



EUROPEAN COMMISSION
DG Competition

***Case M.9211 - TRANSDIGM GROUP / ESTERLINE
TECHNOLOGIES***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 11/03/2019

***In electronic form on the EUR-Lex website under
document number 32019M9211***



EUROPEAN COMMISSION

Brussels, 11.03.2019
C(2019) 2041 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying parties:

Subject: Case M.9211 - TRANSDIGM GROUP/ESTERLINE TECHNOLOGIES
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

Dear Sir or Madam,

- (1) On 4 February 2019, the Commission received notification of a concentration pursuant to Article 4 of the Merger Regulation which would result from a proposed transaction by which TransDigm Group Incorporated (“TransDigm”), incorporated in the United States, intends to acquire sole control, within the meaning of Article 3(1)(b) of the Merger Regulation, over the whole of Esterline Technologies Corporation (“Esterline”) incorporated in the United States (“the Transaction”). The concentration is to be accomplished by way of public bid announced on 10 October 2018³. TransDigm is designated hereinafter as “the Notifying Party”. TransDigm and Esterline are together referred as “the Parties”. The undertaking that would result from the Transaction is referred to as “the merged entity”.

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 57, 13.02.2019, p. 27.

1. THE PARTIES

- (2) TransDigm is active in the design, production and supply of engineered aerospace components, systems and subsystems. Its products are used on both commercial and military aircraft[...].
- (3) Esterline is active in the design, manufacture and marketing of highly engineered products, principally for aerospace and defence customers. Its products are also used in the rail, medical, gaming and other industries.

2. THE TRANSACTION

- (4) The Transaction is to be achieved by means of a definitive merger agreement signed by the Parties on 9 October 2018, whereby TransDigm will purchase all of the issued and outstanding shares of Esterline common stock in cash, thus acquiring sole control over Esterline.⁴
- (5) The Transaction would therefore result in a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. UNION DIMENSION

- (6) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 2 500 million (TransDigm: EUR 3 229.6 million and Esterline: EUR 1 710.1 million) and a combined aggregate turnover of more than EUR [...] in three Member States, namely France (TransDigm: EUR [...] and Esterline: EUR [...]), Germany (TransDigm: EUR [...] and Esterline: EUR [...]) and the United Kingdom (TranDigm: EUR [...] and Esterline: EUR [...]). In addition, in each of those three Member States, the aggregate turnover of each of TransDigm and Esterline is more than EUR [...]. Finally, each of the Parties has an aggregate Union-wide turnover of more than EUR [...] (TransDigm: EUR [...] and Esterline: EUR [...]) and neither of them achieves more than two-thirds of its EU-wide turnover within one and the same Member State.
- (7) The concentration therefore has an EU dimension pursuant to Article 1(3) of the Merger Regulation.

4. INTRODUCTION TO THE AIRCRAFT MANUFACTURING INDUSTRY

4.1. Aircraft models

- (8) The Parties are active in the manufacturing of components to be used in the aerospace industry. Those components are procured by aircraft manufacturers and assembled on a range of different aircraft[...]. Those components are used on

⁴ Pursuant to Article 5(2) of the EUMR, the Notifying Party also submitted information on the earlier acquisition of Kirkhill-TA CO., a former Esterline subsidiary, by TransDigm in 2018. The Kirkhill acquisition took place within two years of the present transaction, but lacked EU dimension. There were no horizontal overlaps or vertical links between the activities of Kirkhill and those of TransDigm.

both commercial and military aircraft[...]. The commercial aircraft category includes:

- (i) large commercial aircraft[...] (over 100 seats, which can cover a range of more than 2,000 nautical miles);
- (ii) regional aircraft[...] (between 30 and 90 seats, which can cover a range of less than 2,000 nautical miles); and
- (iii) business/corporate aircraft[...]/jets, designed for corporate activities.

4.2. Supply chain

- (9) The supply chain in the aerospace industry mainly includes different types of suppliers: Tier-1 and Tier-2 suppliers (sometimes Tier-3 suppliers also exist). Tier-1 suppliers generally have integration capabilities and provide whole systems and equipment. Tier-2 suppliers tend to be active at an upstream stage, supplying components and sub-components, which are later integrated into the systems/equipment by either the aircraft manufacturer or the Tier-1 supplier (or third-parties system integrators). Tier-3 suppliers, further upstream in the supply chain, are active in the supply of components to Tier-2 suppliers.
- (10) On the demand side, different types of customers purchase systems and equipment depending on the type of aircraft considered.
 - a) For large commercial aircraft[...]: depending on the system/equipment considered, purchasers are either (i) aircraft manufacturers ("airframers" or "OEM manufacturers") with significant integration capabilities or (ii) end users – *inter alia* airlines, lessors and national governments – which sometimes directly purchase certain equipment and systems from the Tier-1 supplier;
 - b) Regional aircraft[...]/corporate jets: systems and equipment are usually purchased by aircraft manufacturers who then resell the whole aircraft to end-users; and
 - c) Military aircraft and helicopters: systems and equipment are usually purchased by aircraft and helicopter manufacturers, in some cases also the Ministry of Defence depending on the equipment or system considered. Helicopter/military aircraft manufacturers will in any case provide the integration of main systems and equipment.
- (11) The Parties mainly operate as Tier 2 suppliers, but also have a Tier 1 and Tier 3 position for certain products.

4.3. Procurement process

- (12) In most cases, customers in the aircraft manufacturing industry source systems and equipment by means of competitive tender offers, often for the duration of the aircraft programme in question. The structure of the tender process can vary according to the aircraft type, customer involved or platform in question. Generally, the procedure involves a request for quotation ("RFQ"), the

submission of competitive offers, followed by [...] one or more rounds of final negotiations and by the provider selection.

- (13) Aircraft manufacturers can either source products through build-to-print or build-to-specification ("build-to-spec") processes. The build-to-print process requires the supplier to manufacture equipment, systems and components to the exact specifications provided by the customer. The build-to-specification process, on the other hand, allows the supplier to use its own design (including proprietary design) and manufacturing skills.
- (14) In addition to providing components to OEM manufacturers, suppliers also provide components to the aftermarket. Aftermarket products and services generally include the supply of spare parts, repair services and retrofit.
- (15) The procurement process for equipment and systems for military aircraft follows a specific pattern. Due to the low volume of aircraft[...] and to the complexity of the integrated systems, the procurement process requires close cooperation between the airframer, the system supplier and the national procurement authority acting on behalf of the end-users.

