

**C L I F F O R D
C H A N C E**

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**ANTICIPATED ACQUISITION BY ARÇELİK A.Ş. OF THE EUROPE,
MIDDLE EAST AND NORTH AFRICA MAJOR DOMESTIC APPLIANCES
BUSINESS OF WHIRLPOOL CORPORATION**

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ANTICIPATED ACQUISITION BY ARÇELİK A.Ş. OF THE EUROPEAN, MIDDLE EAST AND NORTH AFRICA MAJOR DOMESTIC APPLIANCES BUSINESS OF WHIRLPOOL CORPORATION

INITIAL SUBMISSION

This submission to the Competition and Markets Authority (the “CMA”) is made in the context of the CMA’s investigation into the anticipated acquisition by Arçelik A.Ş. (“Arçelik”) of Whirlpool Corporation’s (“Whirlpool”) EMEA major domestic appliances (“MDA”) business (the “Target” and, together with Arçelik, the “Parties”) (the “Transaction”).

It explains the context and rationale for the Transaction, the markets in which the Parties operate, and the very significant competitive constraints they face. It provides an overview of the evidence and explains why the Transaction will not result in a substantial lessening of competition (“SLC”) in the UK in any relevant MDA market. It also responds to a number of points raised in the CMA’s decision of 28 September 2023 (the “Phase 1 Decision”). The Parties intend to supplement this submission in the coming weeks with additional papers on discrete topics.

The Parties welcome the CMA Inquiry Group’s fresh review of the Transaction. They are confident the CMA will conclude that, given the intensely competitive nature of the market, the merged entity (“Beko Europe”) will face strong constraints post-Transaction in a way that excludes any prospect of an SLC arising in the UK.

1. INTRODUCTION & EXECUTIVE SUMMARY

The European MDA Sector Is Highly Competitive

1.1 **There is little disagreement between the Parties and the CMA in respect of the underlying facts.** Many of the constraints faced by the Parties (and their rivals) are recognised in the Phase 1 Decision. They include the prevalence of imports;¹ the growth of low-cost products from Asian producers;² the significance of private-label products;³ and the fact that manufacturers compete across a price spectrum within each MDA category.⁴ There is also broad agreement that the appropriate analytical framework for assessing the Transaction is one of vertical bargaining between numerous suppliers and retailers that act as gatekeepers to consumers who have low brand loyalty.

1.2 **The CMA’s exclusion of concerns in cooling products applies equally to other MDA categories.** The CMA rightly determined that the test for Phase 2 reference was *not* met in relation to refrigerators or freezers (together, “cooling products”) because of the number

¹ See, e.g., para. 61 of Phase 1 Decision.

² See, e.g., para. 117(c) of Phase 1 Decision.

³ See, e.g., para. 117(c) of Phase 1 Decision.

⁴ See, e.g., para. 85 of Phase 1 Decision.

of competing suppliers (including private-label products).⁵ It reached a different conclusion in respect of washing machines, tumble dryers, dishwashers, and cooking appliances (*i.e.*, ovens, cookers and hobs) (together, “MDA4 markets”) on the ground that the Parties have higher shares in these categories at certain price points.⁶ This distinction is artificial and overlooks the wider market dynamics at play: the Parties face the very same competitive constraints in the MDA4 markets as they do in cooling products.

1.3 **The market feedback obtained in Phase 1 confirmed that the UK landscape is highly competitive and fragmented.**⁷ Third parties attested to “*other established brands*,” “*Chinese suppliers*,” and “*private-label*” products exercising a “*competitive constraint on the Parties*.”⁸ Although the CMA characterized third-party responses to its market testing as “*mixed*,”⁹ there was no consensus that the Transaction would be harmful. On the contrary, many respondents confirmed the sector’s competitiveness, and only a few raised any concerns about the Transaction.¹⁰ To the extent any competitors raised concerns, they may well have been motivated by a desire to impede a transaction that could intensify competition.¹¹ Given these incentives, it is striking that respondents seem to have generally agreed with the Parties’ submissions.

1.4 **The Transaction responds to structural changes in the European MDA sector that have permanently reshaped the competitive landscape.** Over the last 10 years, European and other established manufacturers have struggled to compete with the influx of appliances across all product categories from low-cost global suppliers, based primarily in China and South Korea. Chinese and Korean manufacturers have enormous scale, deep

⁵ See paras. 83, 94 and 99 of Phase 1 Decision.

⁶ See para. 117 of Phase 1 Decision.

⁷ The European Commission’s parallel review has determined that the Transaction raises no competition concerns in any of the 30 EEA jurisdictions. The Parties received an unconditional clearance decision from the Commission on 23 October. This decision follows a lengthy and detailed investigation into numerous European jurisdictions where the Parties’ shares are comparable to and in some cases higher than those in the UK (*e.g.*, there are numerous EEA jurisdictions where the Parties’ combined market shares are comparable to or higher than the Parties’ combined market shares in the UK in one or more MDA4 categories, including shares exceeding [3<]). Given the similar conditions of competition that exist in the UK and Continental Europe, the Parties are confident that the CMA will reach the same view that the Parties will face intense competition from numerous rivals in the UK, as elsewhere in Europe.

⁸ See, *e.g.*, para. 101(a)-(c) of Phase 1 Decision.

⁹ See, *e.g.*, para. 105 of Phase 1 Decision.

¹⁰ See, *e.g.*, para. 105 of Phase 1 Decision.

¹¹ Competing manufacturers also may be motivated to criticise the transaction in the hope that divestitures will be required and they can buy assets on “fire sale” terms. According to a recent article, for example, Haier’s European CEO “communicated the group’s willingness to take charge of those brands and related sites that the European or English anti-trust commissions . . . could possibly ask Beko Europe to divest.” See First Online, “Whirlpool and Arçelik-Beko: long times for the Antitrust and the Chinese Haier is ready to enter the game”, 6 October. 2023, available at: <https://www.firstonline.info/en/whirlpool-e-arcelik-beko-tempi-lunghi-per-lantitrust-e-la-cinese-haier-e-pronta-a-entrare-in-giocoriga-sopra/>.

financial resources (including, in some cases, state subsidies), and access to low-cost labour, raw materials, and larger scale production facilities. They produce MDAs across all categories and price points for sale around the world. Together, they have had a very significant impact on legacy European producers, some of which have exited the market.

1.5 **Traditional Western suppliers, including Whirlpool, [X] low-cost Asian producers given their dependency on high-cost European production facilities.** Whirlpool publicly announced to the financial markets in April 2022 that its European business would not continue in its current form: it would either be sold or [X] scaled back.¹² Arçelik, for its part, has been relatively successful in establishing itself in Europe (including the UK), [X]. The Transaction will allow Beko Europe to achieve those efficiencies. As a result, consumers will continue to benefit from security of supply of MDAs from a strong, efficient, and competitive European manufacturing base.

1.6 **MDA suppliers face unprecedented economic and regulatory challenges.** Environmental and energy-consumption regulations, combined with input-cost increases in Europe (such as raw materials, logistics, and labour), mean that manufacturers need to find ever greater efficiencies just to be able to stand still, let alone compete with hyper-efficient Asian suppliers of branded MDAs and private-label competitors (*i.e.*, store-branded MDAs manufactured by third parties).¹³ The new entity, Beko Europe, will benefit from cost synergies that should help it to meet new environmental regulations.¹⁴

1.7 **On the demand-side, the Parties' customers exercise considerable power and set prices only after intense bilateral negotiations.** The Parties' customers – retailers, buying groups, and kitchen manufacturers – act as intermediaries between manufacturers and consumers. In every price band and for every set of features, they can choose among a wide range of products and brands. Their role as “gatekeepers” gives them considerable power, driving manufacturers to continuously price their products competitively and to improve their offerings in an effort to stand out in a fragmented marketplace. The bargaining leverage exercised by retailers reflects five inter-related considerations:

1.7.1 ***First, a small number of customers account for a significant proportion of the Parties' sales.*** The Parties' customer bases are highly concentrated. The three largest retailers/kitchen manufacturers that buy directly from Arçelik and Whirlpool together account for [60-70]% and [40-50]%, respectively, of their MDA sales in the UK. Smaller retailers tend to purchase their MDAs through large buying groups such as Euronics and E-square that exercise considerable buyer power. Because these customers know that the Parties depend on them for a

¹² See Whirlpool Corporation, Q2 2022 Earning Call, 26 July 2022, p. 5.

¹³ References to “Asian and Chinese suppliers” in this submission are principally to Asian and Chinese suppliers of branded MDAs sold in the UK. These and other Asian and Chinese producers also supply private-label products, sales of which are treated as being “private-label MDAs.”

¹⁴ On synergies, see Section 9.

significant proportion of sales, they are able to exploit that leverage to extract highly competitive terms. Retailers' purchases of own-brand products from OEM suppliers also make them exceptionally informed purchasers of branded MDAs, further strengthening their negotiating positions. As a result, they would not hesitate to de-list the Parties' products or reduce their purchases in the event of an attempt to increase prices post-Transaction.

- 1.7.2 ***Second, customers can and do switch between MDA suppliers.*** Major MDA customers including [§<], [§<], [§<], [§<] have de-listed, or threatened to de-list, the Parties' products.¹⁵ Retailers have a large range of alternative suppliers that they can switch to, including Western and Asian competitors. Post-Transaction, the Parties' overwhelming incentive will be to offer highly competitive prices to maintain sales volumes and avoid de-listing.
- 1.7.3 ***Third, retailers have used the emergence of low-cost Asian producers to strengthen their own positions.*** They have done so principally by using Asian producers: (i) as bargaining leverage to secure even better terms from established Western producers by threatening to de-list, reduce purchases or floor space, or redirect promotional efforts; and (ii) as a source of low-cost private-label appliances, which now represent [10-20]% by value and [20-30]% by volume of MDA6 sales, the lion's share of which are sold at lower price points. Once a private-label OEM has an established relationship with a retailer, they are well-positioned to promote their own-brand MDAs to retailers as well. As Asian suppliers continue to expand their positions and increase capacity, the scope for retailers to pursue either or both of these strategies will increase.
- 1.7.4 ***Fourth, consumers have little brand loyalty, particularly at lower price points.*** As demonstrated below, the majority of consumers do not start their journey towards the purchase of a MDA product with a specific brand in mind.¹⁶ Instead, they look to retailers for advice (through online and in-store recommendations) and direction (through search results preferencing, promotional banners, and online ratings and comments). Retailers therefore play a critical role in shaping consumer decisions.
- 1.7.5 ***Fifth, customers buy a large range of products from the Parties extending across price bands and MDA categories.*** Customers can and do use the entire range of products they buy from the Parties as leverage in negotiations. As a result, any attempt to raise prices in one MDA market would be punished by a customer's reducing purchases in another market.

¹⁵ See paras. 8.7 to 8.12 below.

¹⁶ See para. 6.6 below.

1.8 **The UK MDA sector is intensely competitive on every relevant metric.** On the supply-side, numerous producers of largely commoditised appliances, faced with weak brand loyalty from consumers, compete intensely for retail floor space, online presence, and consumer attention. On the demand-side, consumers benefit from a vast array of appliances with similar functions and characteristics, sold under many brands and at many price points that can easily be compared with one another (the “sea of white”). A transaction affecting a market of this kind is inherently unlikely to raise competition concerns. The following data across all MDAs are striking:

1.8.1 There are more than 20 suppliers of MDAs active in the UK.

1.8.2 MDAs are sold under 160 brands in the UK (excluding private-label brands).¹⁷

1.8.3 Imports represent more than [90-100]% of UK sales.¹⁸

1.8.4 Asian suppliers have grown to account for [20-30]% of UK sales by value.¹⁹

1.8.5 Private-label products have grown consistently to account for around [30-40]% of UK sales by volume.²⁰

1.8.6 Whirlpool’s share of UK sales has declined by [10-20] percentage points in 15 years.²¹ [§<]

1.8.7 [§<]

The Parties’ Shares Are Moderate And They Are Not Uniquely Close Competitors

1.9 **The Parties compete closely with an array of rival suppliers.** The Phase 1 Decision makes much of the fact that the Parties compete with one another. This is not contested. Nor is it surprising. In a market with largely commoditised products, weak brand loyalty, and numerous suppliers, most suppliers are likely to be close competitors of one another. Importantly, the Parties are not uniquely close – they do not have special attributes that insulate them from competition from others; on the contrary, they face many rivals with comparable or better platforms. In reality, each Party faces a large number of equally close

¹⁷ The equivalent figure for MDA4 markets is 110 brands in the UK.

