industrial Coatings, responses to questions 17 and 18.

⁴⁰ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 17. Questionnaire Q4 – Customers – Architectural Coatings, responses to question 15. Questionnaire Q6 – Customers – Other Industrial Coatings, responses to question 17.

5.1. Horizontal overlaps - Segmentation based on chemistry and delivery technology as originally proposed by the Parties, in the EEA

(43) For **water-borne alkyds**, the combined markets shares in the EEA are between [20-30]%, under all possible segmentations, by value, volume, merchant sales, captive production, etc, with increments brought over by Nuplex of [0-5]%. The post-merger HHIs are at [...], with a delta of [...] (based on volumes), and [...] with a delta of [...] (based on sales). Moreover, there are three competitors with market shares of at least 15% (DSM, Worlée-Chemie and Arkema).

(44) As regards **powder coatings - polyester resins**, the combined market shares of the Parties for the merchant market are between [20-30]% by value, with an increment of [0-5]% brought by Nuplex and [20-30] % by volume with an increment of [0-5]%. The post-merger HHIs are at [...], with a delta of [...] (based on volumes), and [...] with a delta of [...] (based on sales). One competitor, DSM has a market share of [10-20]%, and another three have market shares of [5-10]% and [10-20]% (Arkema, Hexion and SIR Industriale).

(45) Therefore, it can be concluded that no competition concerns arise in relation to these markets.

5.2. Horizontal overlaps - Segmentation based on chemistry/delivery technology and industrial application, as resulting from the market investigation, in the EEA

5.2.1. Resins for automotive OEM coatings

i. Overview of the Parties and competitors market shares

(46) Based on the information provided in the Form CO, the Transaction leads to two affected markets regarding the resins used in the Automotive OEM coatings: water-borne PUDs and crosslinkers-amino resins. The table below presents the Parties and the competitors' market shares.

Table 1: Market share information (merchant market) for Water-Borne PUDs and Crosslinkers – Amino resins used in the automotive OEM coatings (2015)

Chemistry/delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI /delta	Main Competitors
Water-Borne PUDs	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[...]	BASF-[20-30]%, Covestro-[20-30]%, DSM –[10-20]%
Crosslinkers – Aminos	[10-20]%	[20-30]%	[30-40]%	[30-40]%	[...]	BASF – [10-20]%, INEOS Melamines-[10-20]%, Melamin Kocevje-[10-20]%

ii. The Notifying Party's view

- (47) According to the Notifying Party, the Transaction will not lessen the competition in these markets, because several other companies are able to exert competitive constraints over the merged entity post-Transaction.
- (48) The Notifying Party also submits that customers' leverage their buyer power through purchases of multiple products across multiple applications. In particular, customers purchase a very wide range of products from resin manufacturers covering multiple chemistries used in various industrial applications and successfully employ the threat of reducing or stopping their purchases of other products in price and other commercial negotiations with the Parties. In practice, the sale of one particular resin product is likely to account for only a small proportion (typically [0-5]%) of total purchases by that same customer.
- (49) Customers often allocate volumes among several suppliers in order to have multiple sources of supply in order to ensure availability of supply and be able to benefit from the best prices at any given time. The focus on procurement is even greater in the automotive segment because of the heavily procurement-driven supply chain imposed by automotive OEMs.
- (50) The Notifying Party further submits that a number of customers are vertically integrated and have their own resins production. [...] also have their own R&D facilities dedicated to resins, which ensures that customers control which input products and technologies they will use for their coatings. This is particularly true in automotive OEM and automotive refinish applications.
- (51) The Notifying Party also submits that there is a strong supply side substitutability given the levels of existing spare capacity producers currently have, but also because the investments required to enter a new resins' production segment by adapting an existing production chain (a multi-purpose reactor) are low. Moreover, according to the Notifying Party, this entry could be facilitated by customers themselves (the producers of the automotive coatings), which could sponsor the entry of new suppliers should they see the need for it. In general, coating manufacturers can switch between suppliers within 2 to 6 months on average, either at no cost or at a very low cost.
- (52) The Notifying Party underlines that it is the coatings' producers and not the resins' producers who drive the innovation in the sector. Therefore, the qualification process necessary for a resin destined for the automotive coatings' sector does not prevent them from switching between suppliers and chemistries, since coatings' producers are used to multi-source and have a sufficient number of qualified suppliers for each of the resins they require in order to ensure cost competitiveness and security of supply.
- (53) Regarding the crosslinkers- amino resins specifically, the Notifying Party submits that this is a declining technology, characterized by low-growth rates, which is less and less used by paint manufacturers for automotive and which is increasingly being replaced by other crosslinkers, namely isocyanates. In addition, for producing coatings, customers can and do switch between different crosslinkers, they also mix between isocyanate-based systems and amino crosslinkers based system. The