5. MARKET DEFINITION

5.1. Product market definition

- (16) The Parties' activities overlap in the supply of aerospace components in two main areas: (i) sensors, and (ii) clamps. This section also covers relevant markets whose vertical links give rise to vertically affected markets, namely (i) switches for electric switch boxes, (ii) relays for wire harnesses and cables, and (iii) rods for Ram air outlet package

Horizontal links

5.1.1. Sensors

- (17) Sensors are electronic components that have a given function, that is measuring a certain property, such as temperature, pressure, position, acceleration, and respond with feedback for analysis to a computer processor. In some instances (this is the case of both Parties), sensors are also supplied within assemblies, an integrated solution that combines wire harnessing (that is, wiring with a connector on either end) and one or more sensors.
- (18) The Commission has previously briefly analysed the market for sensors in the aerospace sector in *Safran/Zodiac Aerospace*.⁵ The Commission in that case did not ultimately decide whether the market should be further divided into different types of sensors as no competition issues were deemed to arise under any plausible alternative market definition.⁶ Outside of the aerospace industry, the Commission has previously analysed the market for sensors in the automotive sector and defined separate product markets for different types of sensors based

⁵ Case M.8425, *Safran/Zodiac Aerospace*.

⁶ *Safran/Zodiac Aerospace*, para 233.

on their function (*i.e.* temperature sensors, pressure sensors, level sensors, speed sensors, accelerometers).⁷

- (19) The Notifying Party considers that there is no need to segment the market for sensors for the following reasons.
- (20) First, based on the high degree of supply-side substitutability, it considers that there is no need for a segmentation based on (i) the sensor's function (*i.e.* the physical parameter measured, such as temperature, speed, pressure, *etc.*); (ii) the application for which a sensor is used (*i.e.* in engines, landing gear, fuel system, *etc.*); or (iii) the type of platforms on which it is deployed (*i.e.* different types of aircraft, commercial or military).
- (21) Second, it considers that there is no requirement to further segment the market on the basis of supply to (i) OEMs and aircraft manufacturers for original parts and as spares ("OEM channel") and (ii) providers of maintenance, repair and overhaul services ("MROs") and airlines for repair and overhaul on the aftermarket ("aftermarket channel"), as similar competitive conditions apply equally in both scenarios.
- (22) In addition, the Notifying Party considers that harness assemblies used in combination with sensors in order to obtain sensor assemblies do not constitute separate products given that they are mostly sold as an integrated component of the Parties' engine temperature sensors. The Notifying Party applies the same reasoning in order to conclude that thermocouples (*i.e.* components used with engine temperature sensors) do not constitute a separate product.
- (23) With respect to sensors and their classification according to the abovementioned criteria, the market investigation has triggered mixed replies.
- (24) As to the possible segmentation of the overall market for sensors according to the function or parameter measured (temperature, speed, pressure, *etc.*), some respondents argue that, from a demand side, different technologies apply and different performances are required from different sensors.⁸ Sensors, some argue, should be divided based on the parameter they measure (*i.e.* temperature, pressure, speed) or the environment (*i.e.* engine, airframe, avionics) they operate in.⁹
- (25) From a supply-side perspective, at the same time, substitutability appears to be possible to a certain extent and subject to certain conditions (suppliers' size,¹⁰ ability to invest the resources needed to carry the necessary R&D, to acquire the technology and the time necessary to obtain product approval by customers).¹¹

⁷ Case No IV/M.1053, *Mannesmann/Philips*.

⁸ Reply by Thermocoax to question 7.1 of Q1 questionnaire to competitors of 5 February 2019.

⁹ Replies to question 7.1 of Q2 to customers of 5 February 2019, in particular those by MTU Maintenance and Leonardo.

¹⁰ Reply by Thermocoax to question 8.1 of Q1 questionnaire to competitors of 5 February 2019.

¹¹ Replies to question 8.1 of Q2 to customers of 5 February 2019.

- (26) As to a possible segmentation of sensors depending on the application for which a sensor is used (*i.e.* in engines, landing gear, fuel system, *etc.*), respondents have submitted mixed replies.¹²
- (27) As to a possible segmentation between sensors supplied for installation on different platforms, the results of the market investigation appear to exclude a distinction between sensors used on the various aircraft[...] or platforms (large aircraft[...], regional aircraft[...] and corporate jets and commercial or military platforms).¹³
- (25) Further, several respondents indicate that a segmentation between sensors supplied through the OEM and the aftermarket channels is not necessary, due to the fact that the products and the suppliers are essentially the same across the two channels.¹⁴
- (26) As to the possible segmentation between sensors supplied in isolation and as a component of a sensor assembly including a harness, there is no indication, in the replies to the market investigation, that such segmentation is necessary.¹⁵ In addition, customers indicate that supply-side substitutability between sensors supplied on a standalone basis and as components of an assembly is possible, due to low switching costs.¹⁶ The same applies to thermocouples.
- (27) In any event, for the purposes of this Decision, it can be left open whether the market for sensors should be segmented, since no serious doubts as to the compatibility of the notified concentration with the internal market arise under any plausible market definition.

5.1.2. *Clamps*

- (28) Clamps provide support and restraint to minimise or eliminate the negative effects of vibration and shock loads. They typically consist of a metal ring with an elastomer cushion. Different providers however also supply clamps in a variety of material types, latching mechanisms and shapes depending on the specific design and installation requirements.
- (29) The Commission has not previously examined the market for clamps. It has however, considered the market for fasteners,¹⁷ a product with similar characteristics and use.¹⁸ In particular, it found that aerospace fasteners should be

¹² Replies to questions 9 and 9.1 of Q2 to customers of 5 February 2019.

¹³ Replies to questions 16.1 and 17.1 of Q2 to customers of 5 February 2019.

¹⁴ Replies to questions 15 and 15.1 of Q2 to customers of 5 February 2019.

¹⁵ Replies to questions 12, 12.1, 13, 13.1 and 13.2 to Q1 to competitors and replies to questions 12, 12.1, 13, 13.1 and 13.2 to Q2 to customers of 5 February 2019.

¹⁶ Replies to questions 13.2 of Q2 to customers of 5 February 2019.

¹⁷ M.2928, *Alcoa/Fairchild* and M. 8985, *Boeing/KLX*.