¹⁸ See Table 10 of the Final Merger Notice, filed on 2 August 2023.

¹⁹ The equivalent figure for MDA4 markets is [20-30]% of UK sales by value. The aggregation is based on the following figures across MDA4 markets: [40-50]% (washing machines), [30-40]% (tumble dryers), [5-10]% (dishwashers) and [0-5]% (cooking appliances).

²⁰ The equivalent figure for MDA4 markets is that private-label products account for around [10-20]% of UK sales by volume. This aggregation is based on the following figures across MDA4 markets: [20-30]% (cooking appliances), [10-20]% (dishwashers), [10-20]% (tumble dryers), and [10-20]% (washing machines).

²¹ The equivalent figure for MDA4 markets is that Whirlpool’s share of UK sales has declined by [20-30] percentage points in 15 years.

competitors.²² There are, for illustration, more than 20 MDA suppliers active in the UK, selling MDAs under more than 160 brands. In these circumstances, the competition that the Parties impose on each other is dwarfed by intense rivalry from traditional Western suppliers, Asian suppliers, and private-label products.

1.10 **The Parties’ MDA4 market shares are well below levels that would typically give rise to competition concerns.** It is well-established that market shares at or around 30% are highly unlikely to give rise to concerns in particular where, as here, other relevant indicia evidence a highly competitive market, the Parties’ products are not “must have” brands or uniquely close competitors, and the Parties face the credible threats of entry, expansion, delisting, and share erosion. The short-lived nature of market shares is further demonstrated by the stark decline in Whirlpool’s market position. By way of example, in tumble dryers, its UK share by value fell from [20-30]% (in 2018) to [10-20]% (in 2022).

Parties’ estimated MDA4 market shares in the UK (value, 2022)

MDA category	2022 estimated share (value)		
	ARC	WHR	Combined
Washing machines	[10-20]%	[10-20]%	[30-40]%
Tumble dryers	[10-20]%	[10-20]%	[30-40]%
Dishwashers	[10-20]%	[10-20]%	[20-30]%
Cooking appliances	[10-20]%	[10-20]%	[20-30]%

Source: GfK (2022).

1.11 **Price should not be relied upon as the basis for finding closeness of competition between MDA suppliers.**²³ The following three considerations are relevant in this connection:

1.11.1 ***First, the Parties compete with many suppliers across a continuum of prices.*** As explained in previous submissions²⁴ and acknowledged in the Phase 1 Decision,²⁵ there are no established pricing categories. Suppliers are generally active at all price points (or could easily make minor adjustments to their products, marketing,

²² The market feedback obtained by the CMA confirms that the Parties are not uniquely close competitors. In response to the CMA questionnaire, customers identified Haier, Electrolux, BSH, and Samsung as the Parties’ top competitors. See para. 102 of Phase 1 Decision.

²³ See para. 84 of Phase 1 Decision.

²⁴ See, e.g., response to Issues Letter, para. 4.14.

²⁵ See para. 84 of Phase 1 Decision.

or brand positioning to compete at all price points); and consumers compare products across price points, including to take account of appliances' lifetime costs.

1.11.2 ***Second, the pricing of products is dynamic*** because manufacturers are able to adjust the pricing position of their products or extend their product portfolio with ease (e.g., by adding or removing features and functions, or via promotions by offering discounts). This means that the competitive constraints that manufacturers exert on one another extend well beyond their current product portfolio and prices. A striking example is the migration of *Bush* products (an Argos private-label), which has steadily introduced higher-priced products with additional features, such that it is now regarded as a more "premium" brand [3<]. Conversely, Samsung, BSH, and LG have expanded into the low-mid price bands in the UK in the last five years.

1.11.3 ***Third, the price positioning of specific SKUs at the retail level is heavily influenced by customers*** that negotiate individual pricing, reflecting discounts and funding for promotional activities, and increasingly take account of appliances' lifetime costs. Retail prices are therefore not a determining factor in assessing closeness of competition.

1.12 **The Parties' shares in arbitrary quartiles do not indicate market power over any customer group.** The Parties recognise that there are certain price points in each product market where their combined shares are somewhat higher than others. This is unsurprising. What matters is that no producer is confined to a particular part of the market, virtually all producers can and do compete across all price segments, and consumers compare appliances sold at different price points.²⁶ The availability of numerous alternative suppliers of MDAs at all price points of the market excludes any concern. If the Parties were to raise prices of products at certain price points, customers and consumers would quickly switch to any of the numerous other choices available. In other words, they would retain a similar level of buyer power post-Transaction as they maintain pre-Transaction. The following seven considerations are relevant in this connection:

1.12.1 ***First, CMA's the quartiles analysis makes an implicit assumption that the Parties' combined shares within any given quartile is an important determinant of how the Transaction will affect competition in the UK.*** This assumption is, however, misguided at a conceptual level because the Parties' customers are large and sophisticated buyers rather than end-consumers. These trade customers negotiate prices over an entire range of MDA products with a large number of MDA suppliers simultaneously. They eventually decide which brands and models to offer in each segment to their consumers online and/or in stores. As a result, what matters in terms of the impact of the merger is not market shares of the Parties and their

²⁶ The Phase 1 Decision also recognises that "there is no standard price segmentation used in the industry, and that suppliers active in one segment may still face competitive constraint from those active in other segments". See para. 91 of Phase 1 Decision.

competitors within a given quartile pre-Transaction, but rather whether trade customers will continue to have access to sufficiently good alternatives to the Parties post-merger in order to retain a similar level of bargaining power as absent the merger, and therefore be able to deter post-merger price increases.

1.12.2 ***Second, when assessing how the bargaining positions of the Parties' customers would change post-Transaction, two main considerations have to be taken into account which are not reflected at all in the quartile market shares:***

- **Negotiations do not take place product by product in a vacuum, but rather jointly over the entire range of products sold by the Parties.** Accordingly, from a demand-side perspective, the Parties' customers can use the entire range of products they buy from the Parties as a lever in the negotiations. Put simply, any attempt to raise prices in one segment can be punished by a retailer's ability to withdraw volumes in another segment.
- **The CMA's approach errs in assuming that shares in price quartiles are indicative of whether MDA suppliers are alternatives from the customers' perspective.** This reasoning ignores two considerations: (i) market shares in a specific quartile are largely driven by the choice of few retailers, and (ii) rival MDA suppliers could expand into price segments where they have a comparatively smaller presence in the UK, as they already have the brand recognition, MDA models, and distribution relationships needed to compete effectively at price points where the Parties make the majority of their sales.

1.12.3 ***Third, retailers would thwart any attempt by Beko Europe to raise prices post-Transaction.*** They would, for example, delist or reduce purchases of the Parties' products, divert floor space to private-label products, increase sales of other brands, or sponsor entry. Retaliation of this kind is especially feasible at the low-end where retailer-owned private-label products are particularly strong, consumers are highly price conscious, and brand loyalty is even weaker. The fact that many retailers source private-label products from (and so already have relationships with) suppliers that also market appliances under their own brands, makes it particularly straightforward for retailers to sponsor entry and expansion from branded appliances.

1.12.4 ***Fourth, in addition to MDA4 manufacturers presently active at low-mid price points, MDA4 manufacturers can and do expand across price points.*** MDA manufacturers presently active in low-mid price points *and* at higher price points would challenge the Parties post-Transaction should Beko Europe seek to raise its prices. As shown below, a range of producers are already active at these price points in each MDA4 market. Further, rival producers like Samsung, Bosch Electrolux, and LG could easily expand or divert capacity to produce more low-mid priced appliances in direct competition with the Parties. Such a strategy would be in line with the ongoing expansion of rivals like Samsung, LG, and BSH into lower price segments in the UK.

Other MDA suppliers active at low-mid price points

[3<]

Source: GfK.

- 1.12.5 ***Fifth, suppliers of low-mid price point cooling products are poised to compete at similar price points in the MDA4 markets.*** Cooling products are typically the first category to be penetrated by new entrants because they are the least sophisticated MDA product and offer high sales volumes. The observed experience in Continental European markets is that they provide a natural entry point for Asian suppliers that use a foothold established in cooling products to expand across the full range of MDA markets. This strategy was pursued by Arçelik when it entered the UK and Continental European markets and is currently being pursued by major Asian suppliers (including Samsung, LG, Hisense, Haier, Homa, and Midea), in Continental European markets. As explained below, a number of these players plan to replicate their success in cooling products across the whole of the MDA sector. This is apparent from their public statements and the investments they are making in expanding manufacturing capability for non-cooling related MDA categories.
- 1.12.6 ***Sixth, the quartiles analysis fails to reflect the intense and unremitting competition that the Parties face from private-label brands.*** Private-label products have a significant share of the low-mid price points identified in the Phase 1 Decision. As explained elsewhere, sales of private-label products have increased in recent years, as the quality of those products has increased and retailers have promoted them in their stores and online. Although the Phase 1 Decision recognises the existence of private-label products, it errs in not appreciating the implications of their significance in constraining the Parties.

Private-label shares (volume, 2022)

MDA category	Average across 1st and 2nd quartiles
Cooking appliances	[30-40]%
Tumble dryers	[20-30]%
Washing machines	[10-20]%
Dishwashers	[30-40]%

Source: GfK (2022).

Seventh, focusing on low-mid price points ignores the fact that many consumers shop across price bands, including to take account of the lifetime costs of appliances. Two considerations are relevant in this connection:

- **Brands that benefit from a more “premium” perception need not be priced at the same level as lower-priced appliances to be competitive with those less expensive appliances.** For example, a [§<] washing machine that is only slightly more expensive than a Beko or Hotpoint washing machine exerts competitive pressure on the Parties’ products, as consumers are often willing to pay a premium to purchase an appliance with a more premium brand perception.
- **Many consumers use online comparison tools (such as *Youreko*) to identify appliances sold across different price points that have lower lifetime running costs than products with cheaper prices.** As a result, for many consumers, two appliances that differ in price by, for example, GBP 100, are realistic alternatives (and, in fact, can be better alternatives). For this reason, products sold at different price points compete with each other just as intensely as products sold at the same price points.

1.13 **Post-Transaction, the Parties’ customers will have multiple credible alternatives to switch sufficient volumes to make a price increase by Beko Europe unprofitable.** A small reduction in purchases of the Parties’ MDAs by any of their customers would render an attempted price increase by Beko Europe unprofitable.²⁷ Delisting of all products would not be necessary to exert this pressure: it would be sufficient to increase the prominence of competing brands or retailer-owned private-label brands, and/or to focus any delisting on a small part of the range of products provided by the Parties for which the strongest alternatives exist.

Conclusion

1.14 The following sections explain in greater detail that:

1.14.1 The MDA sector is undergoing significant industry-wide changes, which provide the rationale for the Transaction (**Section 2**).

1.14.2 Absent the Transaction, Whirlpool’s EMEA MDA business would be [§<] reduced [§<] (**Section 3**).

1.14.3 The UK MDA sector is highly competitive and fragmented (**Section 4**).

1.14.4 Asian suppliers continue to grow and expand (**Section 5**).

1.14.5 The growth of private-label suppliers and internet sales have further increased choice and price competition (**Section 6**).

²⁷ See Critical Upstream Switching Paper of 25 August 2023 for detailed economic analysis on this issue.

- 1.14.6 There is competition and choice at every price point, and shares by narrowly defined quartiles are not informative of market power (**Section 7**).
- 1.14.7 The Parties are and will continue to be constrained by highly sophisticated and concentrated customers (**Section 8**).
- 1.14.8 The Transaction will result in significant quantifiable efficiencies that could not be achieved by either Party absent the Transaction (**Section 9**).
- 1.15 The critical question for the CMA is whether, in light of these facts, Beko Europe will be sufficiently constrained in each of the MDA4 markets. The Parties believe strongly that it will, and that the CMA will reach the same conclusion.

2. THE TRANSACTION HAS A COMPELLING STRATEGIC RATIONALE

2.1 The Transaction is a response to structural changes in the European MDA sector. These changes have permanently altered the competitive landscape and made it increasingly difficult [§<] to compete effectively. These challenges have created [§<] for both Parties to create a more efficient business that is better able to meet these new challenges and remain competitive in the face of growing competition by low-cost Asian producers.