Notifying Party notes that neither of the Parties produces isocyanates in the form used for automotive or other industrial applications.⁴¹

- (54) The Notifying Party also stresses that for crosslinkers-aminos in the EEA there is a highly concentrated customer base with the top five customers [...] representing approximately [50-60]% of purchases, and the top 10 customers representing approximately [70-80]%. Those top five customers are all multinational coating manufacturers with significant financial resources, allowing them to shape the market. They also get leverage through purchases of multiple products across multiple applications. Furthermore several big customers are vertically integrated, having in-house production of resins.

iii. Results of the market investigation and Commission's assessment

- (55) As regards **water-borne PUDs for Automotive OEM coatings**, in view of the limited presence of Nuplex in this market ([0-5]% market share), reflected by a post-merger HHI of [...] and a delta of [...], as well as the presence of strong competitors, it can be concluded that no competition concerns arise in relation to this market.
- (56) As regards **crosslinkers-amino resins**, the market investigation firstly clarified that isocyanates are not considered to be a suitable substitute.⁴² However, it did not reveal any concerns in the area of automotive OEM and more specifically on the market for crosslinkers-amino resins.
- (57) Second, several credible EEA based competitors confirmed having available capacity and being able to cover an increase of the demand by 10-15% in a timely manner.⁴³ The investigation revealed that customers see BASF, Melamin Kocevje, and INEOS Melamines as viable sources of supply.⁴⁴
- (58) Although the Notifying Party has argued that Asian manufacturers also compete in the EEA, it has not been confirmed by the market investigation. Asian manufacturers may be regarded as potential entrants in upcoming years⁴⁵. However, they are not currently considered by competitors or customers in the EEA as credible competitors or suppliers.⁴⁶

41 Form CO, paragraph 469.

42 Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 13.

43 Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 22.

44 Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 30. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 26.

45 Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 43.

46 Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 31. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to questions 17 and 42. See also non-confidential minutes of a conference call with a customer, 8 July 2016.

- (59) Third, both customers and competitors confirmed that a new supplier has to be approved through a relatively long qualification process, which can last from 1 to 2 years or even longer.⁴⁷ Nevertheless, once the supplier is approved the resins can be used by the coatings manufacturer as long as a given coating is in use, which is estimated to be 5 to 10 years and even more, with only regular incremental updates.⁴⁸ Market participants confirmed that, as a practice, several suppliers are qualified by customers and asked for price quotations regularly, for "*supply risk minimization and price competition*".⁴⁹
- (60) Finally, neither competitors nor customers expect any significant impact of competition in the market for resins used for OEM automotive coatings in the EEA. The majority of the market participants do not anticipate a price increase or a decrease in security of supply or innovation.⁵⁰

iv. Conclusion

- (61) Based on the above considerations and on other available evidence, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the markets for crosslinkers – aminos and water- borne PUDs for automotive OEM coatings application in the EEA.

5.2.2. Resins for automotive refinish coatings

i. Overview of the Parties and competitors market shares

- (62) As far as resins used in automotive refinish coatings are concerned, the Transaction leads to three affected markets: solvent-borne acrylics, solvent-borne alkyds and crosslinkers - aminos. The table below presents the Parties and competitors market shares in these three markets, based on the information provided in the Form CO.

⁴⁷ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 12. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 39.

⁴⁸ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 25.

⁴⁹ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 35.

⁵⁰ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 62.1. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to questions 90 and 91.

