RESPONSE OF

LINDAB INTERNATIONAL AS

AND

HAS-VENT HOLDINGS LIMITED

TO THE CMA'S ISSUES STATEMENT OF 28th MAY 2024

19th JUNE 2024

1. Introduction and Executive Summary

- 1.1. Lindab International AS and its UK subsidiaries, Lindab Ltd ("Lindab") and HAS-Vent Holding Limited ("HAS-Vent") welcome the opportunity to respond to the CMA's Issues Statement of 28th May 2024 in respect of their merger, which completed on 5th October 2023 ("the Merger").
- 1.2. The Parties welcome the CMA's conclusion at Phase 1 that the Merger did not give rise to a realistic prospect of an SLC in (a) the distribution of flat oval ducts and fittings in England and Wales and (b) customer foreclosure in the manufacture of flat oval ducts and fittings in England and Wales. (Decision, paragraph 20.)
- 1.3. The Phase 1 Decision concluded that there was a realistic prospect of an SLC in the supply of circular ducts and fittings but focused overly narrowly on the manufacturing stage of supply.¹ As a result, non-manufacturing distributors of ducts and fittings were not adequately considered. The Parties maintained that all distributors of ducts and fittings compete for the business of installers, irrespective of whether they also manufacture the circular ducts and fittings that they sell. Therefore, we welcome the approach being taken by the CMA at Phase 2, to investigate the supply of circular ducts and fittings more broadly.

¹ As contrasted with flat oval ducts and fittings, where the CMA explicitly considered distribution.

- 1.4. The Parties do not consider that the Merger will lead to an SLC in respect of the supply of circular ducts and fittings for the reasons set out below:
 - There can be no concerns at the manufacturing level because, as discussed further below, the Parties supply relatively little to third party distributors. The Merger does not change this. The Decision did not clearly distinguish between manufacturing and distribution. The focus of Phase 2 should be at the distribution level.
 - Competition takes place at the local level. Customers (who are overwhelming installers) are local (there is no national purchasing), and prices and all aspects of service are set at the local level, with significant variation between branches. Although ducts and fittings can, in principle, be transported over longer distances some more economically than others the focus of both customers and branches is primarily on local distributors.
 - By contrast, the Decision looked at competition only at a national level, stating that the CMA had not been provided with evidence that parameters of competition are set locally, disregarding the reality of how and where prices, discounts and service levels are determined. The reason why some distributors have branches located in different geographic areas was not considered. Further, the Decision did not fully take into account demand-side realities of the market. Installers are not concerned about whether, or where, the ducts are manufactured, they are only concerned that they are offered for sale with timely delivery (when needed).
 - The Parties are, and will continue to be, constrained by a number of alternative distributors – some with one branch, others with multiple branches
 that compete aggressively. The Parties do not compete particularly closely with each other relative to the alternative distributors.
 - The Decision substantially overstated the Parties' shares of supply, for several reasons:
 - The Decision relied on shares at the manufacturing level (by excluding competitors without manufacturing capability), rather than distribution.
 Even at the manufacturing level, the market shares assigned to the Parties for circular ducts and fittings were not based on comprehensive figures gathered or verified by the CMA and, instead,

rely, at least in part, on "back-of-the-envelope" calculations made by the Parties for the Mergers Intelligence Unit in October 2023. The Parties are not aware of any estimates of market size and believe that the "bottom-up" approach used will significantly underestimate the total market. The Parties suspect the CMA was unable to gather sufficient factual information reliably to conclude that the Parties together supply "just under half of the market" or that HAS-Vent is the "second largest" manufacturer of ducts and fittings in England and Wales.

- All pressed fittings sold in the UK are imported, made by different manufacturers from those that make the ducts, with different machinery and at different cost. As a result, the Parties' relevance as manufacturers was overstated because their resale of imported fittings was included in their UK manufacturing market shares.
- Many competitors were dismissed as irrelevant simply because they were not identified by installers in the survey conducted by the CMA. The Parties consider that this is likely to reflect the fact that the CMA asked customers who are based or work in one area whether they were aware of competitors located in completely different areas of the country. Customers should have been (and at Phase 2 should be) asked about competitors present in their local area, i.e., the area, local to their base and/or their work, in which most will source their ducts and fittings from the choice of nearby distributors (who may or may not be manufacturers). In reality, every customer in every part of England and Wales has a large choice of local distributors, even if some of those have limited activities at national level. The Parties urge the CMA to revisit its assessments in this regard at Phase 2.
- Distributors without manufacturing capability, as well as those with manufacturing capability, compete strongly against the Parties.
- The Parties' internal documents referenced in the Decision in fact support a local analysis and identify sufficient remaining competition.
- Barriers to entry and expansion are low and this has been demonstrated by many recent examples, as discussed below. Contrary to the 2006 Decision of

the OFT in <u>Lindab/CCL</u>, the Decision concluded that entry was difficult, a conclusion that appears to have been based mainly on the opinion of one competitor. Evidence of recent expansion was dismissed because customers had not heard of the relevant distributors (AllDuct, iDuct and Duct & Vent), yet it was not clear that the correct customers had been asked (i.e. those that are based or work in the local areas of each of these distributors) or consideration taken of the fact that expansion was very recent.