2.1.1 For Arçelik, the Transaction will improve its ability to compete with the broad range of MDA players in the UK and the EEA, while continuing to drive innovation and sustainability efforts. The Transaction will also enhance Arçelik's competitiveness by combining the Parties' manufacturing expertise, brands, supply chains, distribution and sales networks, and product pipelines.

2.1.2 From Whirlpool's perspective, the Transaction is a response to the decline in its European MDA business (including in the UK). Whirlpool's share of UK sales has declined by [10-20] percentage points in 15 years, and [§<]. [§<].

3. THE COUNTERFACTUAL WOULD SEE REDUCED COMPETITION

3.1 Absent the Transaction, Whirlpool's EMEA MDA business would [§<]. Faced with the competitive decline of its EMEA MDA business [§<], Whirlpool, [§<]. [§<] initiate a strategic review of the business in April 2022. In announcing that review, Whirlpool's leadership made clear that, in the absence of a divestment, the company's EMEA MDA business would need to be [§<] restructured.²⁸

²⁸ As Whirlpool's CFO explained to investors in July 2022 shortly after announcing the strategic review, "no matter what the scenario is, it would not be the same as it is today. And so even in a keep situation, you have a turnaround and a fundamentally different business structure there". See Whirlpool Corporation, Q2 2022 Earning Call, July 26, 2022, p. 12, available at: https://s202.q4cdn.com/229739679/files/doc_financials/2022/q2/Whirlpool-Corp-Q2-2022-Earnings-Call-Corrected-Transcript.pdf.

3.2 **As a response to its declining business, Whirlpool developed two options: [X] changing its business, or selling its EMEA business.** Whirlpool developed two possible scenarios: (i) a [X] restructuring [X] that would have seen Whirlpool [X] (the “Continuation Scenario”); or (ii) the sale of its EMEA MDA business (the “Sale Scenario”).

3.2.1 **Continuation Scenario: [X] different Whirlpool EMEA MDA business.** The Continuation Scenario would involve a [X] restructuring [X]. Under the Continuation Scenario, Whirlpool would have effectively [X]. In other words, under this scenario, Whirlpool would [X].

3.2.2 **Sale Scenario: [X].** Whirlpool initiated [X] the strategic review [X].

3.3 **The Phase 1 Decision acknowledges Whirlpool’s plans to pursue a different strategy absent the Transaction.** The Phase 1 Decision recognises that “*Whirlpool’s senior management would have pursued a different strategy for the EMEA MDA business absent the Transaction,*” which would likely have involved closing parts of its business.²⁹ The Phase 1 Decision concluded, however, that the evidence provided was sufficient for it to depart from its standard approach to the counterfactual at Phase 1 (*i.e.*, comparing the transaction with the pre-merger situation).³⁰ At Phase 1, if multiple counterfactuals are available, the CMA is required to consider the counterfactual in which the merging parties exercise the greatest competitive constraint on each other, while third parties exercise the weakest constraint on the parties.³¹ At Phase 2, however, the CMA should adopt the most likely counterfactual irrespective of the different constraints various competitors exert on each other.³² Whirlpool welcomes the opportunity to be able to provide further evidence and address any remaining concerns on the counterfactual that the CMA may have.

3.4 **The Transaction also enhances Arçelik’s competitiveness compared to the realistic counterfactual.** While Arçelik has been relatively successful in establishing itself in Europe (including the UK), and has done so despite relying on manufacturing facilities in the EU and Turkey, [X]. It is estimated that cost savings will be around EUR [X] million and likely more once [X]. This will have a meaningful impact on Beko Europe’s ability to compete in the face of increasing imports into the UK and Europe as a whole.

²⁹ See paras. 39 and 41 of Phase 1 Decision.

³⁰ See paras. 40-41 of Phase 1 Decision.

³¹ CMA, Merger Assessment Guidelines (CMA129), para. 3.12.

³² CMA, Merger Assessment Guidelines (CMA129), para. 3.13.

4. THE UK MDA SECTOR IS CHARACTERISED BY FIERCE COMPETITION AMONG NUMEROUS SUPPLIERS AND INCREASINGLY STRINGENT ENVIRONMENTAL REGULATIONS

4.1 **The UK MDA sector is highly competitive and fragmented – and becoming increasingly so.** There are many producers of largely commoditised appliances that compete fiercely for retail floor space, online presence, and consumer attention. Five points bear emphasis:

4.1.1 *First, the sector is characterised by a myriad of suppliers and brands.* The Phase 1 Decision acknowledges that there are “*several other competitors*”³³ and that “*the Parties will continue to face some competition from alternative suppliers, including established European providers [...], Chinese providers [...] and Private-label brands.*”³⁴ Brands such as AEG, Amica, Asko, Bauknecht, Beko, Bosch, Brandt, Candy, Electrolux, Fridgemaster, Glen Dimplex, Gorenje, Haier, Hoover, Hisense, Indesit, LG, Liebherr, Miele, Midea, Russell Hobbs, Samsung, Sharp, Siemens, SMEG, Whirlpool, and Zanussi are well-known across Europe (including the UK, where several of these brands have had a strong presence, historically). The existence of so many suppliers results in a congested and highly competitive marketplace. There are more than 20 MDA suppliers active in the UK, selling MDAs under more than 160 brands.

³³ See para. 83 of Phase 1 Decision.

³⁴ See para. 13(c) of Phase 1 Decision.

MDA brands active in the UK (2023)



Number of competitors in the UK by MDA4 category (2022)

Category	Cooking	Dishwashers	Tumble Dryers	Washing Machines
Competitors	[10-20]	[10-20]	[10-20]	[10-20]
Brands	[40-50]	[30-40]	[30-40]	[30-40]
Models	[2,000-2,100]	[500-600]	[400-500]	[1,000-1,100]

[3<

Source: GfK.

- 4.1.2 ***Second, private-label products are strong and growing, accounting for around [30-40]% of UK sales by volume.*** The aggressive expansion of private-label products contrasts with the decline of branded EU suppliers, and it comes despite the growth of Asian players. Moreover, many of the Parties’ customers in the UK are significant competitors by virtue of their sale of private-label products that compete directly with branded products (see Section 6). As a result, retailers and consumers have a huge array of choice, and manufacturers compete intensely for retailer space (in-store and online) and consumer attention.
- 4.1.3 ***Third, the Parties’ shares are below levels that would typically give rise to concerns*** (in particular, given all the other indicia of competition in the market).

Parties’ Estimated MDA4 Market Shares in the UK (value, 2022)

MDA category	2022 estimated share (value)		
	ARC	WHR	Combined
Washing machines	[10-20]%	[10-20]%	[30-40]%
Tumble dryers	[10-20]%	[10-20]%	[30-40]%
Dishwashers	[10-20]%	[10-20]%	[20-30]%
Cooking appliances	[10-20]%	[10-20]%	[20-30]%

- 4.1.4 *Fourth, consistent with the CMA’s practice, value-based shares are more meaningful.* The Phase 1 Decision cites shares by volume rather than by value, arguing that volume shares are more representative because value shares would be skewed by a small number of suppliers of premium products, which would have a larger share by value than by volume. This approach is at odds with the usual (value based) starting point when assessing market shares in consumer markets, where higher prices may reflect higher quality that consumers trade-off against lower priced (lower quality) products. Sales by value and their associated market shares are at least as informative as (and so should be considered alongside) shares on a volume basis.
- 4.1.5 *Fifth, the Parties’ combined shares have fallen [redacted] in recent years.* The Phase 1 Decision suggests that shares have been relatively stable over the most recent years and that the rate of growth by new entrants has slowed.³⁵ This misunderstands the realities that the Whirlpool business in particular faces. [redacted].

Development of MDA6 share of sales in the UK (2010-2022)

[redacted]

Source: GfK 2010-2022.

- 4.1.6 *Sixth, environmental regulations have placed additional burdens on manufacturers across all product categories that, among other things, will reduce Whirlpool’s share in tumble dryers.* New environmental regulations are affecting MDA producers. By way of example, there is increasing pressure to move away from gas hobs and cookers to electric cooking appliances and to implement energy-efficiency labelling of washing machines and cooling products. The impact of new regulation is particularly striking in tumble dryers. [redacted], are air-vented or condenser

³⁵ See paras. 76 and 124 of Phase 1 Decision.

dryers. These products are expected to [3<] in 2025, due to new energy efficiency regulations that favour heat-pump dryers. Whirlpool estimates that, following the phase out, its share of European dryer capacity will [3<] and its share of UK dryer sales will [3<]%.³⁶ Significantly, the models Whirlpool would phase out are lower-end models.

Projected tumble dryer shares before and after phase-out

[3<]

Source: GfK (2022). Figures for 2025 are calculated by taking 2022 sales, excluding sales of dryers based on condenser or air vented technology.

5. ASIAN SUPPLIERS CONTINUE TO GROW AND EXPAND

5.1 Asian suppliers have rapidly established themselves in Europe and are taking over UK MDA markets.³⁷ The MDA industry has been transformed over the past decade by the influx of appliances across all product categories from low-cost global suppliers, based primarily in China and South Korea. These manufacturers have enormous scale, deep financial resources [3<], and access to low-cost labour, raw materials, and production facilities. They already produce MDAs across all categories and price points for sale across the world. Asian suppliers account for [20-30]% of UK sales by value. They also supply private-label products to UK retailers. The Phase 1 Decision recognised this significant growth, noting that “*the shares of some Asian suppliers have grown over the last 10-15 years.*”³⁸ The competitive pressure exerted by Asian suppliers was also confirmed by third party submissions.³⁹

5.2 Asian suppliers’ growth has been fuelled by acquisitions. The CMA also noted that “*the growth of certain Asian producers has been driven at least in part through acquisitions of already established brands.*”⁴⁰ All major acquisitions since 2018 in the

³⁶ In contrast, Miele, Samsung, LG, Hisense, BSH, and Electrolux already [3<] in heat-pump dryers and others undoubtedly will grow their positions as air-vented and condenser dryers are phased out.

³⁷ “Asian suppliers” refer to Asians suppliers of branded products. Asians suppliers are thought to be also very significant suppliers of private-label products.

³⁸ See para. 124 of Phase 1 Decision.

³⁹ See para. 101(b) of Phase 1 Decision: “*Almost all customers indicated that Chinese suppliers are a competitive constraint on the Parties, at least to some extent. In particular, half of customers stated that Haier (which acquired the Candy and Hoover brands in 2019 and whose highest shares are in tumble dryers and washing machines) and/or Hisense (which acquired Fridgemaster in 2012 and Gorenje in 2019 and whose highest shares are in refrigerators and freezers) compete with the Parties [...]*”.

⁴⁰ See para. 125 of Phase 1 Decision.

European MDA industry indeed involved Asian players.⁴¹ This is embedded into both Haier’s and Hisense’s expansion strategies in Continental Europe, which could be reproduced in the UK. For instance, Haier leveraged its acquisition in 2019 of the *Candy/Hoover* brands to help launch the *Haier* brand (the company’s global flagship brand). In the press release regarding this acquisition, Haier identified Europe as “one of the key markets in Haier’s global brand strategy” and noted that it “will continue to invest in Europe to enhance its competitiveness in the region and worldwide.”⁴² Similarly, Hisense acquired the *Gorenje* brand in 2018 to assist to build-up the *Hisense* brand (the company’s global flagship brand).

5.3 **Asian suppliers concentrate their growth efforts across all MDA4 categories.** Asian competitors have expanded their share in all MDA4 categories in the UK, as the chart below demonstrates. Their most significant gains have been in washing machines and in tumble dryers (+[20-30] percentage points between 2009 and 2022). Their growth in cooking and dishwashers has been relatively modest, but nonetheless significant. In addition, Asian players have made clear their intention to grow their MDA businesses further, including with respect to cooking and dishwashers. Haier, for example, opened a dishwasher plant in Turkey in 2022, which it expected to produce up to 1 million units annually,⁴³ while Midea claims to have “the world’s largest oven production base with an annual production capacity of 10 million units.”⁴⁴ In any event, the Parties face fierce competition in cooking and dishwashers from a range of Western suppliers, including Bosch, Electrolux, Glen Dimplex, private labels, and others.

