



EUROPEAN COMMISSION

DG Competition

***Case M.10714 - VGRD / ASSETS
OF AUTO-HOLDING DRESDEN***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 22/06/2022

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EUROPEAN COMMISSION

Brussels, 22.06.2022
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PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

VGRD GmbH
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**Subject: Case M.10714 – VGRD / ASSETS OF AUTO-HOLDING DRESDEN
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 13 May 2022, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation, by which VGRD GmbH (“VGRD”, Germany), a wholly-owned subsidiary of Volkswagen AG (“VW AG”, Germany), belonging to the Volkswagen Group (“VW Group”), acquires sole control within the meaning of Article 3(1)(b) of the Merger Regulation of certain assets of Auto-Holding-Dresden (“the Target”, Germany), presently owned by Auto-Holding-Dresden (Germany).³ The concentration is

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 206, 23.5.2022, p. 18.

accomplished by way of purchase of assets. VGRD is referred to as the “Notifying Party”. VGRD and the Target are collectively referred to as the Parties.

1. THE PARTIES AND THE OPERATION

- (2) VGRD operates car repair premises and car dealer outlets in Germany. VW Group, to which it belongs, is active worldwide in the development, manufacture, marketing and sale of passenger cars (“PCs”), light commercial vehicles (“LCVs”), trucks, buses, coaches, chassis for buses and diesel engines, and motor bikes, each including spare parts and accessories. VW Group also engages in vehicle distribution.⁴
- (3) The Target business consists of six VW dealership outlets in the metropolitan area of Dresden, Germany. The assets subject to this Transaction include vehicles, employees and other fixed and current assets at the following six sites currently operated by Auto-Holding-Dresden, as well as customer relationships:
- Autohaus Jörg Pattusch: Kesselsdorfer Straße 300, 01169 Dresden, Germany;
 - Auto Zentrum Dresden: Hamburger Straße 24/28, 01067 Dresden, Germany;
 - Autohaus Holm Wirthgen: Großenhainer Straße 81-83, 01127 Dresden, Germany;
 - Autohaus Jan Wirthgen: Wilsdruffer Straße 37, 01705 Freital, Germany;
 - Autohaus Dresden Reick: Liebstädter Straße 5, 01277 Dresden, Germany;
 - Auto Dresden Nord: Wilsdruffer Straße 37, 01705 Freital, Germany.
- (4) The Target is active in the retail distribution of new and used passenger cars and light commercial vehicles of the VW Group Brands, VW-branded OEM spare parts, non-OE spare parts and related services in the metropolitan area of Dresden. The Target is an exclusive VW dealer and, therefore, the Transaction would result in the vertical integration within the VW Group of a retail distributor of VW-branded vehicles, spare parts and related services.
- (5) The notified Transaction is an acquisition of sole control by VGRD, which is a wholly-owned subsidiary of VW AG, over the Target through a transfer of assets. The Operation therefore constitutes a concentration within the meaning of Article 3 (1)(b) EUMR.

2. EU DIMENSION

- (6) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (VW AG: EUR [...] million; Target: EUR [...] million)⁵. Each of them has a EU-wide turnover in excess of EUR 250 million (VW AG: EUR [...] million; Target: EUR [...] million), but VW does not achieve more

⁴ VW Group includes the vehicles brands Volkswagen Passenger Cars, Volkswagen Commercial Vehicles, Porsche, Audi, Škoda, SEAT, Bentley, Bugatti, Lamborghini, MAN, Scania and Ducati (the “VW Group Brands”).

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

than two-thirds of its aggregate EU-wide turnover within one and the same Member State as the Target. The notified operation therefore has an EU dimension.