¹⁸ Fasteners and clamps are both largely commoditised components used to attach one component to another within an aircraft. However, they serve quite different purposes and are not substitutable from a demand or supply perspective. Clamps are generally designed to “cradle” cylindrical components and assemblies such as wire harnesses, ducts, tubes and hosing, which by their nature require a fastening device through which they can be threaded. Fasteners, by contrast, are more akin to standard screws and bolts, and provide a means of attaching (generally non-cylindrical) parts to a structure or airframe.

distinguished from other mainstream fasteners for industrial applications. The Commission also considered further segmentations according to (i) the type of aircraft platforms (*i.e.* between large commercial aircraft, regional commercial aviation, etc.) and (ii) the application for which fasteners are used on each aircraft (*e.g.* airframe applications, engine applications, *etc.*) but, eventually, did not reach a conclusion on these potential segments.¹⁹

- (30) The Notifying Party considers that, similarly to fasteners, clamps for aerospace application constitute a distinct market. It however submits that there is no need to further segment the market for clamps for the following reasons. First, based in particular on supply-side substitutability arguments, it considers that there is no need for a segmentation based on (i) the type of aircraft platform; (ii) the application for which clamps are used on each aircraft (*i.e.* engine or airframe); and (iii) whether the clamps are “standard” clamps (*i.e.* clamps that are built to common specifications using industry-standard materials) or “specialty” clamps (*i.e.* clamps that have a proprietary design or proprietary material elements for specific customers needs, for instance to achieve certain higher performance parameters in the engine).
- (31) Second, it considers that there is no requirement to further segment the market based on whether clamps are supplied (i) to the OEM or aftermarket channels or (ii) for commercial or military applications given that competitive conditions remain homogeneous in all cases.
- (32) With respect to clamp classification, the market investigation has triggered mixed replies. A majority of respondents, particularly among customers, indicates that clamps for aerospace use are different from common clamps for industrial use.²⁰
- (33) As to a possible segmentation of aerospace clamps, based on the type of aircraft/platform they are installed on, respondents to the market investigation indicate that clamps are standard components and do not vary according to the platform they are installed on.²¹
- (34) In relation to any possible alternative segmentation of clamps based on the type of application (*e.g.* airframe application, engine application, fuel applications) the results of the market investigation do not seem to support such distinction.²²
- (35) As to the possible distinction between standard and specialty clamps, the market investigation led to mixed replies. The majority of respondents among competitors does not support the distinction,²³ while a majority of respondents among customers indicates that, from a demand side perspective, such distinction exists.²⁴ As to supply-side substitutability, competitors and customers have submitted mixed replies.²⁵ Some customers indicate that suppliers of standard

¹⁹ *Alcoa/Fairchild*, para 11.

²⁰ Replies to questions 19 and 19.1 of Q2 questionnaire to customers of 5 February 2019.

²¹ Replies to questions 20 and 20.1 of Q1 to competitors and of Q2 to customers of 5 February 2019.

²² Replies to questions 24, 24.1, 24.1.1, 24.2, 24.2.1 of Q1 to competitors and replies to questions 23, 23.1, 23.1.1, 23.2 and 23.2.1 of Q2 to customers of 5 February 2019.

²³ Replies to questions 21 and 21.1 of Q1 to competitors of 5 February 2019.

²⁴ Replies to questions 21 and 21.1 of Q2 to customers of 5 February 2019.

²⁵ Replies to questions 22, 22.1, 23 and 23.1 of Q1 to competitors of 5 February 2019; replies to questions 22 and 22.1 to Q2 to customers of 5 February 2019.

clamps may not be able to start manufacturing specialty clamps, due to intellectual property rights and other barriers to switching.²⁶ As to a possible segmentation of clamps based on the production material, the market investigation triggered mixed replies²⁷ and was thus inconclusive. One competitor suggests a possible distinction, within specialty clamps, between low-temperature and high-temperature clamps.²⁸

- (36) Competitors provided mixed replies as to the possible segmentations between (i) clamps for the OEM market and the aftermarket and (ii) clamps for commercial platform use and defence platform use.²⁹ Replies from customers seem to reject such additional segmentations.³⁰
- (37) Based on the results of the market investigation, the Commission considers that a basic distinction would appear to exist between clamps for aerospace use and for generic industrial use. However, for the purposes of this Decision, the question whether the market for aerospace clamps should be further segmented can be left open, as the concentration does not raise serious doubts as to its compatibility with the internal market, regardless of the definition adopted.

Vertical links

5.1.3. Switches for electric switch boxes

- (38) Switches and buttons are installed within cockpit control panels for use by pilots to direct various functions within an aircraft. The Commission has previously identified a distinct product market for cockpit components, including push-buttons, switches and toggles.³¹
- (39) On the downstream market, switches and buttons are incorporated as components within electric switch boxes, which are used to re-direct and re-arrange power cables. The Notifying party considers that electric switch boxes belong to the wider market for harnesses and cable assemblies, given that these are also means to re-direct and re-arrange power cables.³²
- (40) The Commission considers that, for the purposes of this Decision, the exact market definition of both the market for switches and buttons and the downstream market for electric switch boxes can be ultimately left open, as the vertical link between these markets does not raise serious doubts as to its compatibility with the internal market, regardless of the definition adopted.

²⁶ Replies by Pattonair and Rolls-Royce to question 22.1 of Q2 to customers of 5 February 2019.

²⁷ Replies to questions 25, 25.1, 25.1.1, 25.2, 25.2.1 of Q1 to competitors and replies to questions 24, 24.1, 24.1.1 and 24.2 of Q2 to customers of 5 February 2019.

²⁸ Reply by Step’N Components to question 25.1.1 of Q1 to competitors of 5 February 2019.

²⁹ Replies to questions 26, 26.1, 27 and 27.1 of Q1 to competitors of 5 February 2019.

³⁰ Replies to questions 25, 25.1, 26 and 26.1 of Q2 to customers of 5 February 2019.

³¹ *Safran/Zodiac Aerospace*, paras 183(d) and 194.

³² In this respect, see the product market definition previously considered by the Commission at paragraph 42 below.

5.1.4. Relays for wire harnesses and cables

- (41) Relays and relay sockets are commodity products. Relays are electro-mechanical devices which perform the task of switching electrical circuits, and form part of an aircraft's electrical distribution system. The Commission has previously analysed the market for these products in *Safran/Zodiac Aerospace*, but its market investigation was not conclusive as to whether and how the market for different distribution components should be segmented. The Commission ultimately left the market definition open.³³
- (42) On the downstream market, relays are incorporated in wire harness and cable assemblies. The Commission has previously considered a potential worldwide market for aerospace wiring systems (defined as “*assemblies of cables, called harnesses, designed to transmit electrical power, data and/or signals between two or more termination points*”) but ultimately left the definition open.³⁴ The Commission also identified separate relevant product markets for the following wiring components: (i) cables; (ii) conduit and sleeves; (iii) backshells and fittings; and (iv) connectors.³⁵
- (43) The Commission considers that, for the purposes of this Decision, the exact market definition of both the market for relays and relay sockets and the downstream market for wire harnesses and cables can be ultimately left open, as the vertical link between these markets does not raise serious doubts as to its compatibility with the internal market, regardless of the definition adopted.