Table 2: Market share information (merchant market) for solvent –borne acrylics, solvent-borne alkyds and crosslinkers - aminos for the automotive refinish coatings (2015)

Chemistry /delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI/Delta	Main Competitors
Solvent-Borne Acrylics	[5-10%	[10-20]%	[20-30]%	[20-30]%	[...]	BASF-[20-30% Covestro-[10-20]%, Synthopol- [10-20]%, Helios –[10-20]%, Arkema-[10-20]%
Solvent-Borne Alkyds	[5-10]%	[20-30]%	[30-40]%	[30-40]%	[...]	Arkema-[20-30]%, DSM-[10-20]%, Helios –[10-20]%, Synthopol –[10-20]%
Crosslinkers – Aminos	[5-10]%	[10-20]%	[20-30]%	[20-30]%	[...]	BASF – [10-20]%, INEOS-[5-10]%, Gallstaf-[5-10]%, Melamin Kocevje-[5-10]%, Chan Chung – [5-10]%

(63) The Commission has received a number of complaints from customers regarding the impact of the Transaction on the market for solvent-borne acrylics and amino resins for automotive refinish coatings. Some customers consider that Nuplex and Allnex are unavoidable suppliers for these resins and compete very closely. They expressed concerns that following the merger, the merged entity may limit the availability of these products and raise prices.

(64) In the course of the market investigation, the Commission conducted a market reconstruction, as explained in paragraph 4, in order to assess the role and the position of the Parties on the market of resins for use in coatings for automotive refinish. The market reconstruction revealed that the Parties combined market shares, in particular on the market for solvent-borne acrylics are significantly higher than the market shares provided by the Notifying Party in the context of notification process.

(65) The market reconstruction indicated that Allnex and Nuplex' market shares in solvent-borne acrylics for refinish coatings are estimated at [10-20]% and [30-40]% respectively, amounting to [50-60]% combined market shares. These ranges are consistent with internal documents of the Parties,⁵¹ and stem from the fact that the total merchant market appears to be smaller than represented by the Notifying Party in the notification process. In this respect, it is important to note that a significant part of the resins production is captive by vertically integrated coating producers; and that the size of the merchant market can vary significantly depending on the balance between in house / market sourcing by large vertically integrated coating producers.

⁵¹ The document "BU EMEA Strategic Plan" from January 2016, submitted as Annex 21.6 in response to the RFI dated 7 July 2016.

The results of the market reconstruction were one of the elements used in the Commission's assessment of the present case.

ii. The Notifying Party's view

- (66) The Notifying Party's arguments as put forward for resins for use in OEM coatings (see paragraphs (47) to (54)) are consistently applicable to resins used in automotive refinish as well. Accordingly, the Notifying Party submits that the Proposed Transaction will not raise competition concerns on these markets in view of the extensive buyer power exercised by customers, the possibility to easily switch suppliers and the lack of barriers to entry of additional suppliers. Moreover, the Notifying Party also explains the existing overcapacity on the supply side will prevent any possible increase in price by the Parties post-merger.
- (67) The Notifying Party emphasised that the customer base is highly concentrated and they have extensive buyer power. For example, [...] % of demand for amino resins used in the automotive segment in the EEA is accounted for by [...] of Allnex's customers.
- (68) In addition, there is a large number of significant competitors including vertically integrated customers active across a broad range of resins. Customers have numerous alternative suppliers to choose from, among which companies such as Arkema, BASF, DSM and Ineos Melamines, as well as Melamin Kocevje, Synthopol and Worlée.
- (69) Finally, the Notifying Party considers that there are no barriers to switching resin supplier (the qualification process takes often one year or significantly less) and that the available capacity in the EEA would exceed the combined available capacity of Allnex and Nuplex.

iii. Results of the market investigation and Commission's assessment

- (70) The market investigation focused on the three types of resins: solvent-borne acrylics, solvent-borne alkyds and crosslinkers – amino resins. Given the discrepancy in the market shares related to solvent-borne acrylics between the Form CO and the market's feedback, the Commission analysed closely the market for this type of resins.
- (71) According to the Commission's findings, Allnex and Nuplex are strong competitors on the market of solvent-borne acrylics for refinish coatings. However, the Commission considers that the proposed Transaction will not give rise to competition concerns for the reasons explained below.
- (72) As regards buyer power, in accordance with the Notifying Party's submission, the Commission has found that coating producers are rather concentrated, which allows exercising considerable buyer power in negotiations with a more fragmented resins supplier base.
- (73) Market participants have confirmed that the automotive coatings industry is characterised by very few producers representing more than 50% of the market. As explained by a competitor: *"the customer base for resins for coating for the automotive market is composed of 4 large customers (coating producers) representing the majority share of the market, namely AkzoNobel, PPG, BASF and*