3. COMPETITIVE ASSESSMENT

- (7) The Parties' activities overlap horizontally and are vertically linked on a number of markets in the wholesale and retail distribution of new and used PCs and LCVs, in the manufacture and distribution of the related original equipment ("OE") spare parts, and related services in Germany.
- (8) The following horizontal overlaps do not give rise to affected plausible markets: (i) retail distribution of new PCs and LCVs (both combined and separately) in the metropolitan area of Dresden, the Federal State of Saxony, Germany or at EEA-wide level; (ii) retail distribution of used PCs and LCVs (both combined and separately) in the metropolitan area of Dresden, the Federal State of Saxony, Germany or at EEA-wide level; (iii) retail distribution of VW-branded OE spare parts in the metropolitan area of Dresden, the Federal State of Saxony or in Germany; (iv) retail distribution of non-OE spare parts in the metropolitan area of Dresden, the Federal State of Saxony or in Germany; (v) repair and maintenance of automotive vehicles in the metropolitan area of Dresden, the Federal State of Saxony or Germany; and (vi) short-term car renting in Germany or locally.
- (9) The following vertical links do not give rise to affected plausible markets: (i) wholesale and retail distribution of new PCs and LCVs (both combined and separately) at EEA-wide level; (ii) wholesale and retail distribution of used PCs and LCVs (both combined and separately) in the metropolitan area of Dresden, the Federal State of Saxony, Germany or at EEA-wide level; (iii) wholesale and retail distribution of new LCVs in the metropolitan area of Dresden, the Federal State of Saxony and at national level; and (iv) wholesale and retail distribution of non-OE spare parts in the metropolitan area of Dresden, the Federal State of Saxony, Germany or at EEA-wide level.
- (10) The transaction, however, gives rise to the following vertically affected markets:
- (a) wholesale distribution of new PCs in Germany or the EEA (upstream) and retail distribution of new PCs in the EEA, in Germany or locally (in Saxony or in the metropolitan area of Dresden) (downstream) and
 - (b) wholesale distribution of VW-branded OE spare parts in Germany or the EEA (upstream) and retail distribution of VW-branded OE spare parts in Germany or locally (in Saxony or in the metropolitan area of Dresden) (downstream).

3.1. Market definition

3.1.1. Wholesale distribution of new PCs and LCVs

3.1.1.1. Product market definition

- (11) In previous decisions, the Commission has distinguished between the wholesale and retail distribution of vehicles⁶. The Commission has concluded that the wholesale distribution of new PCs and the wholesale distribution of new LCVs are separate markets and that it was not necessary to conduct a further segmentation by car type (e.g., mini cars, small or medium cars, etc.), as manufacturers usually distribute different car types covering different market segments under the same distribution channel⁷.
- (12) The Notifying Party does not contest the above market definitions.⁸
- (13) The Commission will retain the product market definition provided in its past decisional practice as described in paragraph (11). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission will therefore analyse the effects of the Proposed Transaction on the market for wholesale distribution of new PCs.

3.1.1.2. Geographic market definition

- (14) In its previous decisional practice, the Commission has left open whether the geographic market for the wholesale distribution of new PCs and LCVs is to be considered EEA-wide, national or even local in scope⁹.
- (15) The Notifying Party submits that it considers the relevant wholesale markets to be at least national in scope, as wholesalers (importers) of new PCs and LCVs are generally active at national level and in many cases also across several Member States.¹⁰
- (16) The Commission will retain the geographic market definition provided in its past decisional practice as described in paragraph (14). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission considers that the scope of the geographic market can be left open, as the Transaction does not raise serious doubts, whether the geographic market is considered EEA-wide, national or even local in scope.

⁶ Commission decision of 21 December 2020, COMP/M.9730 – *FCA / PSA*; Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 5 July 2017, COMP/M.8449 – *Peugeot / Opel*; Commission decision of 23 July 2008, COMP/M.5250 – *Porsche / Volkswagen*.

⁷ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 5 July 2017, COMP/M.8449 – *Peugeot / Opel*; Commission decision of 19 December 2011, COMP/M.6403 *Volkswagen / KPI Polska / Skoda Auto Polska / VWBank Polska / VWLeasing Polska*; Commission decision of 21 January 1992, COMP/M.182 – *Inchcape / Iep*.

⁸ Form CO, paragraph 71.

⁹ Commission decision of 21 December 2020, COMP/M.9730 – *FCA / PSA*; Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 5 July 2017, COMP/M.8449 – *Peugeot / Opel*; Commission decision of 16 October 2015, COMP/M.7747 – *PGA / MSA*.

¹⁰ Form CO, paragraph 105.