5.1.5. Rods for ram air outlet package

- (44) Rods, made of metal or of composite materials, can be used for multiple applications, within the aerospace industry, including flight control, aircraft structure and door mechanisms.
- (45) Downstream, among various applications, rods are used into ram air outlets. The ram air outlet is a dual outlet channel used to enable the aircraft's air generation unit to exhaust ram airflow. Ram airflow is used to transfer heat from the engine bleed air supply and cool it down before it enters the cabin air distribution system.
- (46) While the Commission has previously considered various other aerospace components to be found within flight control,³⁶ it has not yet considered a specific product market for rods in the aerospace. The Commission has also not yet considered the market for ram air outlet systems.
- (47) The Commission considers that, for the purposes of this Decision, the exact market definition of both the market for rods and the downstream market for ram air outlet systems can be ultimately left open, as the vertical link between these markets does not raise serious doubts as to its compatibility with the internal market, regardless of the definition adopted.

³³ *Safran/Zodiac Aerospace*, paras 66 and 67.

³⁴ *Safran/Zodiac Aerospace*, para 205.

³⁵ *Safran/Zodiac Aerospace*, para 207.

³⁶ Most notably in M.8425 – *Safran/Zodiac Aerospace*, sections 5.8-5.10.

5.2. Geographic market definition

- (48) In *Safran/Zodiac Aerospace*³⁷ and in *UTC/Rockwell Collins*,³⁸ the Commission found that markets for aviation components and systems are worldwide in scope.³⁹ The Commission examined a possible narrower geographic scope (*i.e.* EEA-wide, or even national) for systems and components for defence and military applications, but ultimately left such definition open.⁴⁰ The Notifying Party agrees with the Commission's approach on the worldwide dimension of the relevant markets and argues that it is not necessary to adopt a narrower market definition for components for defence or military application.
- (49) In this respect, the replies to the market investigation by competitors were mixed (some rejected the notion of a global market, others agreed with it),⁴¹ while customers consistently indicated that the geographic market for sensors, clamps and other components addressed in this Decision (and the possible segments thereof) are global in scope.⁴²
- (50) In any event, the Commission considers that the exact geographic market definition, for the purposes of this Decision, can be left open in relation to all relevant product markets, as the concentration does not raise serious doubts as to its compatibility with the internal market, regardless of the definition adopted, namely worldwide or EEA-wide.

6. COMPETITIVE ASSESSMENT

- (51) Pursuant to Article 2(2) and 2(3) of the Merger Regulation, the Commission is required to examine whether notified concentrations are to be declared compatible or incompatible with the internal market by assessing whether they 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.
- (52) In this respect, a merger may entail horizontal and/or non-horizontal effects. Horizontal effects are those deriving from a concentration where the undertakings concerned are actual or potential competitors of each other in one or more of the relevant markets concerned. Non-horizontal effects are those deriving from a concentration where the undertakings concerned are active in different relevant markets. As regards non-horizontal effects, two broad types of such effects may be distinguished: vertical effects and conglomerate effects. Vertical effects are those deriving from a concentration where the undertakings concerned are active at different levels of the supply chain. Conglomerate effects may result from mergers between firms that are in a relationship, which is neither horizontal (as competitors in the same relevant market) nor vertical (as suppliers or costumers)

³⁷ *Safran/Zodiac Aerospace*, para 298.

³⁸ *UTC/Rockwell Collins*, para 207 ss.

³⁹ *Safran/Zodiac Aerospace*, paras 297-298.

⁴⁰ *Safran/Zodiac Aerospace*, para 300.

⁴¹ Replies to questions 30 and 30.1 of Q1 to competitors of 5 February 2019.

⁴² Replies to questions 29 and 29.1 of Q2 to customers of 5 February 2019.

- (53) The Commission appraises horizontal effects in accordance with the guidance set out in the relevant notice, that is to say the Horizontal Merger Guidelines.⁴³ Additionally, the Commission appraises non-horizontal effects in accordance with the guidance set out in the relevant notice, that is to say the Non-Horizontal Merger Guidelines.⁴⁴
- (54) As noted above, TransDigm and Esterline are both suppliers of aerospace components and systems. However, the Notifying Party submits that their respective portfolios of products are largely complementary and that their activities only overlap horizontally for a limited amount of products.
- (55) The Commission's investigation confirms that the Parties' activities are largely complementary. Against this background, the concentration would give rise to horizontally affected markets only in respect to (i) certain types of sensors (particularly temperature sensors) (Section 6.1.1) and (ii) aerospace clamps (Section 6.1.2).⁴⁵
- (56) The concentration also gives rise to three vertically affected markets with regard to the supply of: (i) switches for electrical switch boxes; (ii) relays for wire harnesses and cables; and (iii) rods for ram air outlet package. These markets are discussed in Section 6.2.
- (57) Finally, the Commission has also considered, in Section 6.3, the question of whether the concentration would raise conglomerate concerns since the Parties are active on a number of potentially related aerospace systems and components markets or segments.⁴⁶

⁴³ Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Horizontal Merger Guidelines"), OJ C 31, 05.02.2004.

⁴⁴ Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Non-horizontal Merger Guidelines"), OJ C 265/6, 18.10.2008.

⁴⁵ The Parties are also both active on the markets for (i) pilot controls and (ii) Solid-state Power Controllers (SSPCs). However, the Parties' combined market shares on these markets and on any potential sub-segments within these markets are below 20% and these markets are therefore not horizontally affected.

⁴⁶ On day 23 of its phase 1 investigation, the Commission received a complaint from a customer of the Parties. This complaint does not relate to a specific type of product which is supplied by either TransDigm or Esterline but relates more generally to products for which Esterline is in a sole-producer position (i.e. the situation where a customer obtains a particular product or system exclusively from a single supplier). The complainant is concerned that TransDigm would impose price increases on sole-sourced aerospace parts that it supplies from Esterline. The complainant also notes that its ability to switch to other suppliers is limited without providing further details on why this is the case. In support of its concerns, [...]. With respect to this complaint, the Commission notes that the potential barriers to switching in the case of products that are sole-sourced from Esterline already existed before the Transaction and would be the result of a customer's commercial choice to award a given contract to only one single supplier. In addition, as set out in this Decision, the Commission considers that sufficient alternatives will remain on the market for all the products and bundles of products which are offered by the merged entity. The Commission therefore considers that the Transaction will not result in an increase of the potential barriers to switching for products that are sole-sourced from the Parties. Moreover, the Commission considers that the present complaint is not merger specific since the Transaction does not increase the merged entity's ability and incentive to impose price increases for products that are sole-sourced from Esterline.