UK MDA sector – Growth of Asian competitors’ shares (2009-2022)

UK MDA sector – Growth of Asian competitors' shares (2009-2022)			
	Asian competitors' combined share in 2009 (value)	Asian competitors' combined share in 2022 (value)	Asian competitors' market share growth from 2009 to 2022 (value, percentage points)
Cooking	[0-5]	[0-5]	+[0-5]
Dishwashers	[0-5]	[5-10]	+[5-10]
Dryers	[5-10]	[30-40]	+[20-30]
Washers	[10-20]	[40-50]	+[20-30]

⁴¹ Chinese players acquired a number of traditional European brands, including *Gorenje*, *Asko*, *Atag*, *Pelgrim*, *Etna*, *Mora*, *Upo*, *Körting* (Hisense), *Candy* and *Hoover* (Haier), and *Fisher & Paykel* (Haier). The Parties are not aware of a single instance of a traditional European player (e.g., Electrolux, Bosch, Amica, Siemens, Whirlpool) acquiring a manufacturing facility or MDA brand in Europe.

⁴² See https://www.haier.com/my/about-haier/news/20190604_74038.shtml.

⁴³ See Haier, “Haier expands its largest European production and export center in Turkey”, 25 October 2021, available at <https://corporate.haier-europe.com/press-release/haier-expands-its-largest-european-production-and-export-center-in-turkey/>.

⁴⁴ See further para. 5.5 below.

Source: GfK (2009-2022).⁴⁵

- 5.4 **Asian competitors can expand easily due to a lack of barriers to entry or expansion in MDA markets.** Asian players “have gone from making products sold under Western names to establishing a reputation of their own”⁴⁶ in a relatively short period of time.⁴⁷ Nowadays, virtually all MDAs sold in the UK are imported. The CMA accepts that imports are prevalent⁴⁸ and acknowledges that barriers to entry are not mentioned frequently in the Parties’ internal documents.⁴⁹ The Phase 1 Decision, however, placed weight on what would appear to be a comment from one competitor suggesting that the need for brand awareness is a barrier to entry.⁵⁰ This is not the Parties’ experience, especially at lower price points. As Haier’s UK CEO explained in an interview that “*Chinese ownership isn’t slowing down its expansion,*” including in an effort to appeal to “*the younger generation,*” who are “*keen to try new brands*”.⁵¹ Asian manufacturers are continuing to grow their presence in the UK and across Europe by investing in their own brands, as well as by acquiring more established brands. For example:
- 5.4.1 Haier acquired the *Candy* and *Hoover* brands in 2019.
 - 5.4.2 Hisense acquired *Fridgemaster* in 2012 and *Gorenje* in 2019.
 - 5.4.3 Midea tried to acquire Electrolux in April 2023, but reportedly could not agree terms.⁵²
 - 5.4.4 Midea is reportedly among the interested buyers of Electrolux’s *Zanussi* brand.⁵³

⁴⁵ Candy and Gorenje are consolidated within the Haier and Hisense groups, respectively, for the whole period in order to show the Asian competitors’ organic growth. The growth figures presented above therefore do not reflect inorganic growth through acquisitions.

⁴⁶ See “*Chinese brands make a mark in Europe*”, Cecily Liu, China Daily Europe, Updated: 6 March 2016, available at: https://www.chinadaily.com.cn/kindle/2016-03/06/content_23758762.htm.

⁴⁷ One example to this expansion strategy is Hisense’s acquisition of UK refrigerator brand *Fridgemaster* in 2012. See para. 15.2.2 of the Final Merger Notice filed on 2 August 2023.

⁴⁸ See, e.g., para. 61 of Phase 1 Decision.

⁴⁹ See para. 127 of Phase 1 Decision.

⁵⁰ See fn. 11 in respect of competitors’ motivation to criticise the Transaction.

⁵¹ See FDI Intelligence, “*We’re not just here to ship products from China; we’re investing in Europe,*” 27 June 2023, available at: <https://www.fdiintelligence.com/content/interview/were-not-just-here-to-ship-products-from-china-were-investing-in-europe-82662>.

⁵² See Economic Times, “*China’s Midea is said to make takeover approach to Electrolux*”, 30 April 2023, available at <https://economictimes.indiatimes.com/news/international/business/chinas-midea-is-said-to-make-takeover-approach-to-electrolux/articleshow/99890229.cms?from=mdr>.

⁵³ See Electrolux, “*Electrolux Group initiates preparations to divest non-core assets with total potential value of SEK 10bn*”, available at <https://www.electroluxgroup.com/en/electrolux-group-initiates-preparations-to-divest-non-core-assets-with-total-potential-value-of-sek-10bn-39904/>, 20 July 2023.

5.5 **Asian competitors expect to grow their share further in the coming years.**⁵⁴ For example:

5.5.1 **Haier.** Haier continues to rapidly innovate and expand, having spent more than USD 6.37 billion (EUR 6.09 billion) on recent acquisitions including GE appliances in 2016 for USD 5.4 billion (EUR 5.2 billion),⁵⁵ Fisher & Paykel in 2018,⁵⁶ and Candy in 2019 for EUR 475 million. With the Candy acquisition, Haier aimed to be part of the top three producers in Western Europe by 2022.⁵⁷ Haier has identified Europe as “*one of the key markets in Haier’s global brand strategy,*” and has noted that it “*will continue to invest in Europe to enhance its competitiveness in the region and worldwide.*”⁵⁸ According to Haier Europe’s CEO for the UK and Ireland, Haier’s “*aim is to become the number one supplier in the UK and Ireland by 2027.*”⁵⁹ Additionally, Haier has invested in a number of new production facilities that supply European customers. It opened a new tumble dryer plant in 2021 and a dishwasher plant in 2022 in Turkey, “*expanding its manufacturing footprint in Europe*” with an investment of EUR 85 million.⁶⁰ In its 2022 interim report, Haier noted that new factories for dishwashers, tumble dryers, and kitchen appliances in Turkey were underway.⁶¹

5.5.2 **LG.** In 2022, LG official made the following comment regarding their performance at the global level: “*In the first half alone, we expect to post 3 trillion won [approximately 2.5 billion USD] more than Whirlpool in home appliance revenue. We will keep our leading edge over the US company.*” LG is also expanding to new product lines. In April 2022, it launched a new range of AI-powered smart home

⁵⁴ See Final Merger Notice filed on 2 August 2023, Annex 001, para. 139.

⁵⁵ See GE, “*GE Agrees to Sell Appliances Business to Haier for \$5.4B*”, 15 January 2016, available at <https://www.ge.com/news/press-releases/ge-agrees-sell-appliances-business-haier-54b>.

⁵⁶ See Haier Annual Report 2022, available at: https://smart-home.haier.com/en/gpxx/?spm=inverstor.31558_pc.link_20191028.4, p.30.

⁵⁷ See Haier, “*Qingdao Haier has completed the acquisition of Candy on 8th Jan 2019. Candy is now a wholly-owned subsidiary of Qingdao Haier, 10 January 2019*”, available at: https://www.haier.com/my/about-haier/news/20190604_74038.shtml.

⁵⁸ Ibid.

⁵⁹ See KBB Review, “*Haier outlines plans for growth in UK*”, 13 July 2023, available at <https://www.kbbreview.com/54781/news/haier-outlines-plans-for-growth-in-uk%EF%BF%BC/#:~:text=%E2%80%9COur%20aim%20is%20to%20become.enterprises%20and%20140%2C000%20retail%20partners.>

⁶⁰ See Haier, “*Haier expands its largest European production and export center in Turkey*”, 25 October 2021, available at <https://corporate.haier-europe.com/press-release/haier-expands-its-largest-european-production-and-exportcenter-in-turkey/>.

⁶¹ See Haier Annual Report 2022, available at https://smart-home.haier.com/en/gpxx/?spm=inverstor.31558_pc.link_20191028.4, p. 34.

appliances.⁶² Additionally, after completing the first phase of its manufacturing facility upgrade at its main production base, LG announced plans to “revamp three more manufacturing lines for kitchen appliances inside the new building by 2024,” effecting its plan to turn all of its six production lines at its main plant to a smart factory with a total investment of USD 681 million.⁶³

5.5.3 **Hisense.** Hisense is actively expanding outside of China, with a strong focus on Europe. For example:

- In 2018, Hisense acquired well-known Slovenian home appliances brand *Gorenje* for approximately EUR 293 million.⁶⁴ In 2021, the Executive Vice President of *Gorenje* commented the following on the mid-to-long term goals in Europe: “*We are improving our position in all product categories and we will continue to strengthen our market position. Our goal is to become one of the leading manufacturers of major appliances and solutions in the global market.*”⁶⁵
- In 2022, Hisense announced it would invest over EUR 40 million in a second new factory for the production of state-of-the-art refrigerators for its brands *Hisense*, *Gorenje*, and *Asko* in Valjevo, Serbia, mainly for exporting to European markets. This new factory was opened in September 2023. In addition to the investment in the new factory in Valjevo, in 2020 Hisense also opened a R&D centre for cooking appliances and dishwashers.⁶⁶
- Most recently, in February 2023, Hisense opened a R&D centre for household appliances in Slovenia,⁶⁷ instantly becoming Slovenia’s largest

⁶² See Research and Markets, “*Global Smart Home Appliances Market Size, Share & Industry Trends Analysis Report By Distribution Channel, By Product (Smart Washing Machines, Smart Air Purifiers, Smart Refrigerators, Smart TV), By Regional Outlook and Forecast, 2022 - 2028*”, July 2022, available at: <https://www.researchandmarkets.com/reports/5645730/global-smart-home-appliances-market-size-share>.

⁶³ See Korean Economic Daily, “*LG Electronics turns home appliance plant into smart factory*”, 16 September 2021, available at: <https://www.kedglobal.com/electronics/newsView/ked202109160016>.

⁶⁴ Commission decision of 6 August 2018, Case COMP/M.8976 – *Hisense/Gorenje*.

⁶⁵ See Consumer Electronics Unlimited, “*Interview: Gorenje’s Boštjan Pečnik talks Hisense alliance and bold future of appliances market*”, 23 December 2021, available at: <https://news.ifa-berlin.com/bostjan-pecnik-gorenje-herenje-appliances/>.

⁶⁶ See Hisense, “*Gorenje a global R&D center for cooking appliances and dishwashers within the Hisense Group*”, 8 July 2020, available at: <https://www.hisense-europe.com/en/media/news/2020/07/9358-Gorenje-a-global-R-D-center-for-cooking-appliances-and-dishwashers-within-the-Hisense-Group>.

⁶⁷ See Gorenje, “*The Hisense Europe R&D Center is the global development center for kitchen and premium appliances of the entire Hisense Group*”, 12 February 2023, <https://india.gorenje.com/en/pressroom/news/2023/02/9831-The-Hisense-Europe-R-D-Center-is-the-global-development-center-for-kitchen-and-premium-appliances-of-the-entire-Hisense-Group>.

exporter.⁶⁸ The Chairman of Hisense noted, “*Europe is a big market with a lot of potential [...] [O]ur target in three years, by 2025, is to achieve 10 percent of the market [share] in two segments, to really become a tier two brand in Europe.*”

- According to a recent article, Hisense “*has serious plans to sell its appliances through kitchen studios with a new range of built-in products released in the UK last month [August 2023] and also being shown at the IFA show in Berlin.*”⁶⁹ The Hisense UK vice-president Howard Grindrod commented that the “*kitchen market is very important*” and “*a priority*” for Hisense.⁷⁰ Hisense’s UK team is targeting the kitchen studio channel, and explains that “*the Hisense brand will position itself as ‘affordable premium’ in the mid-to-premium sector.*”⁷¹
- The fact that Hisense is expected to continue to rapidly grow its presence in the UK is evidenced both by public statements made by senior management, but also by recent product launches which are targeted at the low-mid price end of the market.⁷² In particular, at the end of 2022, Hisense launched a 7KG/1200 washing machine at a sub-GBP250 price point with AO.com, clearly targeting the low end of the price spectrum for washing machines.

5.5.4 **Samsung.** Samsung’s Vice President of Home Appliances Europe has explained that Samsung is “*making a number of investments in the UK*” in terms of warehousing, space expansion and logistics infrastructure to improve its ability to service channel partners. It is also increasing the number of products sourced from its European facility.⁷³ Samsung has a strong R&D focus, and in 2021 spent KRW 22.4 trillion (EUR 16.5 billion) on R&D.⁷⁴ Its sales strategy is to “*expand market leadership based on premium products such as smart devices; provide*

⁶⁸ See CGTN, “*China’s Hisense becomes Slovenia’s largest exporter*”, 22 January 2023, available at: <https://newseu.cgtn.com/news/2023-01-22/China-s-Hisense-becomes-Slovenia-s-largest-exporter-1gFLBcrPUBi/index.html>.