3.1.2. Retail distribution of new PCs and LCVs

3.1.2.1. Product market definition

- (17) In previous decisions, the Commission has distinguished between the retail distribution of PCs and LCVs. The Commission has also found that further sub-segmentation is not appropriate.¹¹
- (18) The Notifying Party does not contest the above market definition.¹²
- (19) The Commission will retain the product market definition provided in its past decisional practice as described in paragraph (17). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission will therefore analyse the effects of the Proposed Transaction on the market for retail distribution of PCs on the one hand and the retail distribution of LCVs on the other hand.

3.1.2.2. Geographic market definition

- (20) In previous decisions, the Commission has left open whether the geographic market for these activities is EEA-wide, national or sub-national in scope¹³. As regards the retail distribution of used vehicles, the Commission concluded in previous cases that the geographic scope could be considered sub-national, although it left the definition of the market open between EEA-wide, national or sub-national.¹⁴
- (21) The Notifying Party notes that the German Federal Cartel Office did not yet conclude on the exact geographic scope of retail distribution markets for (new or used) PCs and LCVs.¹⁵ Nonetheless, the Notifying Party considers the relevant retail market to be national in scope as customers increasingly use the internet to compare prices across the country (in particular with respect to used cars) and are willing to travel longer distances to buy a vehicle, exemplified by increasing interest in factory pick-up. In any event, the Notifying Party considers that the exact definition of the geographic scope of the market can be left open.¹⁶
- (22) The Commission will retain the geographic market definition provided in its past decisional practice as described in paragraph (20). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission considers that, in any case, the scope of the geographic market can be left open, as the Transaction does not raise serious doubts under any

¹¹ Commission decision of 17 June 2020, COMP/M.9839 – *VGRD / Auto Wichert Assets*; Commission decision of 5 July 2017, COMP/M.8449 – *Peugeot / Opel*; Commission decision of 16 October 2015, COMP/M.7747 – *PGA / MSA*; Commission decision of 22 July 2002, COMP/M.2832 – *General Motors / Daewoo Motors*.

¹² Form CO, paragraph 74.

¹³ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 16 October 2015, COMP/M.7747 – *PGA / MSA*.

¹⁴ Commission decision of 13 November 2012, COMP/M.6718 – *Toyota Tsusho Corporation/CFAO*.

¹⁵ The only relevant decision concerning distribution of PCs and LCVs the Notifying Party is aware of is BKartA, 26.10.2012, Az. B9-32/12 – *General Motors / PGA*, where the Federal Cartel Office may have leaned towards national markets but ultimately left the exact geographic market definition open.

¹⁶ Form CO, paragraph 109.

alternative market definition, whether EEA-wide, national or sub-national (i.e. in this case Saxony or the metropolitan area of Dresden).

3.1.3. Wholesale distribution of OE spare parts for PCs and LCVs

3.1.3.1. Product market definition

- (23) In previous decisions, the Commission has found that there are separate markets for the wholesale distribution of OE spare parts and non-OE spare parts and that the wholesale distribution of OE spare parts is brand-specific¹⁷. The Commission further considered a segmentation of the market between categories of vehicles, i.e. light vehicles (PCs and LCVs) and heavy vehicles¹⁸, but without any sub-segmentation by product¹⁹.
- (24) The Notifying Party agrees to follow this approach in the case at hand.²⁰
- (25) The Commission will retain the product market definition provided in its past decisional practice as described in paragraph (23). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission will therefore analyse the effects of the Proposed Transaction on the market for wholesale distribution of brand-specific OE spare parts for PCs and LCVs on the one hand and on the market for wholesale distribution of non-OE spare parts for PCs and LCVs on the other hand.

3.1.3.2. Geographic market definition

- (26) The Commission has stated in a number of decisions that the wholesale distribution markets could be either EEA-wide or national, but ultimately left open their exact geographic scope²¹.
- (27) The Notifying Party claims that the exact definition of the geographic scope of the market can be left open, although it considers the relevant market to be national in scope, as customers increasingly search for OE spare parts via online platforms and spare parts purchased online can be delivered across Germany. When zooming into the local level, the Notifying Party considers the metropolitan area of Dresden to be the narrowest plausible geographic scope of the market for the purpose of this case.²²

¹⁷ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 10 September 2018, COMP/9070 – *Eurocar/Vicentini*; Commission decision of 12 May 2011, COMP/M.6063 – *Itochu/Speedy*.