6.1. Horizontal unilateral effects

6.1.1. Sensors

- (58) The Notifying Party submits that no competition concerns arise with respect to sensors given that (i) the Transaction only brings about a modest share increments globally and in the EEA; (ii) a number of strong competitors will continue to exert competitive pressure on the merged entity, including for engine temperature sensors; (iii) based on recent and upcoming tenders, [...];⁴⁷ (iv) the Parties' customers have significant countervailing negotiation power and could, if needed, start the production of sensors in-house or sponsor a new entrant; (v) the Parties are not the closest competitors; (vi) it is not possible to exercise any portfolio advantage through diversified sensor range; and (vii) market entry is relatively easy with low barriers to entry and expansion.
- (59) First, the Commission notes that on a market including all aerospace sensors the Parties have a limited combined market share. The Parties' combined market share in 2018 is below [10-20]% at the worldwide level and below [10-20]% at the EEA level with TransDigm representing an increment of less than [0-5]% both at the worldwide and EEA level.
- (60) Second, with respect to the potential segments and sub-segments on which the Parties overlap (namely, (i) temperature, (ii) speed and (iii) flow sensors⁴⁸), the Parties' combined market shares remain moderate. The Parties' combined market shares always remain below [20-30]% except for temperature sensors for which the Parties' combined market share is [20-30]% at the worldwide level ([5-10]% share increment) and [20-30]% at the EEA level ([0-5]% share increment). Within temperature sensors, the Parties' combined market shares are below [30-40]% for all the potential sub-segments except for engine temperature sensors at the worldwide level ([30-40]% with a [10-20]% share increment) and at the EEA level ([30-40]% with a [0-5]% share increment). With respect to the other potential segmentations discussed in Section 5.1.1, the Notifying Party did not provide market share estimates, but it has confirmed that it does not expect significant differences in the level of the Parties' combined market shares.
- (61) Third, the Commission notes that there are several large alternative competitors that will remain active in the aerospace sensors market and in the potential segments for temperature sensors and engine temperature sensors both at the worldwide and EEA level, including four competitors with a market share above 10% (*i.e.* Ametek, Meggit, UTC and GE⁴⁹). The market share of the Parties and their competitors on the potential market segments in which the combined market share of the Parties is above 25% (*i.e.* temperature sensors and engine temperature

⁴⁷ While the affected markets which are discussed in this decision are mostly bidding markets for which market shares - as opposed to bidding data - may not always provide a fully accurate picture of the actual competitive strength of market players, the Commission considers that, for the purposes of this decision, the 2018 market shares provided by the Parties and the additional evidence gathered as part of the market investigation provide sufficient evidence in order to conclude that the Transaction does not raise serious doubts as to its compatibility with the internal market.

⁴⁸ In addition to these segments, Esterline is active on the pressure sensors segment. [...]

⁴⁹ The Notifying Party also estimates that Honeywell has a market share of [10-20]% on a market including all aerospace sensors both at the worldwide and EEA level. However, Honeywell is not active in the potential temperature sensor and engine temperature sub-segments.

sensors⁵⁰) can be seen in Table 1. In addition, each of the below listed competitors offers a wide portfolio of different types of sensors.⁵¹

Table 1 – Temperature sensors and engine temperature sensors – 2018 – Worldwide and EEA

	Temperature sensors		Engine temperature sensors	
	Worldwide market share	EEA market share	Worldwide market share	EEA market share
TransDigm	[5-10]%	[0-5]%	[10-20]%	[0-5]%
Esterline	[10-20]%	[20-30]%	[10-20]%	[20-30]%
Combined	[20-30]%	[20-30]%	[30-40]%	[30-40]%
UTC	[20-30]%	[10-20]%	[10-20]%	[10-20]%
GE	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Meggitt	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Amatek(*)	[10-20]%	[10-20]%	[10-20]%	[10-20]%
Thermocoax	[0-5]%	[5-10]%	[0-5]%	[5-10]%
Others⁵²	c. [0-5]%	c. [10-20]%	>[0-5]%	c. [5-10]%

Source: Notifying Party's estimates (Form CO table 6.7; table 6.8 and annex 3)

- (62) Fourth, the market investigation has confirmed that TransDigm is not a strong competitor on the sensor markets including for temperature sensors. While certain respondents to the market investigation identified Esterline as a strong competitor on the sensor and temperature sensor markets, none of them identified TransDigm as a strong competitor on these markets.⁵³ In addition, none of the respondents identified Esterline and TransDigm as being close competitors for the supply of sensors.⁵⁴

⁵⁰ The Parties combined market share is also above 25% on the potential sub-sub-segment of Exhaust Gas Temperature ("EGT") sensors within the engine temperature sensors sub-segment. However, based on the Notifying Party's estimates, all of the Parties' competitors for engine temperature sensors also supply EGT sensors and their market shares are broadly equivalent.

⁵¹ For example, each of UTC, GE, Meggitt and Amatek(*) supply all types of temperature sensors, speed sensors and certain other types of sensors while other suppliers may specialize on one specific family of sensor products (temperature sensors for Thermocoax, speed sensors for Honeywell, air flow sensors for FCI Aerospace and Crance(**) Co., etc.).

⁵² For example, ADZ Nagano, Eltek Systems and Memscap.

⁵³ See responses to questions 32 and 33 of Q1 – Questionnaire to competitors and 31 and 32 of Q2 – Questionnaire to customers.

⁵⁴ See responses to questions 39 of Q1 – Questionnaire to competitors and 36 of Q2 – Questionnaire to customers.

(*) Should read Ametek.

(**) Should read Crane.

- (63) Finally, the vast majority of the respondents do not expect that the Transaction would have any impact on the market for the supply of sensors or temperature sensors and none of the respondent have expressed any specific complaints with respect to the impact of the Transaction on the supply of sensors.⁵⁵
- (64) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts regarding the compatibility of the concentration with the internal market with respect to the market for the supply of sensors.