Axalta. Thus they can impose their conditions on resins suppliers and they will still be strong post-Transaction."⁵²

(74) Indeed, this is also consistent with statements found in internal documents of the Parties, where it is explained that the refinish industry is a "[l]arge fragmented industry dominated by few coating players through direct sales force providing trainings & distributors – strong brand bonding."⁵³

(75) Customers of resins for automotive coatings are often vertically integrated and do manufacture internally a part of the resins they need to produce coatings, which allows them a degree of independence from external providers and thus to negotiate with more leverage. This is especially true for more commoditized resins as it is the case of solvent-borne resins. It is available from public sources and has been confirmed by the market investigation that large coating manufacturers such as PPG, Axalta, AkzoNobel or Valspar have their own in-house production of resins for use in coatings for the automotive industry and other industrial applications.⁵⁴

(76) Multi-sourcing and switching is possible in the industry, although not as simple as representing by the Notifying Party. The market investigation indicated that to qualify a new resin /new supplier is not an easy and straightforward process, as it takes between 1 to 2 years and up to 500.000 Euro⁵⁵. A majority of customers indicated that the cost and the time necessary to switch to a previously qualified resin, including solvent-borne acrylics are limited and they can easily do so. A competitor mentioned that:

*" ...to be qualified by the customers, the supplier typically needs to go through a strict procedure which includes several steps, typically finding agreement on technical specification, testing and approval of samples, application testing. The whole approval process may take a lot of time, for example up to 2 years in case of OEM coatings, maybe less by refinish coatings. Upgrade of an already qualified resin is quicker, as the customer already knows the basic product, and can focus only to the modified characteristics of the product. Besides, by upgrade of an already qualified resin the supplier is already known, the customer knows how good its technical support is, etc."*⁵⁶

⁵² Non-confidential minutes of a conference call with a competitor, 1 June 2016.

⁵³ E.g. the document "Automotive Refinish – industry highlights" submitted as Annex 20.1 in response to the RFI dated 7 July 2016, the document "Electrocoating market - global trends & forecasts to 2020" submitted as Annex 20.7 in response to the RFI dated 7 July 2016.

⁵⁴ Non-confidential minutes of conference call with a customer, 1 July 2016. Non-confidential minutes of conference call with a competitor, 23 June 2016.

⁵⁵ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 50. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to questions 75 and 79.

⁵⁶ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, a response to question 50.3.

- (77) Regarding the qualification process of a new resin, a customer of solvent-borne acrylics pointed out the following steps: *"Technology test, application test, stability test, exposure test (3 years)"*.⁵⁷
- (78) Customers' responses were similar for the three types of resins solvent borne-acrylics, solvent-borne alkyds and crosslinkers-aminos. Nevertheless, both customers and competitors confirmed that once a new resin is qualified it could be used during the lifetime of the coating, e.g. more than 5 years or even more than 10 years, according to some respondents.⁵⁸ Customers therefore have the incentives to qualify several suppliers and they do so as a general practice.
- (79) The market investigation showed that customers source their needs from more than one supplier, the majority having qualified three resins producers and in a few cases even more.⁵⁹ The cases when customers do not multi-source are limited. Customers mentioned that:
- "[...] aims to have minimum 2 suppliers to be sure to be always provided"*⁶⁰
- "For the car refinish sector, there are more competitors in the market, so the merger would have a less significant impact [...]"*⁶¹
- (80) In addition, there are no long term contracts in this business. Customers prefer to work based on limited duration agreements (1 year or less) or even based on spot orders or quarterly price agreements. In this way they are free to switch depending on the best conditions offered.⁶²
- (81) Finally, the Parties will still face competition post-Transaction, not only from the customers' own internal production but also from other strong resins manufacturers for refinish coatings such as Helios, Synthopol, Arkema or Covestro.
- (82) As regards entry and expansion, several competitors of the Parties stated during the market investigation that they have spare capacity and could easily expand production in case of an increase in demand of solvent-borne acrylic resins for automotive refinish coatings, with limited or no modifications in their equipment and in a timely manner.⁶³

⁵⁷ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, a response to question 77.1.

⁵⁸ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 52.

⁵⁹ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 67.

⁶⁰ Non-confidential minutes of conference call with a customer, 29 June 2016.

⁶¹ Non-confidential minutes of conference call with a customer, 29 June 2016.

⁶² Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 69.