⁶⁹ See KBB Review, “*Heritage, technology and design – all in one brand*,” 18 September 2023, available at: <https://www.kbbreview.com/56497/indepth/heritage-technology-and-design-all-in-one-brand/>

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² See Insider Media Limited, “*UK arm of manufacturing giant hails ‘remarkable growth’*”, 11 July 2023, available at: <https://www.insidermedia.com/news/yorkshire/uk-arm-of-manufacturing-giant-hails-remarkable-growth>.

⁷³ KBB Review, “*Strong take-up’ as Samsung relaunches Kitchen Circle for KBB studios*”, 9 May 2022, available at: <https://www.kbbreview.com/46383/news/strong-take-up-as-samsung-relaunches-kitchen-circle-for-kbb-studios/>.

⁷⁴ See Samsung Electronics Sustainability Report 2022, available at: https://images.samsung.com/is/content/samsung/assets/uk/sustainability/overview/Samsung_Electronics_Sustainability_Report_2022.pdf, p. 4.

*differentiated value to customers through brand, products, and services; and strengthen marketing activities to boost demand from customer/market.*⁷⁵ [3<].⁷⁶

- 5.5.5 **Midea.** Midea pursues an expansion strategy including into Europe. In an interview with Forbes magazine, Midea America President said: *“The fact that we have such a significant share in China means that Midea Group is looking globally for the vast majority of its growth to be coming from. That’s why we’re seeing all of the investment in research and development, and expanding our marketing, workforce and logistics.”*⁷⁷ Similar to Hisense, Midea’s strategy to increase its brand recognition outside of China manifests mainly through sponsorship of well-known football clubs in Europe, North America, South America, and Southeast Asia.⁷⁸ Midea’s website states that its oven factory is *“the world’s largest oven production base with an annual production capacity of 10 million units.”*
- 5.6 **Asian suppliers tailor their offerings to specific European and UK consumer habits.** In addition to investments in their own (or acquired) brands, new manufacturing sites, and capacity, Asian competitors are also investing in product development targeting European and UK consumers. For example, Haier’s CEO has explained that *“in the UK we consume a lot of frozen food and we like our ice in our drinks. Europeans tend not to consume frozen food and they don’t have the same passion for ice. So our fridges need to be designed to reflect that customisation.”*⁷⁹
- 5.7 **Asian rivals are making significant marketing investments.** Asian rivals have engaged in a number of high-profile marketing initiatives that underscore their strategy to further increase their presence in the European MDA markets, including, specifically, their commitment to even further extend their share in the UK.

⁷⁵ See Samsung Electronics Co., Ltd. 2022 Half-year Business Report For the Quarter Ended June 30, 2022, available at: https://images.samsung.com/is/content/samsung/assets/global/ir/docs/2022_Half_Year_Report.pdf, p. 24.

⁷⁶ Annex 057 [3<].

⁷⁷ See Forbes, *“What Tension? China Appliance Leader Midea Upbeat On U.S. Market”*, 21 December 2022, available at: <https://www.forbes.com/sites/russellflannery/2022/12/21/what-tension-china-appliance-leader-midea-upbeat-on-us-market/?sh=4c8761a3176a>.

⁷⁸ See Midea Group Co., Ltd. 2021 Annual Report, available at: <https://www.midea-group.com/content/dam/mideaco-aem/investors/financial-reports/Midea%20Group%20-%20Annual%20Report%202021%20-%20April2022.pdf.coredownload.inline.pdf>, p. 51.

⁷⁹ See FDI Intelligence, *“We’re not just here to ship products from China; we’re investing in Europe”*, 27 June 2023, available at: <https://www.fdiintelligence.com/content/interview/were-not-just-here-to-ship-products-from-china-were-investing-in-europe-82662>.

Expansion of Asian competitors between 2009-2022

Asian Player	Sponsorships
Hisense	<ul style="list-style-type: none"> — FIFA World Cup 2018 — Leeds United since 2019 — UEFA European Championship in 2020 — ‘Showtime’ UK marketing campaign, partnering with popular UK celebrities, in 2021 — Fnatic, a leading esports organisation, in 2022 — FIFA World Cup in 2022 
Samsung	<ul style="list-style-type: none"> — Olympic Winter Games PyeongChang, 2018 — World Cyber Games, 2019 — Olympic Games Tokyo, 2020 — David Beckham’s Guild Esports organization since 2021 — The Magic Radio Breakfast Show and the Sunday Brunch on Channel 4 in 2023 
Haier	<ul style="list-style-type: none"> — Great Britain Olympic hockey player in 2021 — Sky channels in 2021 — KBB Show in 2022 — ATP Tour and Roland Garros — Rugby league club Warrington Wolves (Hoover brand) 
LG	<ul style="list-style-type: none"> — Football Association Challenge Cup since 2017 — The Amundi Evian Championship (one of five major LPGA tournaments) since 2017 — World’s top-ranked female golfer, South Korea’s Ko Jin-young, 2020-2023 — Wembley Stadium, England’s Men’s and Women’s Teams since 2021 
Midea	<ul style="list-style-type: none"> — Manchester City since 2020 (the partnership was extended until 2026) — Erling Haaland official ambassador as of August 2023 

5.8 **Asian producers have vast low-cost manufacturing facilities.** The low cost-base of Asian manufacturers substantially increases pressure on the Parties, especially at the lower end of the market where the Parties operate [§<]. Asian manufacturers have [§<] production and raw material costs [§<].

5.9 **The Parties expect competition across MDAs in the UK to become even more intense and fragmented in the near future.** Midea, for example, secured a deal with Euronics to distribute its MDA products in the UK from March 2023. The impact of these new listings is not yet reflected in the market share data available to the Parties, as there is often a lag between a manufacturer being listed by a retailer and its market share growing.⁸⁰ However, this impact is likely to be significant as Euronics has more than 300 members/customers to whom it can actively offer Midea products.⁸¹ [§<].⁸² The new deal with Euronics and expanded sales through Amazon will enable Midea to materially increase its presence across all MDA categories in the UK, putting additional pressure on the Parties.

5.10 **Excess capacity is an important competitive constraint on MDA suppliers.** As a consequence of increased levels of imports from Asia, combined with reduced sales due

⁸⁰ This delay is partly due to the time it takes to produce and ship the relevant SKUs to a retailer.

⁸¹ Euronics is the largest retail group in the world, operating across the EMEA region and buying on behalf of more than 8,500 stores.

⁸² [§<].

the current economic downturn, [3<] spare capacity [3<]. The market feedback also confirmed this position.⁸³ High levels of under-utilised capacity create an incentive for expansion in lower price segments and also give retailers further leverage when negotiating with MDA suppliers. This excess capacity, and the need to keep the manufacturing plants profitable, implies that any competitor active in an MDA category, including those that might not currently achieve high volumes of sales, would be well placed to increase the number of products supplied into the UK in response to increased demand from retailers.

Rival suppliers have invested in new capacity (including new factories)

Competitor	Product and location	Capacity (units)	2022 UK market size (units)	Year
Haier	Dishwashers in Turkey	1 million	1.1 million	2022
Haier	Refrigerators in Romania	1+ million	2.5 million	2021
Haier	Tumble dryers in Turkey	1.5 million	1.1 million	2021
Hisense	Refrigerators in Serbia	0.75 million	2.5 million	Process ongoing
Vestel	Dishwashers in Turkey	Up to 4.5 million	1.1 million	Process ongoing

5.11 **Competitors can also increase imports into the EEA.** In addition to the high level of excess capacity [3<], competitors can and do also easily import products from Asia or other jurisdictions outside of Europe:

5.11.1 Large suppliers from China (*e.g.*, Hisense, Haier, TCL/Homa, and Midea), South Korea (*e.g.*, LG and Samsung), and Turkey (*e.g.*, Vestel) already supply Europe and have the ability to increase sales to Europe substantially, from their plants in or outside Europe, either under their own brands, or on an OEM basis to other manufacturers. Chinese manufacturers’ production capacity, in particular, is many multiples the size of total European production capacity.

5.11.2 MDA manufacturers regularly transport MDAs across continents. Indeed, imports into the EEA and the UK represent a large percentage of total EEA and UK sales. For example, [20-30]% of washing machines sold in the EEA and the UK were imported from outside the EEA and the UK.⁸⁴

⁸³ According to para. 108 of Phase 1 Decision, “a number of competitors indicated that they have excess capacity”.

⁸⁴ See Table 11 of the Final Merger Notice filed on 2 August 2023.

6. THE GROWTH OF PRIVATE-LABEL SUPPLIERS & ONLINE SALES HAVE INCREASED CHOICE & PRICE COMPETITION

6.1 **Private-label competitors are strong and growing.** Suppliers of branded MDA products also face competition from private-label or retailer private-label products, which represent a significant proportion of MDA sales. The available evidence shows that private-label suppliers have grown dramatically in recent years and that the Parties increasingly compete directly with private-label suppliers and monitor their performance. In the UK, private-label products' share of MDA sales is one of the highest in Europe, representing [10-20]% of all MDA by value and [20-30]% by volume (which is [3<] the proportion in the EEA and has grown from [10-20]% and [20-30]% in 2016).

Examples of private-labels in the UK



Expansion of private-label competitors (2009-2022) (share in volume)

[3<]

Source: GfK (2009-2022)

6.2 **The growth of private-label products has been particularly evident towards the lower range of the price spectrum,** as customers trends switch more towards lower-cost products at the expense of more traditional mid-range branded products.⁸⁵ This is evidenced by the preponderance of private-label products in each MDA4 category in the so-called “*first quartile,*” as set out in the Phase 1 Decision.

⁸⁵ Some retailers have also developed their own mid-range and higher-range brands (e.g., John Lewis). Retailers can buy private-label products from branded suppliers as well as companies that focus more on OEM sales (e.g., Vestel, who focuses on private-label sales in Europe, is among the largest suppliers of this kind in the world).

Private-labels have high shares across all MDA4 Markets – First quartile

[3<]

Source: GfK (2022)

- 6.3 **Private-label products are by no means limited to low price points.** Retailers have been careful to present their private-label products as branded products and manage those brands just as any other supplier would. For example:
- 6.3.1 **Currys.** Currys sells products under two private-label brands, *Logik* and *Essentials*. While *Essentials* focuses on a variety of household products and cooking appliances at the lower end of the price spectrum, *Logik* offers products in all MDA categories, in share of voice cluding cookers ranging from basic models (priced at GBP 289) to more high-end models with multiple chambers (priced at GBP 679).⁸⁶
- 6.3.2 **Argos.** A few years ago, Argos sold only a few low-end washing machine models under its *Bush* brand. It now offers a range of models priced between GBP 129 and GBP 445, many of which are better featured than comparable [3<] models.⁸⁷
- 6.3.3 **John Lewis.** John Lewis’ private-label brand, *John Lewis*, includes more “premium” products at higher price points.
- 6.4 **Retailers promote their private-label products.** Retailers actively promote their own label products to the consumers either through store promotions and positioning or online:

Retailer’s private-label products compete head-to-head

[3<]

- 6.5 **The Phase 1 Decision recognises the significance of private-label products and that they compete with branded products.**⁸⁸ This is also confirmed by the third-party evidence submitted to the CMA in Phase 1: “*two thirds of customers considered Private-label brands to be a competitive constraint on the Parties.*”⁸⁹ Competition from private-label products, coupled with the fact that private-label suppliers are also the Parties’ customers, will continue to be a powerful constraint on Beko Europe and other branded suppliers. While acknowledging that private-label competition exists, the Phase 1 Decision erred in giving insufficient weight to the implications of this competition.

⁸⁶ See <https://www.currys.co.uk/brands/logik/ovens>.

⁸⁷ See <https://www.argos.co.uk/list/shop-bush-laundry-appliances/category:33012832/opt/sort:price/>.

⁸⁸ See, e.g., para. 117(c) of Phase 1 Decision.

⁸⁹ See para. 101(c) of Phase 1 Decision.