¹⁸ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 10 September 2018, COMP/9070 – *Eurocar/Vicentini*; Commission decision of 26 November 2014, COMP/M.7401 – *Blackstone/Alliance BV/Alliance Automotive Group*.

¹⁹ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 10 September 2018, COMP/9070 – *Eurocar/Vicentini*; Commission decision of 28 October 2016, COMP/M.8198 – *Alliance Automotive Group/FPS Distribution*; Commission decision of 26 November 2014, COMP/M.7401 – *Blackstone/Alliance BV/Alliance Automotive Group*; Commission decision of 30 September 2011, COMP/M.6319 – *Triton/Europart*.

²⁰ Form CO, paragraph 84.

²¹ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 10 September 2018, COMP/9070 – *Eurocar/Vicentini*; Commission decision of 26 November 2014, COMP/M.7401 – *Blackstone/Alliance BV/Alliance Automotive Group*.

²² Form CO, paragraphs 114-115.

(28) The Commission will retain the geographic market definition provided in its past decisional practice as described in paragraph (26). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission considers that, in any case, the scope of the geographic market can be left open, as the Transaction does not raise serious doubts whether the geographic market is considered EEA-wide or national in scope.

3.1.4. Retail distribution of OE spare parts for PCs and LCVs

3.1.4.1. Product market definition

(29) In previous decisions, the Commission has distinguished between the distribution of OE spare parts and non-OE spare parts for PCs and LCVs and considered that the retail distribution of OE spare parts is brand-specific.²³

(30) The Notifying Party does not contest the above market definition.²⁴

(31) The Commission will retain the product market definition provided in its past decisional practice as described in paragraph (29). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. Therefore, for the purposes of this Decision, the Commission considers the relevant product markets to be that of the retail distribution of brand-specific OE spare parts for PCs and LCVs on the one hand and the retail distribution of non-OE spare parts for PCs and LCVs on the other hand.

3.1.4.2. Geographic market definition

(32) In previous decisions, the Commission has considered that the retail distribution of OE spare parts could be either national or sub-national, but ultimately left open the exact definition.²⁵

(33) The Notifying Party claims that the exact definition of the geographic scope of the market can be left open, although it considers the relevant market to be national in scope because customers can increasingly search for OE spare parts online across Germany and have them installed by independent repair shops. When zooming into the local level, the Notifying Party considers the metropolitan area of Dresden to be the narrowest plausible geographic scope of the market for the purpose of this case.

(34) The Commission will retain the geographic market definition provided in its past decisional practice as described in paragraph (32). The market investigation did not produce any evidence indicating that the Commission's case practice is no longer valid. The Commission considers that, in any case, the scope of the geographic market can be left open, as the Transaction does not raise serious doubts whether the geographic market is considered national or sub-national (i.e. in this case Saxony or the metropolitan area of Dresden) in scope.

²³ Commission decision of 17 June 2020, COMP/M. 9839 – *VGRD / Auto Wichert Assets*; Commission decision of 10 September 2018, COMP/9070 – *Eurocar/Vicentini*; Commission decision of 26 November 2014, COMP/M.7401 – *Blackstone/Alliance BV/Alliance Automotive Group*.

²⁴ Form CO, paragraph 89.

²⁵ Commission decision of 10 September 2018, COMP/M.9070 – *Eurocar/Vicentini*; Commission decision of 13 November 2012, COMP/M.6718 – *Toyota Tsusho Corporation/CFAO*.

3.2. Competitive assessment

3.2.1. Introduction

- (35) The Transaction gives rise to the following vertically affected markets:
- (a) between the wholesale distribution of new PCs in Germany or the EEA (upstream) and the retail distribution of new PCs in the EEA, in Germany or locally (in Saxony or in the metropolitan area of Dresden) (downstream) and
 - (b) between the wholesale distribution of VW-branded OE spare parts in the EEA or Germany (upstream) and the retail distribution of VW-branded OE spare parts in Germany or locally (in Saxony or in the metropolitan area of Dresden) (downstream).