⁶³ Questionnaire Q1 – Competitors - Automotive OEM and Automotive Refinish, responses to question 48 and 49. Minutes and email exchanges between competitors and the European Commission, 12, 16 August 2016.

- (83) Competitors do regularly invest in their production capacity. For example, BASF has recently increased production capacity at its Ludwigshafen and Munster sites⁶⁴, Synthopol has also recently announced its aim to increase production capacity⁶⁵ and Helios has also announced investment in a new reactor⁶⁶.
- (84) Some of them explained that although they are not active at the moment, they would enter this market with their current assets if demand in the EEA increased.⁶⁷ However, it must be noted that the market for solvent-borne resins is declining in favour of water-borne products due to regulation aiming at encouraging the switching towards environmentally friendlier technologies. This has been confirmed by the market participants. As explained by a competitor: "*[t]here is a trend in the paint industry to restrict the use of solvent borne systems due to (Volatile Organic Compounds – 'VOCs') Regulations (limitation of the concentration of volatile organic compounds in order to protect the environment and the health of people), which leads to an increase in demand of water borne systems.*"⁶⁸
- (85) In addition, the market investigation revealed that some customers having their own in-house production have spare capacity as well, allowing them to increase production in case of a shortage in supply.⁶⁹
- (86) The majority of competitors and customers do not expect any significant impact on competition in the market for resins used for Automotive Refinish coatings in the EEA, as they do not anticipate a price increase or a decrease in security of supply or innovation.⁷⁰
- (87) In view of the above, the Commission considers it unlikely that the Parties could effectively raise prices of resins, including solvent-borne acrylics, for refinish coatings post-Transaction.

⁶⁴ Available at: <http://www.european-coatings.com/Markets-companies/Raw-materials-market/BASF-starts-up-production-plant-for-specialty-amines-in-Ludwigshafen/%28language%29/eng-GB>, last visited on 24 August 2016 at 11:22, and <http://www.european-coatings.com/Markets-companies/Raw-materials-market/Coating-binders-BASF-invests-at-its-Muenster-site/%28language%29/eng-GB>, last visited on 24 August 2016 at 11:23.

⁶⁵ Available at : <http://www.synthopol.com/en/news/company/synthopol-chemie-germany-plans-expansion-15.html>, last visited on 24 August 2016 at 11:23.

⁶⁶ Available at: [http://www.european-coatings.com/Markets-companies/Coatings-market/Helios-invests-EUR-4-million-in-new-production-plant/\(language\)/eng-GB](http://www.european-coatings.com/Markets-companies/Coatings-market/Helios-invests-EUR-4-million-in-new-production-plant/(language)/eng-GB), last visited on 24 August 2016 at 11:24.

⁶⁷ Non-confidential email exchange between a competitor and the European Commission, 15 August 2016.

⁶⁸ Non-confidential email exchange between a competitor and the European Commission, 15 August 2016.

⁶⁹ Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to question 74.

⁷⁰ Questionnaire Q1 – Competitors – Automotive OEM and Automotive Refinish, responses to question 62.1. Questionnaire Q2 – Customers – Automotive OEM and Automotive Refinish, responses to questions 90 and 91.

iv. Conclusion

(88) Based on the above considerations and on other available evidence, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the markets for solvent-borne acrylics, solvent-borne alkyds and crosslinkers – aminos for Automotive Refinish coatings application in the EEA.

5.2.3. Resins for architectural coatings

i. Overview of the parties and competitors market shares

(89) The activities of the Parties give rise to one affected market in resins for use in architecture coatings, namely water-borne alkyds. The table below presents the Parties and competitors market share in this market, based on the information provided in the Form CO.

Table 3: Market share information (merchant market) for water-borne alkyds for architecture coatings for 2015.

Chemistry /delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI/Delta	Main Competitors
Water-Borne Alkyds	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[...]	Arkema – [10-20]%; DSM-[10-20]%; Unicore –[5-10]%; Worlée [5-10]%; ASK Chemicals –[10-20]%

ii. The Notifying Party's view

(90) The Notifying Party argues that the proposed Transaction will not raise competition concerns in view of the limited activity of Nuplex. It also submits that Arkema, and DSM will remain strong competitors in water-borne alkyds for architectural applications, where they each have an estimated [10-20]% market share. In addition, the Parties argue that they would face competition on this segment from players such as Worlée, Unicore and ASK Chemicals, each having an estimated [5-10]% market share.⁷¹

(91) In addition, the Notifying Party adds that switching is easy and common for the customers. Moreover, customers have extensive buyer power.⁷²

iii. Results of the market investigation and Commission's assessment

(92) The market investigation revealed that a majority of customers believe that there are other suppliers of water-borne alkyds with sufficient spare capacity and resources

⁷¹ Form CO, paragraphs 392, 393.