6.1.2. Clamps

- (65) The Notifying Party submits that no competition concerns arise with respect to clamps given that (i) the Parties are not close competitors; (ii) a number of strong competitors will continue to exert competitive pressure on the merged entity; (iii) the Parties' customers have significant countervailing negotiation power and could, if needed, start the in-house production of clamps or sponsor a new entrant; (iv) market entry is relatively easy with low barriers to entry and expansion; in particular a supplier of standard clamps can easily expand into specialty design clamps with a limited investment.
- (66) First, the Commission notes that on a market including all aerospace clamps the Parties' combined market share will be limited at the EEA level and will remain moderate at the worldwide level. The Parties' combined market share in 2018 is [10-20]% at the EEA level with TransDigm only representing a [0-5]% share increment and [20-30]% at the worldwide level ([5-10]% share increment).
- (67) Second, with respect to the potential segments and sub-segments on which the Parties overlap (namely, (i) standard clamps; (ii) specialty clamps; and (iii) specialty clamps for high temperature application), the Transaction does not give rise to any affected market at the EEA level. At the worldwide level, the market for standard clamps is also not affected given that the Parties combined market share is below [10-20]%. As regards specialty clamps at the worldwide level, the Parties' combined market shares is approximately [30-40]% with TransDigm representing an increment of approximately [5-10]% both on a potential market segment including all the specialty clamps and on a potential sub-segment for specialty clamps for high temperature application. With respect to the other potential segmentations which are discussed in section 5.1.2, the Notifying Party did not provide market share estimates, but it has confirmed that it does not expect significant differences in the level of the Parties' combined market shares.
- (68) Third, the Commission notes that there are a number of alternative competitors that will remain active in the aerospace clamps market and in the potential segments for specialty clamps and specialty clamps for high temperature application at the worldwide level. The market share of the Parties and their competitors on the affected clamps market and potential market segments (*i.e.* all aerospace clamps and specialty clamps at the worldwide level) can be seen in Table 2. In addition, a number of the below listed competitors offer both standard and specialty clamps (*i.e.* UMPCO, J&M, Pacmet, Caillau).

⁵⁵ See responses to questions 43, 44 and 45 of Q1 – Questionnaire to competitors and 40, 41 and 42 of Q2 – Questionnaire to customers.

Table 2 – All aerospace clamps and specialty clamps – 2018 – Worldwide

	All aerospace clamps	Specialty clamps
TransDigm	[5-10]%	[5-10]%
Esterline	[20-30]%	[30-40]%
Combined	[20-30]%	[30-40]%
UMPCO	[5-10]%	[0-5]%
J&M	[10-20]%	[5-10]%
Voss	[10-20]%	[20-30]%
Pacmet	[0-5]%	[0-5]%
Caillau	[5-10]%	[5-10]%
Ho-Ho-Kus	[0-5]%	-
National Utilities	[0-5]%	-
Others⁵⁶	c. [20-30]%	c. [20-30]%

Source: Notifying Party's estimates (Form CO table 6.11 and annex 3)

- (69) With respect to the potential sub-segment for specialty clamps for high temperature application - which is also affected - the Parties have explained that they are unable to provide market shares estimates with any certainty given that they do not track competitor presence on such a segment.⁵⁷ The Parties however consider that the market shares of their competitors on the sub-segment for specialty clamps for high temperature application should be broadly in line with the above market shares for specialty clamps. In addition to the above listed competitors, the Parties also estimate that ESPA/Hutchinson has a market share of approximately [5-10]% on the worldwide market for specialty clamps for high temperature application.
- (70) Among the suppliers of specialty clamps for high temperature application, there is a distinction between certain suppliers that produce their own elastomeric material such as Esterline and others that need to buy this material from third party suppliers in order to be able to manufacture clamps that are suitable for high temperature application such as TransDigm. The Parties have explained that, to the best of their knowledge, there are two other competitors that, similar to Esterline, use their own proprietary material for supplying clamps for high temperature namely ESPA/Hutchinson and Pacmet. As for the other competitors,

⁵⁶ This category includes in particular a number of suppliers that the respondents to the market investigation have identified as being part of their current clamps suppliers. For example, Amphenol, A Pooles and Sons, Eaton Aerospace, Breeze Clamps, Norma, etc.

⁵⁷ Notifying Party's supplementary submission on the clamps market; and Notifying Party's response to RFI 5.

they purchase elastomeric material for incorporation in their clamp products from a number of third party suppliers including for example Santa Fe Rubber, S&H Rubber Inc., Goodyear Rubber Co, West Coast Gasket, Custom Fabricated Product, Wacker, Volker, DuPont and AGC.⁵⁸

- (71) Fourth, the Parties are not close competitors for clamps. As explained above, unlike Esterline, TransDigm does not have manufacturing capability for the elastomeric material used in clamps for high temperature application. In addition, TransDigm's offering is restricted to metal clamps whereas Esterline also supplies clamps made of other materials (*e.g.* plastic). Esterline also has a stronger focus on specialty clamps. This is largely confirmed by the results of the market investigation. In particular, a large majority of customers have indicated that they do not consider TransDigm and Esterline to be close competitors on clamps with one respondent stating for example "*Transdigm and Esterline provide different types of clamps*".⁵⁹
- (72) Fifth, most of the respondent to the market investigation (in particular customers) do not anticipate that the Transaction could have an adverse impact on the market for clamps.⁶⁰ In this regard, one respondent has for example explained that it sees clamps as a "commodity".⁶¹ A number of respondents (in particular competitors) have however indicated that the Transaction combines two large clamp players and could therefore result in price increases in particular for specialty clamps for high temperature application. In this regard, as explained in more details at paragraphs (69) to (72), the Commission considers that sufficient alternative suppliers would remain active in the clamps market including for the potential sub-segment of specialty clamps for high temperature application.
- (73) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts regarding the compatibility of the concentration with the internal market with respect to the market for the supply of clamps.

6.2. Vertical effects

- (74) Overall, the current and potential vertical relationships between the Parties are limited amounting to a total of less than USD [...].
- (75) The Notifying Party submits that no foreclosure concerns are likely to arise given (i) the presence of a large number of residual suppliers on each of the vertically affected markets and (ii) the limited downstream presence for each of the relevant

⁵⁸ Esterline also supplies elastomeric material downstream. However, this vertical relationship does not give rise to a risk of input foreclosure given that a number of alternative suppliers are active on the supply of elastomeric material (including for polybenzimidazole fiber where Custom Fabricated Products and AGC are two examples of alternative suppliers). In addition, none of the respondents to the market investigation raised specific concerns with respect to their supply of elastomeric materials.

⁵⁹ See responses to question 48 of Q2 – Questionnaire to customers and Airbus reply to question 48.1 of Q2 – Questionnaire to customers.

⁶⁰ See responses to questions 52 and 53 of Q2 – Questionnaire to customers and Questions 57 and 58 of Q1 – Questionnaire to competitors. In addition, the Commission has received additional feedback from certain market players by email.

⁶¹ See GKN Aerospace response to question 46.1 of Q2 – Questionnaire to customers.

vertical relationships which means that the rewards of an hypothetical input foreclosure strategy is highly unlikely to outweigh the costs.

