



Final Report of the Hearing Officer¹
Nidec/Whirlpool (Embraco Business)
(COMP/M.8947)

(Text with EEA relevance)

1. On 8 October 2018, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings² (the "Merger Regulation") by which the Japanese company Nidec Corporation ("Nidec" or the "Notifying Party") intends to acquire, within the meaning of Article 3(1)(b) of the Merger Regulation, sole control of Embraco ("Embraco"), the refrigeration compressor business of Whirlpool Corporation (USA) (the "Transaction"). Nidec and Embraco are collectively referred to as the "Parties".
2. On 28 November 2018, the Commission decided to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation. In particular, the Commission considered that the Transaction raised serious doubts as to its compatibility with the internal market and with the functioning of the EEA Agreement in relation to household variable speed compressors as well as fixed and variable speed light commercial compressors. The Commission also concluded that the commitments submitted by the Parties and market tested during the Phase I investigation were not sufficient to eliminate the Commission's serious doubts. On 10 December 2018, the Notifying Party submitted to the Commission its response to the Article 6(1)(c) decision.
3. During the Phase II investigation, DG Competition requested further information and data from the Parties, other market participants and customers of variable speed compressors for household refrigeration appliances.
4. A state of play meeting was held on 23 January 2019 during which DG Competition informed the Parties of the preliminary results of the Phase II market investigation and the scope of the preliminary concerns of the Commission.
5. On 28 January 2019, following a request by the Parties, the Commission adopted a decision extending the procedure by 10 working days in accordance with Article 10(3) second subparagraph, third sentence of the Merger Regulation.

¹ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 ("Decision 2011/695/EU").

² OJ L 24, 29.1.2004, p. 1.

6. In order to address the preliminary competition concerns identified by the Commission, the Notifying Party submitted commitments on 7 February 2019, for which the Commission launched a market test on 11 February 2019.
7. On 11 February 2019 and on 21 February 2019, following requests by the Parties, the Commission decided to extend the procedure each time by 5 working days in accordance with Article 10(3) second subparagraph, third sentence of the Merger Regulation.
8. The Notifying Party submitted final commitments on 28 February 2019.
9. The Commission did not issue a statement of objections pursuant to Article 13(2) of Commission Regulation (EC) No 802/2004. There was no formal oral hearing in accordance with Article 14 of that Regulation.
10. Italia Wanbao-ACC S.r.l., a competitor of the Parties, was admitted as interested third person in this case.
11. In the decision, the Commission concludes that the final commitments are adequate and sufficient to eliminate the significant impediment to effective competition in relation to the markets for variable speed household compressors and fixed and variable speed light commercial compressors in the EEA and globally.
12. The decision therefore declares the Proposed Transaction compatible with the internal market and the EEA Agreement, subject to certain conditions and obligations which the Notifying Party must comply with.
13. I have not received any complaint from the Parties or any interested third person about the exercise of their right to be heard. Overall, I consider that the effective exercise of procedural rights has been respected during the present proceedings.

Brussels, 1 April 2019

Joos STRAGIER