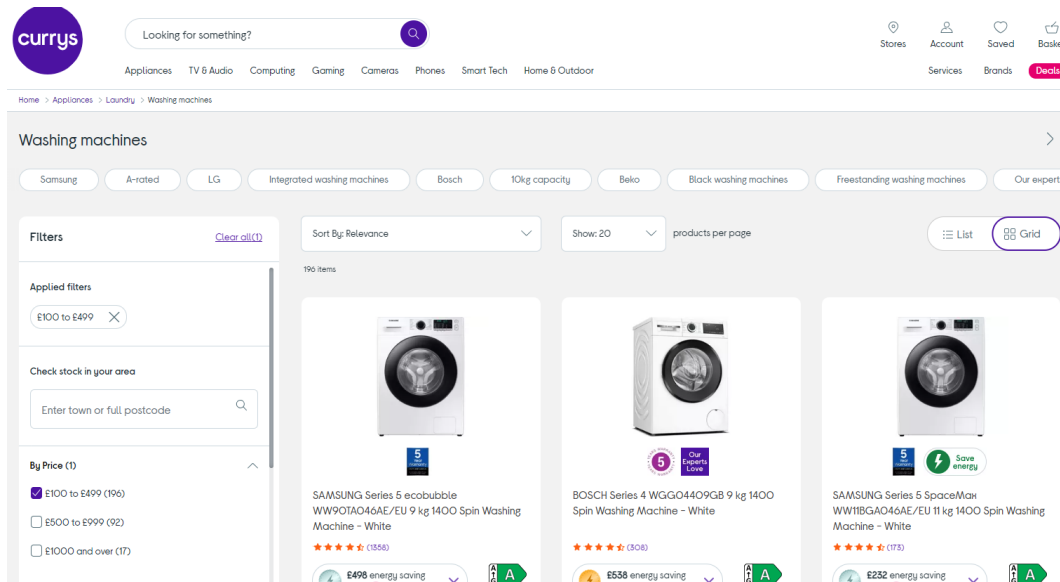
- 6.6 **The growth in online sales has intensified competition between MDA suppliers.** Recent years have seen considerable growth in online sales and UK consumers using websites and other online tools to search for and compare products. The UK has among the highest levels of online penetration in Europe, with more than 50% of MDA sales in the UK take place online.⁹⁰ One of the largest retailers in the UK [3<], AO.com, does not have any physical stores. More than 80% of purchases begin with the consumer searching for or comparing products online.⁹¹ Consumers' Google searches before buying an MDA product show that the consumers start without having a brand in mind. When customers search for an MDA on Google, they are mostly looking at non-branded products. Overall, [70-80]% of Google searches are not specific to any brand. The high levels of online sales in the UK have significant implications for competition among suppliers, in four main ways:
- 6.6.1 First, consumers shop around for the best available offers. The ability to seek out the best available deals is facilitated by low levels of brand loyalty in the MDA sector (*see* Table at para. 8.4.2, setting out MDA brand loyalty levels).
 - 6.6.2 Second, online retailers have even greater freedom to offer a wide range of products. Online retailers do not need to maintain physical displays of the products they sell and so can offer an almost limitless number of brands and models.
 - 6.6.3 Third, while bricks-and-mortar retailers generally maintain stock in warehouses and provide their own delivery and installation services, online retailers frequently outsource these services either to larger retailers (notably, AO.com) or logistics firms, or source directly from manufacturers (without maintaining their own stock).
 - 6.6.4 Fourth, retailers use their websites to shape consumer choice, giving them greater power over suppliers. Suppliers that do not meet pricing demands or demands for additional marketing support find themselves demoted on retailer websites.
- 6.7 **The abundant availability of MDAs online gives retailers significant bargaining power.** The ability to list models on a website is unlimited. However, the 'sea of white' and lack of engagement among consumers makes make online reviews, product positioning, and retailer guidance extremely important in shaping consumers' purchasing decisions. By being able to influence the consumer journey and shape consumers' purchasing decisions, retailers act as gatekeepers. By way of example, [3<].⁹²

⁹⁰ According to GfK data, [50-60]% of MDA volumes were sold online in the UK. GfK (2022).

⁹¹ The online search landscape is dominated primarily by retailers: (i) Currys ~[20-30]% share of voice; (ii) Argos ~ [10-20]% share of voice; (iii) AO.com ~[10-20]% share of voice; and (iv) brands rarely appear on organic search in position 1-5.

⁹² [3<].

Screenshot from Currys website



6.8 **Significantly, products are not displayed by price on retailers' websites.** Retailers' default search results pages are ordered by 'relevance', *i.e.*, what the retailer considers to be relevant for the consumer, usually with a sponsored banner or within search results. Even when the consumer filters search results within a category by price ranges, the retailer websites often list results by 'relevance' and not by price. The growth of online sales has not only empowered consumers to obtain lower prices and more efficient services (*e.g.*, faster delivery), but has enhanced the power that retailers can wield over their suppliers.

7. THERE IS SIGNIFICANT COMPETITION AT EVERY PRICE POINT; SHARES IN NARROWLY DEFINED QUARTILES ARE NOT INFORMATIVE

7.1 **The Phase 1 Decision considered it appropriate to examine the competitors' presence across prices by estimating market shares by price 'quartiles'.⁹³** It found this analysis to be an indicator of closeness of competition because: (i) it reflects the extent to which each supplier is active across the price spectrum,⁹⁴ and (ii) it "*accurately*" captures the extent to which alternative suppliers exercise a competitive constraint on the Parties, as it analyses the volumes sold at different price points.⁹⁵ As explained below, the Parties disagree with the probative value of quartiles data.

7.2 **The Parties recognise that there are certain price points in each MDA market where their combined shares are somewhat higher than others. This is unsurprising.** What matters is that no supplier is confined to a particular part of the market, virtually all

⁹³ See paras. 84-94 of Phase 1 Decision.

⁹⁴ See para. 91 of Phase 1 Decision.

⁹⁵ See para. 92 of Phase 1 Decision.

producers can and do compete across all price segments, and consumers compare appliances sold at different price points. Accordingly, the Phase 1 Decision also recognises that “*there is a continuum of prices*”;⁹⁶ “*there is no standard price segmentation used in the industry, and that suppliers active in one segment may still face competitive constraint from those active in other segments.*”⁹⁷

Supply-side Considerations

7.3 **MDA manufacturers can and do expand across price points**, owing to the supply-side substitutability across different price points and product features. In particular:

7.3.1 ***MDA producers active in low-mid price points would readily challenge any attempt by Beko Europe to raise its prices.*** There is a high degree of supply-side substitutability across different price points and most producers sell MDAs across a large spectrum of price points.⁹⁸ Manufacturers can and do reposition their products or extend their product portfolio, *e.g.*, by adding or removing features and functions, by re-branding products manufactured by other OEMs, or via promotions by offering discounts, meaning that the competitive constraints that manufacturers exert on one another extend well beyond their current product portfolio.

Competitors’ price positioning in MDA5 in the UK (2022)⁹⁹

[3<]

Source: GfK (2022) and Wiser (2022)

7.3.2 ***Competitors are well positioned to compete at all price points.*** The evidence submitted by the Parties demonstrates that competitors, including those that are traditionally concentrated on higher price points (*e.g.*, BSH, Electrolux, Samsung, LG), are well positioned to expand or divert excess capacity in lower price bands, ensuring that customers will continue to have access to a sufficient number of credible alternatives to exert strong buyer power.¹⁰⁰ For example, Samsung, BSH, and LG have already expanded into low-mid priced bands in the UK in the last five

⁹⁶ See para. 59 of Phase 1 Decision

⁹⁷ See para. 91 of Phase 1 Decision.

⁹⁸ For example, in June 2023 interview, Haier’s UK CEO explained that Haier has “*three brands that stretch right from the entry points of the market through to premium, so as the market changes shape and consumers uptrade or downtrade, we have a product for where they need to be.*” See FDI Intelligence, We’re not just here to ship products from China; we’re investing in Europe, 27 June 2023, available at: <https://www.fdiintelligence.com/content/interview/were-not-just-here-to-ship-products-from-china-were-investing-in-europe-82662>.

⁹⁹ MDA5 includes MDA4 and refrigerators. Data for freezers are not available.

¹⁰⁰ See Response to Issues Letter, para. 4.3.

years. This expansion is not driven by discounts, but by the launch of new models that have lower prices.¹⁰¹

**BOSCH (BSH Group)’s expansion into lower price segments
in cooking appliances in the UK**

[3<]

Source: GfK (2018–2022)

**BOSCH (BSH Group) supply share by price segment in cooking appliances
in the UK (volume, %)**

Price segment	2018	2022
Good (0-90 PI)	[0-5]	[0-5]
Better (90-110 PI)	[0-5]	[0-5]
Best (110-130 PI)	[0-5]	[0-5]
Premium (>130 PI)	[0-5]	[0-5]

Source: GfK (2018–2022)

**LG (LG Group)’s expansion into lower price segments
in washing machines in the UK**

[3<]

Source: GfK (2018–2022)

**LG (LG Group) supply share by price segment in washing machines
in the UK (volume, %)**

Price segment	2018	2022
Good (0-90 PI)	[0-5]	[0-5]
Better (90-110 PI)	[0-5]	[0-5]
Best (110-130 PI)	[0-5]	[0-5]
Premium (>130 PI)	[0-5]	[0-5]

Source: GfK (2018–2022)

**Hoover (Haier Group)’s expansion into lower price segments
in tumble dryers in the UK**

[3<]

Source: GfK (2018–2022)

¹⁰¹ See also Response to Issues Letter, paras. 4.4-4.9.

Hoover (Haier Group) supply share by price segment in tumble dryers in the UK (volume, %)

Price segment	2018	2022
Good (0-90 PI)	[5-10]	[10-20]
Better (90-110 PI)	[20-30]	[30-40]
Best (110-130 PI)	[10-20]	[5-10]
Premium (>130 PI)	[0-5]	[5-10]

Source: GfK (2018–2022)

NEFF (BSH Group)’s expansion into lower price segments in dishwashers in the UK

[3<]

Source: GfK (2018–2022)

NEFF (BSH Group) supply share by price segment in dishwashers in the UK (volume, %)

Price segment	2018	2022
Good (0-90 PI)	[0-5]	[0-5]
Better (90-110 PI)	[0-5]	[0-5]
Best (110-130 PI)	[10-20]	[5-10]
Premium (>130 PI)	[10-20]	[10-20]

Source: GfK (2018–2022)

7.3.3 **Competitors that currently have a smaller share of sales in lower price bands in the UK have successfully expanded into lower price ranges in other European countries.** There is no reason why these competitors would not be able to achieve the same results in the UK. Samsung is a good example. It has well-established positions at low-price points in Continental Europe and is well placed to grow its UK share of sales at the lower end of the market (*see figure below*). Similarly, LG told investors earlier this year that it plans to “*scale down*” and “*will respond proactively not only to the premium segment, which is our stronghold, but also the newly formed volume zone*” where it plans to “*tap into mass tier and ODM models to attract the volume zone segment*” and “*expand price coverage.*”¹⁰²

¹⁰² See LG earnings call transcript, 27 April 2023, pp. 7, 9; LG earnings call transcript, 27 July 2023, pp. 5-6.

Further expansion in the UK is possible – Samsung’s share in the Good and Better price band for washing machines (2022)¹⁰³

[3<]

Source: GfK (2022)

7.4 **Low-cost Asian suppliers are pursuing, and will continue to pursue, an entry and expansion strategy focused on low-mid price points.** The low-mid price points offer Asian competitors the greatest opportunity to take advantage of their comparative low-cost of production to gain share and sales volume. This is a logical strategy for faster growth and to establish brand recognition amongst consumers. It is the strategy that Beko followed when it first entered the UK MDA market and one that Asian suppliers are successfully replicating. For example, Hisense has continued to grow significantly across Europe as a whole (including in the UK), focusing on the lower price points for expansion in multiple MDA markets (as demonstrated in the figures below). Asian suppliers’ expansion plans are confirmed by:

7.4.1 The Phase 1 Decision, which acknowledges that competitors, including Chinese suppliers, have expansion plans in the supply of MDA and that one of them has “*specific plans*” to enter into the low-mid price segment.¹⁰⁴

7.4.2 Third parties that track MDA markets. For example, JP Morgan observes that Haier “*has changed its strategy in Europe [...] with newly initiated OEM business catering to the low-end market*”. This, combined with Haier’s “*increased scale*”, “*value-chain upgrade*”, and “*an upturn in demand for Haier’s AC and kitchen appliances*”, allows Haier to be considered JP Morgan’s “*top pick in 2024*” in its Asia Pacific Equity Research.¹⁰⁵

Hisense (Hisense Group) entry to low price segments in washing machines in the UK

[3<]

Source: GfK (2018–2022)

Hisense (Hisense Group) supply share by price segment in washing machines in the UK (volume, %)

[3<]

¹⁰³ Annex 718 includes additional examples of potential expansion in other MDA4 categories.