3.2.2. Wholesale and retail distribution of new PCs

- (36) In the upstream market for the wholesale distribution of new PCs, VW Group has a market share of [30-40]% in Germany, giving rise to a vertically affected market. In the downstream market for the retail distribution of new PCs, the merged entity will have a combined market share well below 10% in any plausible geographic market. At local level, i.e. in the metropolitan area of Dresden, only the Target is active with a market share of [5-10]%.

Table 1: Wholesale distribution of new PCs (2020)

2020	VW group [units]	Overall market in volume [units]	VW group market share [volume]
Dresden	[...]	[...]	[30-40]%
Saxony	[...]	[...]	[30-40]%
Germany	[...]	[...]	[30-40]%
EEA	n/a	n/a	[20-30]%

Table 2: Retail distribution of new PCs (2020)

2020	VW Group [units]	Target [units]	Overall market in volume [units] ²⁶	VW Group market share [value]	Target market share [value]	Parties' combined market share [value]
Dresden	[...]	[...]	[...]	[0-5]%	[5-10]%	[5-10]%
Saxony	[...]	[...]	[...]	[0-5]%	[0-5]%	[5-10]%
Germany	[...]	[...]	[...]	[0-5]%	[0-5]%	[0-5]%

²⁶ Source : "Best estimate" of the Parties, as described in paragraph 157 of the Form CO.

3.2.2.1. The Notifying Party's view

- (37) The Notifying Party submits that the Transaction does not enable nor incentivise VW Group to engage in input or customer foreclosure strategies post-transaction. According to its submissions, on the one hand, there would be no room for post-transaction *customer foreclosure*, as there are plenty of other retailers constituting a sufficient customer base for upstream suppliers of PCs. The Transaction would not even reduce the customer base of other upstream suppliers as already pre-transaction, the VW dealership outlets to be acquired by VGRD exclusively distributed vehicles of the VW Group brands.²⁷ On the other hand, the Transaction does not enable VW Group to engage in *input foreclosure* towards downstream competitors post-transaction: (i) the distribution chains do not change, since already pre-transaction, VW is the only supplier of the Target concerning new PCs, (ii) the relevant market not being brand-specific, a potential input foreclosure would only affect a part of the market, i.e. VW-branded new PCs and (iii) even for VW-branded new PCs, there are sufficient alternative sources of supply, [VW Group's authorized dealers can sell VW-branded vehicles to other authorized dealers].²⁸ VW Group would not have an incentive either to foreclose its downstream competitors post-transaction, [in light of VW Group's distribution strategy].²⁹

3.2.2.2. The Commission's assessment

- (38) An input or customer foreclosure strategy seems to be unlikely for the following reasons.
- (39) With regard to *customer foreclosure*, on the one hand, the Target dealership outlets are already exclusive customers of the VW group. Their acquisition by VGRD therefore does not deprive upstream suppliers of PCs of other OEMs of potential customers. In addition, any customer foreclosure seems particularly unlikely as VGRD has only a very small market share downstream for the market for retail distribution of new PCs (below 5% on all potential segmentations) meaning that VW group's competitors would still be able to sell their vehicles to a very large number of car dealers at retail level.
- (40) With regard to *input foreclosure*, on the other hand, there are sufficient alternative sources of supply. In case the VW Group decided to stop selling to downstream competitors selling VW-branded vehicles, those car dealers could still source VW-branded vehicles from other authorised dealers, as is required by Art. 4(c) of the Commission Regulation (EU) 2022/720.
- (41) Finally, none of the participants in the market investigation voiced any substantiated concerns related to input or customer foreclosure in the markets for wholesale and retail distribution of new PCs.
- (42) The Commission therefore considers that the Transaction is unlikely to reduce competition in the market for the retail distribution of new PCs in the EEA, in Germany, in the Federal State of Saxony or in the metropolitan area of Dresden.

²⁷ Form CO, paragraphs 205-206.

²⁸ Form CO, paragraph 208.

²⁹ Form CO, paragraph 209.

3.2.3. *Wholesale and retail distribution of VW-branded OE spare parts for PCs and LCVs*

- (43) In the upstream market for the wholesale distribution of VW-branded OE spare parts for PCs and LCVs, VW Group has a monopoly at national level in Germany, giving rise to a vertically affected market. In the downstream market for the retail distribution of VW-branded OE spare parts for PCs and LCVs, the merged entity will have a combined market share below 15% in any plausible geographic market, i.e. be it national or sub-national.