6.2.1. *Switches for electrical switch boxes*

- (76) Esterline is active on the market with regard to the supply of switches and buttons for electrical switch boxes where, on the narrowest component basis, it has a worldwide market share for push-button switches of approximately [30-40]% (approximately [10-20]% at the EEA level). TransDigm is a customer in this market since it purchases various switches from Esterline.
- (77) As regards potential concerns related to input foreclosure, the merged entity would not have any incentive to foreclose access to Esterline's switches and buttons. Esterline generated total worldwide sales in 2018 of approximately USD [...] for push-button switches, while TransDigm's total spend on push button switches in 2018 was approximately USD [...].⁶² The rewards of foreclosing access to Esterline's switches and buttons would therefore not seem to compensate the reduction of sales in the switches and buttons market. Moreover, any potential foreclosure strategy is likely to be ineffective given that TransDigm has a very limited presence on the downstream market for electrical switch boxes where its market share is less than [0-5]% at the worldwide and EEA level⁶³ and several strong competitors are present on this market.
- (78) In addition, most of the respondents to the market investigation do not expect that the merged entity would have the ability and incentives to restrict third party access to push button switches or do not have a view on this question.⁶⁴
- (79) As regards potential concerns related to customer foreclosure, as mentioned above, the merged entity only has a very limited presence on the downstream market for electrical switch boxes. Hence, the merged entity would have no ability to foreclose in the first place. In the event that post-merger TransDigm were to source all its switches and buttons from Esterline, it would not materially change the competitive dynamics on the market for electrical switch boxes.
- (80) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts regarding the compatibility of the concentration with the internal market with respect to potential foreclosure strategies in relation to the supply of switches and buttons for electrical switch boxes.

⁶² TransDigm total purchases from Esterline were approximately USD [...] in 2018 and approximately USD [...] in 2017. TransDigm accounts for less than [0-5]% of Esterline's total sales of push button switches at the worldwide and at the EEA level.

⁶³ TransDigm's activity is similarly very limited on the wider downstream market for wire harnesses and cable assemblies. On such a market, TransDigm's market share remains below [0-5]% at the worldwide and EEA level.

⁶⁴ See responses to question 57 of Q2 – Questionnaire to customers. It should however be noted that a significant number of respondents indicated that they are not sufficiently informed in order to take a view.

6.2.2. *Relays for wire harnesses and cables*

- (81) Esterline is active on the market with regard to the supply of aerospace relays for wire harnesses and cables where, it has a worldwide market share of approximately [40-50]% at the worldwide level and approximately [40-50]% at the EEA level. TransDigm is a customer in this market since it purchases relays and relay sockets from Esterline.
- (82) As regards potential concerns related to input foreclosure, the merged entity would not have any incentive to foreclose access to Esterline's aerospace relays. Esterline generated total worldwide sales in 2017 of approximately USD [...] for relays, where its sales to TransDigm amounted to USD [...] in total.⁶⁵ While Esterline only made up approximately [...] of TransDigm's total spend on relays and relay sockets, TransDigm's total spend (*i.e.* from Esterline and other third party suppliers) still constitutes [...] of Esterline's total sales of relay and relay sockets. The rewards of foreclosing access to Esterline's relays and relay sockets would therefore not seem to compensate the reduction of sales in the relays and relay sockets market. Moreover, any potential foreclosure strategy is likely to be ineffective given that TransDigm has a very limited presence on the downstream market for wire harnesses and cables where its market share is less than [0-5]% at the worldwide and EEA level⁶⁶ and several strong competitors are present on this market.
- (83) In addition, most of the respondents to the market investigation indicated that they do not expect that the merged entity would have the ability and incentives to restrict third party access to relays and relay sockets or do not have a view on this question.⁶⁷
- (84) As regards potential concerns related to customer foreclosure, as mentioned above, the merged entity only has a very limited presence on the downstream market for wire harnesses and cables. Hence, the merged entity would have no ability to foreclose in the first place. In the event that post-merger TransDigm were to source all its relays and relay sockets from Esterline, it would not materially change the competitive dynamics on the market for wire harnesses and cables.
- (85) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts regarding the compatibility of the concentration with the internal market with respect to potential foreclosure strategies in relation to the supply of relays for wire harnesses and cables.

6.2.3. *Rods for ram air outlet package*

- (86) TransDigm is active on the market with regard to the supply of rods for ram air outlet package, where it has a market share for rods for aerospace applications of

⁶⁵ TransDigm accounts for less than [0-5]% of Esterline's total sales of push button switches at the worldwide and less than 5% at the EEA level.

⁶⁶ TransDigm's activity is similarly very limited on the wider downstream market for wire harnesses and cable assemblies. On such a market, TransDigm's market share remains below [0-5]% at the worldwide and EEA level.

⁶⁷ See responses to question 60 of Q2 – Questionnaire to customers.

approximately [30-40]% at the worldwide level and approximately [30-40]% at the EEA level.⁶⁸ Esterline is a customer in this market since it purchases relays and relay sockets from TransDigm.

- (87) As regards potential concerns related to input foreclosure, the merged entity would not have any incentive to foreclose access to TransDigm's rods for aerospace applications. TransDigm currently generates total worldwide sales of rods of approximately USD [...], while Esterline's total spend on rods in 2018 amounted to less than USD [...].⁶⁹ The rewards of foreclosing access to TransDigm's rods would therefore not compensate the reduction of sales in the rods market. It is therefore highly unlikely that the merged entity would engage in such a strategy. Moreover, any potential foreclosure strategy is likely to be ineffective given that Esterline has a limited presence on the downstream market for ram air outlet systems where its market share is less than 5% at the worldwide and EEA level and several strong competitors are present on this market.
- (88) In addition, none of the respondents to the market investigation expects that the merged entity would have the ability and incentives to restrict third party access to rods for aerospace applications.⁷⁰
- (89) As regards potential concerns related to customer foreclosure, as mentioned above, the merged entity only has a limited presence on the downstream market for ram air outlet systems. Hence, the merged entity would have no ability to foreclose in the first place. In the event that post-merger Esterline were to source all its rods from TransDigm, it would not materially change the competitive dynamics on the market for wire harnesses and cables.
- (90) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts regarding the compatibility of the concentration with the internal market with respect to potential foreclosure strategies in relation to the supply of rods for ram air outlet package.

6.3. Conglomerate effects

- (91) Pursuant to the Non-Horizontal Merger Guidelines, in most circumstances, conglomerate mergers do not lead to any competition problems. However, foreclosure effects may arise in conglomerate mergers when the combination of products in related markets may confer on the merged entity the ability and incentive to leverage a strong market position from one market to another closely related market by means of tying or bundling or other exclusionary practices.
- (92) The Transaction could potentially lead to conglomerate effects since (i) it will allow the merged entity to broaden its portfolio of aerospace systems and components; and (ii) the merged entity will hold market shares above 30% on a

⁶⁸ TransDigm' market share is similar on potential narrower markets segmented according to the material used. In addition, Esterline uses these rods [...].