¹⁰⁴ See para. 131 of Phase 1 Decision.

¹⁰⁵ See JP Morgan Haier Analyst Report H1 2023, 31 August 2023, p. 1.

Source: GfK (2018–2022)

Hisense (Hisense Group) entry to low price segments in dishwashers in the UK

[3<]

Source: GfK (2018–2022)

Hisense (Hisense Group) supply share by price segment in dishwashers in the UK (volume, %)

[3<]

Source: GfK (2018–2022)

Hisense (Hisense Group) entry to low price segments in cooking appliances in the UK

[3<]

Source: GfK (2018–2022)

Hisense (Hisense Group) supply share by price segment in cooking appliances in the UK (volume, %)

[3<]

Source: GfK (2018–2022)

Montpellier entry to low price segments in tumble dryers in the UK

[3<]

Source: GfK (2018–2022)

Montpellier supply share by price segment in tumble dryers in the UK (volume, %)

[3<]

Source: GfK (2018–2022)

Demand-side Considerations

- 7.5 **Retailers, large distributors, and buying groups do not make their purchasing decisions based on a product’s “price category” or segment.** Instead, trade customers focus on whether they have the right range of products available to consumers across all price points by reference to the characteristics that consumers consider important when

purchasing MDAs, including various non-price features.¹⁰⁶ For example, manufacturers present regular “range reviews” to customers in which they explain the extent to which their products can perform well across the customer’s entire portfolio. The importance of non-price features to customers is reflected in their negotiations with manufacturers, as evidence submitted during Phase 1 confirms.¹⁰⁷

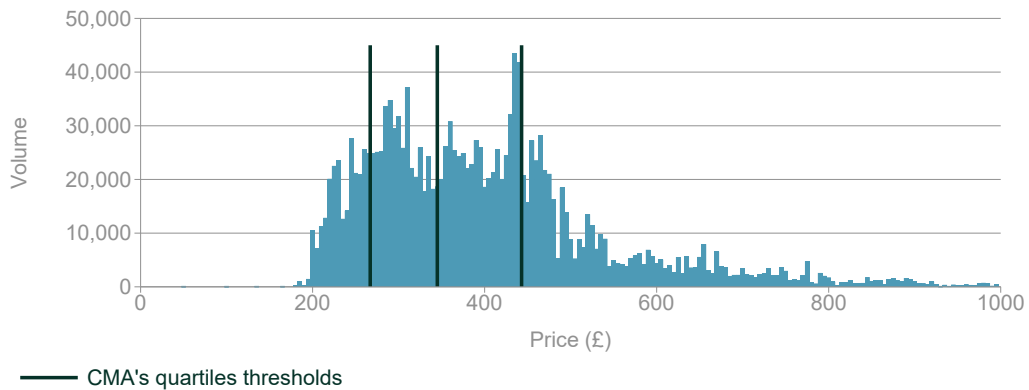
7.6 Consumers compare and purchase products along the price continuum. Individual products sold at different price points are substitutable. They all serve the same core purpose and have the same functions aimed at satisfying the same needs – *e.g.*, a washing machine washes laundry – regardless of the price point at which the product is sold. There are no fixed boundaries between products at any levels along this spectrum. Products at any price point therefore compete with products sold at different price points, from the lowest to the highest.

7.7 The number of competitors in certain price segments is not relevant to assessing the Parties’ bargaining position with respect to retail customers, who exercise considerable buyer power. The Parties’ customers are interested in an MDA supplier’s offer across the whole range of prices, and any attempt to increase prices at the lower end of the market can be deterred by customers switching away from the Parties’ SKUs at the higher end of the market. In other words, demand-side substitution by retailers is not limited to specific price ranges. The quartile analysis does not therefore represent any meaningful price segments or even real-world selling prices (*e.g.*, 399, 499, *etc.*), as illustrated in the figure below, which shows the distribution of washing machine sales across the full price range in the UK.

¹⁰⁶ Such other attributes include capacity, colour, brand, energy efficiency, operating noise level, self-cleaning features, display and control panel features, eco modes, Wi-Fi connectivity, length of warranty, *etc.*

¹⁰⁷ See Final Merger Notice filed on 2 August 2023, para. 15.81 and [3<].

Distribution of volumes across prices for washing machines in the UK¹⁰⁸



Source: GfK (2022).

7.8 **The fact that quartiles do not accurately represent the manner in which consumers make decisions is evident from the way retailers present widely varying price ranges on their websites.**¹⁰⁹ By way of example, the figure below shows that the CMA quartiles are not reflective of the filtering options used by major UK retailers.

Price filters for washing machines on the John Lewis, AO.com, Argos, and Currys websites



7.9 **Brand loyalty in MDAs is very low and the Parties’ brands are in no way considered ‘must have’ brands for customers.** The Parties’ customers are highly sophisticated, and they make good use of the alternative sources of supplies from other MDA manufacturers and lack of brand loyalty at consumer level to achieve competitive pricing (see Table at para. 8.4.2, setting out MDA brand loyalty levels). The Parties’ products do not have unique features, functionality, or qualities that suggest they are uniquely close

¹⁰⁸ Annex 719 includes additional figures showing the distribution of volumes sold across the price range for other MDA4 categories.

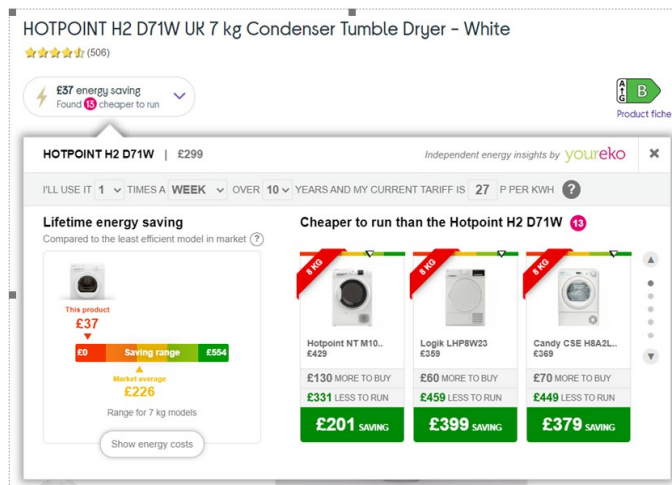
¹⁰⁹ See paras. 15.82-15.84 of the Merger Notice.

competitors.¹¹⁰ As a result, there is no customer that chooses solely between Whirlpool and Arçelik products or between the Parties and only a handful of rivals.

7.10 **Consumers shop across price bands, taking into account the lifetime costs of different appliances and other variables.** When purchasing an MDA, price is not the only factor that contributes to the final purchasing decision. Consumers take account of a wide array of attributes, including capacity, energy efficiency, water usage, product features, performance (e.g., spin-speed), noise, and other attributes. The CMA recognises that these “are important factors that consumers take into account alongside price.”¹¹¹ One tangible demonstration of this phenomenon is the *Youreko* comparison tool used by major retailers (and manufacturers) in the UK and Ireland.

7.11 ***Youreko* allows consumers to identify higher priced appliances – often GBP 100 (or more) expensive – that have lower lifetime running costs than cheaper products.** As a result, for many consumers, washing machines that differ in price by, for example, GBP 100 are realistic alternatives (and, in fact, can be better alternatives). For this reason, products sold at different price points compete with each other just as intensely as products sold at the same price points.

Example of *Youreko* comparisons with a top selling Whirlpool model



7.12 **Many retailers use *Youreko* and similar price comparison tools.** In response, the Phase 1 Decision’s observation that “the Parties did not submit evidence of the prevalence of such tools,”¹¹² the Parties submit the Figure below, which shows that many retailers,

¹¹⁰ Table 15 of the Final Merger Notice demonstrates how all suppliers offer the same functionality with similar features as with the Parties. See Table 15 of the Final Merger Notice filed on 2 August 2023.

¹¹¹ See para. 84 of Phase 1 Decision.

¹¹² See fn. 81 of Phase 1 Decision.

including the largest UK retailers, already make the *Youreko* comparison tool available to consumers, as do manufacturers.

Retailers using the *Youreko* comparison tool



7.13 **In short, the quartile analysis does not show that retailers lack choice.** Nor does it represent how consumers make choices. Ultimately, however, the question the CMA needs to consider is whether, after the Transaction, Beko Europe could increase prices to a particular customer group. Given the number of products, brands and suppliers active in the quartiles highlighted by the CMA, as well as above and below those price points, there is no prospect that retailers or consumers will lack choice if this were to happen.

7.14 **The Parties’ documents confirm that they benchmark themselves against a wide range of manufacturers.** The Parties have two observations in this connection:

7.14.1 The Phase 1 Decision acknowledges that “[t]he Parties’ internal documents demonstrate that, in addition to monitoring each other, they monitor a wide range of competitors including (i) European brands (eg Bosch, Electrolux and [X] Miele), (ii) Korean brands (LG and Samsung), (iii) Chinese brands (eg Candy, Hoover, Fridgemaster and Midea) and (iv) Private-label suppliers.”¹¹³ It nevertheless states that the Parties “are particularly close to each other,”¹¹⁴ and that they “appear to monitor each other particularly closely.”¹¹⁵

7.14.2 The Phase 1 Decision identifies instances where the Parties’ internal documents show that each of the Parties benchmarks its products against the other.¹¹⁶ This is not disputed. More fundamentally, however, the internal documents provided to the CMA also show that both Arçelik and Whirlpool benchmark and reposition

¹¹³ See para. 97 of Phase 1 Decision.

¹¹⁴ See para. 97 of Phase 1 Decision.

¹¹⁵ See para. 99 of Phase 1 Decision.

¹¹⁶ See paras. 98(a)-(c) and (f) of Phase 1 Decision.

themselves against all competitors, including at price points that the CMA is considering.¹¹⁷

7.15 **The Parties monitor all of their rivals.** As illustrated by these examples, an appreciation of the totality of the evidence reflecting the reality across all MDA4 categories shows that the Parties constantly monitor and benchmark themselves against a plethora of established European competitors, Asian players and private-label suppliers. Post-Transaction, Beko Europe will continue to operate under intense and continuous pressure from these strong competitors and expect to continue to monitor all of these competitors – small or big – across all MDA categories in terms of prices, promotions, marketing (digital or in-store) as well as new technologies, features, and innovation.

8. THE PARTIES ARE AND WILL CONTINUE TO BE CONSTRAINED BY HIGHLY SOPHISTICATED AND CONCENTRATED CUSTOMERS

8.1 **Customers exercise significant buyer power.** As well as intense competition from other suppliers, the Parties (and other MDA suppliers) face significant negotiating power exercised by customers. In the UK, MDA products are sold primarily to:

8.1.1 Larger retailers (brick-and-mortar and online), such as Amazon, Argos, AO.com, Currys, John Lewis, IKEA, and B&Q;

8.1.2 Distributors and large buying groups, who in turn sell to retailers, such as Euronics, Sirius Buying Group, and Stearn;

8.1.3 Kitchen companies, such as Wickes, Howdens, Magnet, Wren, and Homebase, which retail to customers; and

8.1.4 Homebuilding and construction companies.

8.2 **The Parties' customer base is highly concentrated.** The top three customers of both Parties, who account for more than [50-60]% of the Parties' MDA sales in the UK, are retailers. The largest [X] trade customers account for more than [80-90]% of the anticipated sales for [X]. This gives customers significant bargaining power vis-à-vis the Parties. All of these trade customers are sophisticated buyers with a high degree of buyer power and the ability to switch suppliers quickly. They can further exert pressure on MDA

¹¹⁷ See Annex 720 for further examples of the Parties' internal documents showing the range of suppliers the Parties monitor across all MDA categories. See also the response to Question 9 of CMA PN RFI 2. On benchmarking and monitoring, see also the responses to Questions 16 of CMA PN RFI 1, Questions 2 and 8 of CMA PN RFI 2, Question 1 of CMA PN RFI 3, Questions 1–7 of CMA PN RFI 4, Questions 1 and 22 of CMA PN RFI 5 (Part 1), and Questions 1-3 of CMA PN RFI 6. See also Annex 634 - ME704423 - Arçelik Section 109 Notice Responses - 28 July 2023 - Strictly confidential and Annex 637 - ME.7044.23 - Arçelik_Whirlpool - S.109 Responses - Strictly Confidential.

suppliers by strategically allocating shelf space and floor spots, or promoting certain products, among the many brands and models available.