⁷² Form CO, paragraph 563.

that can cover their needs.⁷³ In that line, a customer explained that it "*does not believe that Allnex and Nuplex are each other's closest competitors*"⁷⁴.

(93) This is supported by competitors' statements that generally do not see Nuplex as a strong competitor, while listing other suppliers such as DSM, Arkema and Helios that will still constrain the Parties' activities post-Transaction.⁷⁵

(94) Moreover, customers also generally indicated that they multisource from different suppliers, explaining that this is done "*to ensure supply security and optimal commercial terms*".⁷⁶

(95) Finally, the market investigation did not raise any concern on the market for water-borne alkyds for architectural coatings.⁷⁷ Indeed, the increment brought by Nuplex to Allnex market share is considerably low and results in an HHI of [...] and a delta of [...] which, as stated in the Horizontal Mergers Guidelines, indicates that it is unlikely to raise competition concerns.⁷⁸ In addition, the Parties will still face competition from strong suppliers post-Transaction.

iv. Conclusion

(96) Based on the above considerations and on other available evidence, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to water-borne alkyds for architectural coatings in the EEA.

5.2.4. Resins for Other Industrial coatings

i. Overview of the parties and competitors market shares

(97) As far as resins used in Other Industrial coatings are concerned, the Transaction leads to six affected markets: solvent-borne acrylics, solvent-borne alkyds, water-borne alkyds, water-borne PUDs, powder coatings-polyester resins and crosslinkers - aminos. The table below presents the Parties and competitors market share in these three markets, based on the information provided in the Form CO.

⁷³ Questionnaire Q4 – Customers – Architectural Coatings, responses to question 25.

⁷⁴ Non-confidential minutes of conference call with a customer, 26 July 2016.

⁷⁵ Questionnaire Q3 – Competitors – Architectural Coatings, responses to question 28.

⁷⁶ Questionnaire Q4 – Customers – Architectural Coatings, responses to question 33.

⁷⁷ Questionnaire Q4 – Customers – Architectural Coatings, responses to question 33.

⁷⁸ Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentration between undertakings (2004/C 31/ 03), recital 20.

Table 4: Market share information (merchant market) for solvent –borne acrylics, solvent-borne alkyds, water-borne alkyds, water-borne PUDs, powder coatings-polyester resins and crosslinkers – aminos for Other Industrial coatings (2015)

Chemistry /delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI/Delta	Main competitors
Solvent-Borne Acrylics	[5-10]%	[20-30]%	[20-30]%	[20-30]%	[...]	Arkema – [20-30]% Dow – [10-20]% Synres – [5-10]% Resiquimica- [5-10]%
Solvent-Borne Alkyds	[0-5]%	[10-20]%	[20-30]%	[10-20]%	[...]	Arkema –[10-20]% DSM –[10-20]% Evonik –[5-10]% Helios –[5-10]% Synres-[5-10]% Synthopol –[5-10]% Resiquimica – [5-10]%
Water-Borne Alkyds	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[...]	Arkema –[10-20]% DSM – [10-20]% Synthopol –[5-10]% Helios –[5-10]% Covestro –[5-10]% Worlee –[5-10]%
Water-Borne PUDs	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[...]	DSM – [10-20]% Helios [10-20]% Covestro –[10-20]% BASF – [10-20]% Alberdingk-[5-10]% Valspar [5-10]%
Powder Coatings Polyester Resins	[10-20]%	[10-20]%	[20-30]%	[30-40]%	[...]	Arkema –[20-30]% DSM – [20-30]% Hexion –[10-20]% SIR – [10-20]%
Crosslinkers – Aminos	[10-20]%	[0-5]%	[20-30]%	[20-30]%	[...]	BASF –[20-30]% Ineos Melamines- [20-30]% Melamin Kocevje- [10-20]% Chan Chung –[5-10]% Gallstaf –[5-10]%

ii. The notifying Party view

(98) The Notifying Party submits that the Proposed Transaction will not raise competition concerns on these markets in view of the extensive buyer power exercised by customers, the possibility to easily switch suppliers and the lack of barriers to entry of additional suppliers. Moreover, the Notifying Party also explains the existing overcapacity on the supply side will prevent any possible increase in price by the Parties post-merger.