⁶⁹ [...].

⁷⁰ See responses to question 62 of Q2 – Questionnaire to customers.

number of potentially related aerospace systems and components markets or segments.⁷¹

- (93) The Commission has very recently considered and rejected conglomerate effects with respect to the supply of aerospace systems and components in the case *UTC/Rockwell Collins*. In particular, the Commission investigated whether that merged entity would be able to use the breadth of its portfolio to shut out competitors, through practices such as bundling or tying, and concluded that it would have neither the ability nor the incentive to engage in such strategies and harm competition.
- (94) The Notifying Party submits that the same reasoning and conclusion should apply in the present case given that (i) the Parties' products only account for a very small proportion of components within the major aircraft programs where they are both presents; (ii) there is nothing unique about the Parties' products as the Parties' customers will continue to have a range of alternatives to choose from post-Transaction; (iii) the structure of procurement in tenders for separate components and/or "packages" significantly limits the scope for pursuing any bundling strategies; (iv) the Parties' key customers are large powerful companies which are able to exercise significant negotiating leverage and employ a combination of strategies to discipline components suppliers; and (v) the Parties' competitors are large diversified aerospace companies which could easily replicate any hypothetical bundling strategies adopted by the Parties.
- (95) In this respect, the Commission firstly notes that, taking a broad perspective on the importance of the merged entity, while TransDigm and Esterline are both present to varying degrees on each of the ten major existing large commercial aircraft platforms⁷² and regional and business jets platforms,⁷³ their products account for only a very small proportion of components within any of those aircraft programmes. By way of example, a Boeing 737 family aircraft or an Airbus A320 family aircraft costs in the region of USD 100 million. On either of those platforms, the cost of TransDigm's components would represent well below [0-5]%.⁷⁴ This would also generally be the case for Esterline's products, which estimates that the value of its components on each of the programmes above would not exceed [0-5]% of the cost of each aircraft.
- (96) Second, while the market investigation has showed that there is a certain room for commercial bundling,⁷⁵ it has also confirmed that customers, some of which may

⁷¹ In addition to the horizontally and vertically affected markets that are discussed in this decision, these include the worldwide market for (i) aerospace knobs where Esterline has a [30-40]-[30-40]% market share, (ii) rotary switches where, on the narrowest component basis, Esterline has a [30-40]-[40-50]% market share, and (iii) for cockpit components such as push buttons, switches and knobs where Esterline has a market share of approximately [30-40]%.

⁷² The Parties consider that the following ten programmes represent the vast majority of large commercial aircraft in operation at present: (i) Boeing: 737NG, 737MAX, 767, 777, 787; and (ii) Airbus: A320, A320Neo, A330, A50, A380.

⁷³ The Notifying Party considers the following ten programmes to be the most significant regional and business jet platforms, based on current build rates (i.e. the number of aircraft currently in production): (i) Embraer: 170/175, 190/195, Phenom 300; (ii) Airbus: A220; (iii) Bombardier: CRJ 900, Global 5000; (iv) Cessna: Citation, Latitude; (v) Hawker: Kingair; and (vi) Gulfstream: G650.

⁷⁴ This would also be true of larger aircraft platforms like the Boeing 787 and Airbus A250, and smaller regional and business jet platforms.

⁷⁵ See responses to question 66 of Q2 – Questionnaire to customers.

hold a significant buyer power due to the concentrated structure of the market, are generally in the driving seat to formulate the scope of the tenders. For example, with respect to potential bundles including several type of aerospace sensors, one customer stated “*some sensors may deliberately be split into packages*”⁷⁶ and another one “*depending on programme procurement policy, sensors may be procured in global work packages or individually*”.⁷⁷

- (97) Third, only a fraction of respondents to the market investigation identified products of the merged entity, which they considered to be unique or a ‘must-have’ and which could therefore potentially help rendering a tying or commercial bundling scenario successful. These products however mostly concerned sensors and clamps for which, as explained above in sections 6.1.1 and 6.1.2, there will still be sufficient alternatives on the market following the Transaction. One respondent also specifically commented that there are no alternatives to the Parties for push button switches without however providing further explanation on how bundling and tying could materialize and how this could lead to harming competition. The Commission however considers that sufficient alternatives will remain on the market for push button switches. These include in particular Zodiac Aerospace (with a worldwide market share of approximately [30-40]%), Eaton (approximately [10-20]%), Applied Avionics (approximately [5-10]%), Ducommun (approximately [0-5]%) and Staco (approximately [5-10]%).
- (98) Fourth, following the Transaction, the merged entity will compete with a number of large diversified aerospace companies, which also offer a wide variety of products. These companies include for example UTC, Meggit and Honeywell. These companies’ product portfolios overlap with that of the merged entity for a significant number of products. As such, these companies would be able to adopt a number of counter strategies to nullify any attempt of the merger entity to foreclose them through bundling or discounting bundled products. For example, they could offer similar or different bundles and discounts of their own.
- (99) Finally, most of the respondents to the market investigation indicated that they do not expect that the merged entity would have the ability and incentives to bundle certain products for which they have a market share above 30%⁷⁸ with any other products.⁷⁹ While a number of respondents still mentioned certain possible bundles that the merged entity could potentially offer (*e.g.* between relays and SSPC or between sensors and ignition systems), most of these respondents also expressly commented that they would not be harmed by such bundles including because they would have the “*strength to break the bundle if required*”.⁸⁰ As regards potential tying strategies, the vast majority of the respondents to the market investigation indicated that they do not expect that the merged entity would have the ability and incentives to tie certain product for which they have a

⁷⁶ See Rolls Royce’s response to question 39.1 of Q2 – Questionnaire to customers.

⁷⁷ See Airbus response to question 39.1 of Q2 – Questionnaire to customers.

⁷⁸ These include temperature sensors, clamps, push button switches, relays and relay sockets and rods for aerospace applications.

⁷⁹ See responses to question 67 of Q2 – Questionnaire to customers and 65 of Q1 – Questionnaire to competitors.

⁸⁰ See Rolls Royce’s response to question 67.6 of Q2 – Questionnaire to customers.

market share above 30% with any other products.⁸¹ Overall none of the respondents have voiced a specific concern explaining how tying or bundling could materialize and how this could lead to harming competition.

- (100) In light of the above considerations and taking account of the results of the market investigation, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market with respect to conglomerate effects as the merged entity would have neither the ability, nor it is likely to have the incentive, to foreclose rivals through a bundling/tying strategy.

7. CONCLUSION

- (101) For the above reasons, the Commission has decided not to oppose the notified concentration 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

⁸¹ See responses to question 68 of Q2 – Questionnaire to customers and 66 of Q1 – Questionnaire to competitors.