Shares of sales to top 10 customers of Arcelik and Whirlpool (all MDA, 2022) – UK

[REDACTED]

Source: Parties' internal data. [REDACTED].

- 8.3 **Smaller retailers exert buyer power through joint-purchasing.** In addition, by purchasing through large buying groups, even small independent retailers are able to benefit from significant bargaining power vis-à-vis MDA suppliers. For instance, Whirlpool sells through a network of over 700 independent retailers, totalling over 800 branches. [REDACTED].
- 8.4 **Retailers are unconstrained by consumer loyalty to particular brands.** Brand loyalty plays little part in consumers' MDA purchasing decisions. This is particularly the case in relation to white goods (where consumers have little meaningful pre-purchase interaction with the products). Even where consumers are aware of a brand, this does not translate into meaningful brand loyalty.
- 8.4.1 ***Loyalty scores are typically low across MDA brands***, especially when compared with loyalty in other consumer goods.¹¹⁸

Brand loyalty survey result

[REDACTED]

- 8.4.2 ***In general, the MDA suppliers' brands have less than 10% brand loyalty.*** Brands such as Samsung, LG, and Hisense, which benefit from higher loyalty scores, also supply other consumer goods such as mobile phones and TVs and therefore experience a 'halo effect' from those more consumer-engaging products, where brand strength plays a more significant role. The Table below shows loyalty scores as reported by GfK for MDA brands and an alternative loyalty score based on a different methodology using the same Brand Health Tracking survey data.

¹¹⁸ For instance, loyalty scores for the iPhone brand (89%) from CMA Consumer research in the Mobile Ecosystem Market study, Unilever deodorants (30-40%) from the *Unilever/Sara Lee* 2010 decision, para. 1029, Andrex (47%) and Kleenex (31%) from the *Kimberly Clark/Scott* 1996 decision.

MDA brand loyalty scores for the UK, 2022¹¹⁹

[3<]

Source: GfK brand health survey data (2022).

8.5 **Retailers heavily influence consumer choice by acting as gatekeepers.** MDA products are highly commoditised, with retailers acting as gatekeepers to consumer purchasing decisions. In particular:

8.5.1 **MDAs look broadly similar, with little material differences between products in a ‘sea of white’.** MDA manufacturers produce appliances based on similar features, technologies, designs and materials, [3<]. Consumers cannot easily distinguish among competing MDA products (e.g., as they might when viewing a television or testing a mobile device’s user interface), as illustrated below.

Products are highly commoditised (dishwashers)



[3<]

8.5.2 **Consumer purchases are influenced by retailer recommendations.** Most of the time, a consumer does not come into a store with a specific brand or model in mind and requests store assistance to decide which model would be better suited for their domestic needs. As a result, retailer recommendations (whether instore or online) are more important to consumer choice among MDAs, compared with other

¹¹⁹ Loyalty scores reported by GfK are calculated as the proportion of owners of a brand who also have a positive opinion of the brand who say they would definitely buy the brand again. In this GfK methodology, not all owners of the brand are included in the denominator. In the alternative method presented in the table above, all brand owners are retained in the denominator.

products. Retailers use their ability to influence consumer sales as leverage over MDA suppliers.

- 8.5.3 ***Retailers are aware of their gatekeeper position as the most significant customer touch points for suppliers***, as well as their power to influence consumer choice (see, e.g., the impact of retailer listings on sales cited at para. 6.7 above). They can and do leverage their positions when negotiating with MDA suppliers. As such, retailers exercise a significant constraint over MDA suppliers because losing an important account ([§<]) would result in a significant loss of revenue for suppliers that they cannot recoup elsewhere. Retailers therefore list only those brands that offer the best commercial terms.
- 8.6 **Retailers do not lose sales by delisting a specific product or brand.** In particular:
- 8.6.1 ***All MDA suppliers offer a very wide range of products with [§<]features***. MDAs are manufactured to standard dimensions and have standard fittings. In addition, no MDA competitor (including the Parties) has any ‘must have’ brands or products in their portfolios. More specifically, there is no product category in which the Parties’ products have unique features, functionality, or qualities that make them indispensable [§<]. Multi-sourcing, therefore, is a routine practice among all customers, and the time and cost involved in introducing a new supplier or product are negligible.
- 8.6.2 ***Retailers have no obligation (contractual or otherwise) to purchase products across different MDA categories from the same supplier***. For instance, a retailer may sell a Whirlpool branded dishwasher, but decide not to sell Whirlpool cooking appliances. As a result, retailers routinely “mix and match” between different manufacturers and brands. And consumers do the same.
- 8.6.3 ***Retailers also promote their own label products to the consumers***, which in turn puts more pressure on the Parties as well as other MDA suppliers. For example, Currys has its own *Logik* brand, and Argos has its *Bush* brand.¹²⁰
- 8.7 **Manufacturers can adjust their product lines nimbly to respond to competition.** As manufacturers are typically able to adjust the prices of their products or extend their portfolios, e.g., by adding or removing features and functions or by re-branding products manufactured by other OEMs, the competitive constraints that manufacturers exert on each other extend well beyond their current product portfolio.¹²¹

¹²⁰ See further discussion at Section 6 above.

¹²¹ See, e.g., Miele’s recent offer of entry-level dryers: <https://www.miele.de/en/m/miele-further-upgrades-its-dryer-range-with-new-entry-level-model-6111.htm>. See further discussion and examples of ease of expansion at Section 7 above.

8.8 **Customers can (and do) switch between MDA suppliers.** The Phase 1 Decision concluded that the evidence the Parties have submitted “*is insufficient to support a conclusion that retailers would be able to switch away from the merged entity.*”¹²² The immediate risk and threats of switching by customers, however, is a phenomenon that is experienced first-hand by the Parties as illustrated by the examples of significant delisting submitted to the CMA in Phase 1. For instance, the following examples illustrate the ease of switching volumes, at no cost, between different suppliers: [REDACTED].

8.9 [REDACTED]. Whirlpool’s trade customers were promptly informed that the price increase would take effect from 1 April 2023.

[REDACTED]

8.10 [REDACTED].

8.11 [REDACTED].

8.12 **Arçelik has similar experiences with (threats of) de-listing.** The following examples illustrate the ease with which retailers can switch volumes at no cost between different suppliers:¹²³

[REDACTED]

8.13 **Manufacturers avoid de-listings at all costs.** Given the risk of partial or full delisting, the Parties will make every effort to reach a resolution with that customer ([REDACTED]) or to compensate in some other way, to mitigate a significant loss of profits, provided it remains commercially viable for the Party to do so. At the same time, customers have a wide range of MDA offers to choose from and are therefore able to dictate the Parties’ terms of supply and make good on their threats. If they are not satisfied with the terms offered, they threaten to and actually do switch away (some or all of their orders) to any one of these other suppliers.

8.14 **Competitive pressure on the Parties is expected to intensify still further.** Due to strong countervailing buyer power, excess capacity in the market, low brand loyalty, high levels of private-label sales, and the existence of numerous alternative suppliers of branded MDAs that retailers can turn to at all price points in the market, the Parties are under constant pressure to offer the lowest prices possible. This pressure has intensified as rivals with lower manufacturing costs and significant scale have entered the UK and competed strongly. That competition is only likely to increase.

¹²² See para. 114 of Phase 1 Decision.

¹²³ Please refer to slide 14 of Issues Meeting Slides Deck - Arçelik Confidential Session for more examples of delisting.

9. EFFICIENCIES

- 9.1 **The Parties have provided extensive evidence that the Transaction will result in significant quantifiable efficiencies that would not be achievable by either Arçelik or Whirlpool absent the Transaction.**¹²⁴ The Phase 1 Decision, however, concludes that the Parties have not provided compelling evidence, showing that efficiencies are merger-specific and would be passed on to customers.¹²⁵ The Parties anticipate providing additional evidence in Phase 2. For the time being, they explain below the important efficiencies that will be generated by the Transaction.
- 9.2 **The Transaction will give rise to cost savings.** [§<]. Given that the Asian players adopt aggressive pricing policies, which are made possible by their highly efficient structures, they already benefit from low-cost bases which enable them to compete fiercely on price. As a result, the Parties [§<] to maintain costs as low as their Asian competitors, absent the Transaction. Due to the highly competitive and fragmented nature of the MDA sector, as well as the incessant pressure on prices exerted by powerful and sophisticated customers, Beko Europe will be incentivised to pass on these cost savings to the benefit of customers and end-consumers.
- 9.3 **Those costs savings are significant and quantifiable.** As a result of the Transaction, Beko Europe will benefit from both fixed and variable cost savings in production, distribution and back-office operations, giving it the ability and active incentive to charge lower prices in all the main MDA markets. Ongoing preliminary analysis of the synergies estimates cost savings of [§<]. Arçelik has already received informal customer feedback [§<].
- 9.4 **The Transaction will enable [§<] and product optimisation.** The Transaction will lead to efficiencies in manufacturing of MDAs, as Beko Europe would [§<] and also improve capacity utilisation. This will enable Beko Europe to compete more effectively with growing Asian manufacturers that benefit from extremely competitive cost-bases. The estimated annual synergies stemming from [§<] are [§<]. The synergies cannot be achieved absent the Transaction: [§<].
- 9.5 **The Transaction will lead to better products and services for consumers.** In addition to the cost-related synergies that the Parties have quantified, the Transaction will result in a number of other benefits for retailers and consumers.
- 9.5.1 **Sustainability.** The combined entity will be better placed to respond to new legislative obligations and targets, as well as growing consumer pressure to offer eco-friendlier MDAs that meet increasingly stringent environmental requirements.

¹²⁴ See, e.g., response to question 24 in the Merger Notice.

¹²⁵ See para. 136 of Phase 1 Decision.

- 9.5.2 ***Service network.*** The combination of service networks will give consumers access to better and more comprehensive after-sales service support, including extending Whirlpool's best-in-class customer service model to Arçelik-branded products.
- 9.5.3 ***Procurement synergies.*** Beko Europe would improve efficiencies in the procurement of materials and components, due to the increased purchasing volumes resulting from the Transaction. Materials and components account for a substantial portion of the direct costs of MDAs (c. [80-90]% to [90-100]% direct (production) costs, depending on the MDA category in question).
- 9.5.4 ***Improved logistics.*** The Transaction will also create efficiencies in terms of improved logistics, both in terms of cost and in terms of improved delivery and order fulfilment services. As a result of the Transaction, the Parties would improve their network, consolidate warehouse space and thus reduce handling costs.
- 9.6 ***These synergies cannot be achieved without the Transaction.*** The Transaction will allow the Parties to combine their complementary product portfolios, brands, and local presence, while achieving merger-specific cost efficiencies and synergies across the value chain, allowing the combined entity to better compete with the broad range of MDA players in the UK, while continuing to drive innovation and sustainability efforts, and navigate the increasingly complex European regulatory environment. Ultimately, Beko Europe will be able to respond faster to new market trends, providing budget-conscious UK consumers with greater choice and better access to innovative, energy-efficient, and trusted MDAs.

10. CONCLUSION

- 10.1 **The CMA's findings at Phase 1 were, by their nature, preliminary and conservative.** The CMA was required to consider only whether there is a "realistic prospect" of an SLC, and the Parties necessarily had little time to respond to the CMA's developing thinking and gather additional evidence. The Parties therefore welcome the opportunity to respond more fully within the Phase 2 process to the matters raised in the Phase 1 Decision. For the reasons explained in this submission, they are confident that Beko Europe would be unable to raise prices or reduce volumes post-Transaction, as any attempt to do so would be quickly frustrated by rival suppliers and strong customers. In these circumstances, there is no prospect of the Transaction resulting in an SLC in any relevant MDA market.