(99) Competitors such as Arkema, BASF, DSM and Ineos Melamines each have a [20-30]% market share in varying chemistries. Furthermore, there would be eight competitors having an estimated [10-20]% market share in the production of resins

for use in Other Industrial coatings, depending on the chemistry, as well as a significant number of dynamic competitors established in at least one chemistry, with a 5% market share.⁷⁹

iii. Results of the market investigation and Commission's assessment

(100) The market investigation did not reveal any concerns regarding the markets of resins for Other Industrial coatings. Nuplex has a limited presence in water-borne alkyds, water-borne PUDs and crosslinkers-aminos, with market shares varying between [0-5]%, reflected in HHIs below [...] and delta below [...].

(101) The majority of the respondents to the market investigation believe that there are alternatives in the market and they have other viable sources of supply outside the Parties.⁸⁰ Most of the customers multisource and have several qualified suppliers, although the qualification process usually takes longer and is more expensive than the Parties claimed.⁸¹ Also customers confirmed to have switched at some point in the past among suppliers in search of the best available conditions.⁸²

iv. Conclusion

(102) Based on the above considerations and on other available evidence, the Commission concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the markets for solvent-borne acrylics, solvent-borne alkyds, water-borne alkyds, water-borne PUDs and crosslinkers – aminos for Other Industrial coatings application in the EEA.

5.2.5. *Resins for Special Purpose coatings*

i. Overview of the parties and competitors market shares

(103) The activities of the Parties give rise to one affected market in resins for use in Special Purpose coatings, namely solvent-borne acrylics. The table below presents the Parties and competitors market share in this market, based on the information provided in the Form CO.

⁷⁹ Form CO, paragraph 415.

⁸⁰ Questionnaire Q6 – Customers – Other Industrial Coatings, responses to question 27.

⁸¹ Questionnaire Q6 – Customers – Other Industrial Coatings, responses to questions 26, 34 and 35.

⁸² Questionnaire Q6 – Customers – Other Industrial Coatings, responses to question 36.

Table 5: Market share information (merchant market) for solvent –borne acrylics for Special Purpose coatings (2015)

Chemistry/delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI /delta	Main competitors
Solvent-Borne Acrylics	[0-5]%	[10-20]%	[20-30]%	[10-20]%	[...]	Dow – [20-30]% Synthopol –[10-20]% Arkema – [10-20]%, Synres – [5-10]% Resquimica –[5-10]% Helios – [5-10]%

ii. Results of the market investigation and Commission's assessment

(104) As regards solvent-borne acrylics for Special Purpose coatings, in view of the limited presence of Allnex in this market, reflected by a post-merger HHI of [...] and a delta of [...], as well as the presence of strong competitors, it can be concluded that no competition concerns arise in relation to this market.

5.2.6. Resins for automotive for Coil & PCM coatings

i. Overview of the parties and competitors market shares

(105) The activities of the Parties give rise to one affected market in resins for use in Special Purpose coatings, namely powder coatings-polyester resins. The table below presents the Parties and competitors market share in this market, based on the information provided in the Form CO.

Table 6: Market share information (merchant market) for powder coatings –polyester resins for Coil & PCM coatings (2015)

Chemistry/delivery technology	Allnex (in volume)	Nuplex in volume)	Combined market share in volume	Combined market share (in value	Post-merger HHI /delta	Main competitors
Powder Coatings – Polyester Resins	[20-30]%	[0-5]%	[20-30]%	[20-30]%	[...]	DSM – [20-30]% Arkema-[10-20]% Hexion –[10-20]% SIR –[10-20]% Chan Sieh-[5-10]%

ii. Results of the market investigation and Commission's assessment

(106) As regards powder coatings-polyester resins for Coil & PCM coatings, in view of the limited presence of Nuplex in this market ([0-5]% market share), reflected by a post-merger HHI of [...] and a delta of [...], as well as the presence of strong competitors, it can be concluded that no competition concerns arise in relation to this market.

6. CONCLUSION

(107) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)

Margrethe VESTAGER

Member of the Commission