Table 3: Retail distribution of VW-branded OE spare parts (2020)

2020	VW Group in value [mio. EUR]	Target [mio. EUR]	Overall market value [mio. EUR] ³⁰	VW Group market share [value]	Target market share [value]	Parties' combined market share [value]
Dresden	[...]	[...]	[...]	[0-5]%	<[10-20]%	<[10-20]%
Saxony	[...]	[...]	[...]	[5-10]%	[0-5]%	<[10-20]%
Germany	[...]	[...]	[...]	[5-10]%	[0-5]%	[5-10]%

3.2.3.1. The Notifying Party's view

- (44) The Notifying Party claims that, on the one side, VW Group would not be able to foreclose downstream competitors post-transaction, as (i) the Target already is an exclusive VW Group retail dealer, (ii) a foreclosure strategy would only concern VW-branded vehicles and (iii) given sufficient alternative sources of supply.³¹ On the other side, VW Group would have no commercial incentive to foreclose downstream competitors, [in light of VW Group's distribution strategy].³²

3.2.3.2. The Commission's assessment

- (45) An input or customer foreclosure strategy seems to be unlikely for the following reasons.
- (46) With regard to *customer foreclosure*, prior to the Transaction, the Target was already an exclusive distributor of the VW Group brands. The Target sources its VW-branded OE spare parts directly from VW Group and does not sell any other brands (i.e., the Target is not a customer of other suppliers with respect to OE spare parts). As the Transaction will not lead to change in that regard, there is no scope for customer foreclosure.
- (47) In light of the structure of the market, the only conceivable theory of harm is that the merged entity will be in a position to foreclose access to inputs, i.e. to VW-OE

³⁰ Source: "Best estimate" of the Parties, as described in paragraph 157 of the Form CO.

³¹ Form CO, paragraph 170.

³² Form CO, paragraph 171.

spare parts to other dealers operating at the retail level, namely VW service partners and independent repairers, as VW Group enjoys a monopoly upstream.

- (48) With regard to *input foreclosure*, concerning the wholesale distribution of VW-branded OE spare parts, the Commission considers VW does not to have the ability nor an incentive to foreclose downstream competitors, given the nature of VW's distribution strategy and given the fact that the Target's presence is limited to one metropolitan area. More precisely, VW will have an incentive to supply VW service partners and independent car repair shops in other regions in order to maintain its distribution system in all of Germany. Therefore, a foreclosure strategy limited to the metropolitan area of Dresden would be very likely to fail, as downstream competitors will continue to have access to spare parts from other service partners located in regions where the merged entity will not be active.
- (49) Concerning retail distribution of VW-branded OE spare parts on national or local level, the Commission does not see a foreclosure risk either, given the limited activities of the Parties in Germany, the fact that VW Group is already active pre-Transaction both at the wholesale and the retail level in Germany, as well as the moderate nation-wide market share of VW (<10%) and the negligible increment resulting from the Transaction <[0-5]%. Finally, none of the participants in the market investigation voiced any substantiated concerns related to input or customer foreclosure in the markets for wholesale and retail distribution of VW-branded OE spare parts.
- (50) Thus, no competition concerns will arise in relation to the vertical link between the wholesale and the retail distribution of VW-branded OE spare parts for PCs and LCVs in the metropolitan area of Dresden, Saxony or in Germany.

3.2.4. *Conclusion on vertically affected markets*

- (51) The Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market as a result of non-horizontal effects either in the market for the distribution of new PCs or in the market for the distribution of VW-OE spare parts, in any plausible geographic market. In the market for the distribution of new PCs, this is mainly due to the limited market share of the merged entity downstream at retail level well below 10%. In the market for the distribution of VW-OE spare parts, this is due to the Target's limited geographic scope of activities, the fact that VW will need to continue to supply its OE spare parts across Germany, and that downstream competitors in the metropolitan area of Dresden can source VW-OE spare parts from across Saxony and Germany post-transaction.

4. CONCLUSION

- (52) 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
Executive Vice-President