2. Response to Issues Statement

2.1. As stated, the Parties welcome the approach being taken by the CMA at Phase 2 to investigate the supply of circular ducts and fittings more broadly than at Phase 1. The Parties are confident that no substantial lessening of competition ("SLC") has resulted, or will result, from the Merger.

Customers

- 2.2. Customers of ventilation system components are installers of building ventilation systems, of which circular ducts and fittings form only a part. Installers are sophisticated buyers, experts in their field, who are familiar with the products they need for each of the jobs that they are commissioned to install. This does not change according to whether they are small installation contractors or larger companies with more installers available.
- 2.3. The type and size of job does not generally determine who can work on which jobs. Relatively small installation companies can, and do, install large building ventilation systems. Similarly, a large building project will not necessarily have a large requirement with respect to the ventilation system that needs to be installed, i.e., merely knowing that the building involved is significant does not necessarily indicate that the ventilation system installation is a large job itself.
- 2.4. Demand for circular ducts and fittings is local. Most installers only work on jobs that are located in the geographic area in which they are based. A few may occasionally operate outside their local area but will then have a choice of using distributors in the further area or, possibly, their regular distributors. One of the constraints on the installer is the need to be able to get installers on-site daily, so how many installers they have available and paying the overnight accommodation costs associated with paying for installers to work away from home generally makes competing for out-of-area jobs uncompetitive.

- 2.5. Given the local nature of their work, the vast majority of installers will usually be looking to ventilation supply companies within their own area for their component requirements. As a result, competition for their orders is limited to a local geographic area. This is particularly the case for those that want to collect their orders for whatever reason, e.g., to save on delivery costs or for instant access to their product requirements.
- 2.6. The Parties would encourage the CMA to factor in the fact that demand is local in its assessment of the relevant market, as per its guidance, which states 'the CMA's focus in defining geographic markets is on demand-side factors and identifying the most important competitive alternatives to the merger firms' (paragraph 9.13, Merger Assessment Guidelines (CMA129)).
- 2.7. In this industry, ventilation system distributors do not have binding contracts in place obliging installers only to buy from them. Consequently, installers are free to, and do, move their business around to seek the best price and terms on an order-by-order basis, and may split the requirements of a particular job between distributors in order to get the best prices.

Distributors

2.8. Circular ducts and fittings are standardised commodity products, not bespoke products made-to-order. They are offered as part of the full range of components offered for sale by ventilation component distributors. These distributors stock the circular ducts and fittings on-site, alongside the other components an installer may need, such as fans, grilles, fixings, brackets, and flex.

The range of products on offer, including the range of circular ducts and fittings, varies little between ventilation system distributors, as can be seen from the price lists and websites of each ventilation components distributor. Further, certain distributors are particularly strong in air-moving products (e.g., Systemair, Northern Fan Supplies, Westmid Fan), which are high value products in the duct system. Customers will often purchase their ductwork (which is comparatively cheaper) as part of the same order, for convenience, so distributors such as these exert an additional constraint on price.

2.9. As circular ducts and fittings are bulky items, transport costs are high relative to the low-cost nature of the products. Bulk also means the ducts, in particular, cannot normally be stored at the installation site and must be delivered as needed. The

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availability of low-cost, timely and frequent delivery is also, therefore, important to installers in their choice of distributor. All distributors aim to keep sufficient stocks of products on-site and have their own vehicle(s) and/or contract with delivery companies and couriers to ensure delivery to installers.

- 2.10. How a ventilation components distributor chooses to source the ducts and fittings it supplies may vary but the offer will be the same: standard ducts in several sizes and a wide range of pressed and fabricated fittings.
- 2.11. Different business models as to manufacturing of ducts are used, successfully, by different distributors. All distributors source all their circular pressed fittings for resale from European manufacturers. Circular ducts and fabricated fittings may be bought in for resale from manufacturers in England and Wales, as well as from Europe in the case of fabricated fittings. This will be the case for non-manufacturing distributors such as Storm Ventilation and SK Sales (both of which were recognised as competitors of Lindab and HAS-Vent in the assessment of the Parties' internal documents in the Decision, paragraph 88). Some distributors manufacture their own circular ducts and fabricated fittings at a single manufacturing site from which they supply all their branches and some installers directly, as is the case, for example, with HAS-Vent, Mercury and MAS. Other distributors make their ducts at the site of their branch. Lindab is unusual in that it manufactures circular ducts at some of its branches and stocks its other branches from the neighbouring manufacturing branch. However, the business model adopted for stocking does not matter to the installer; what matters to it is that the ducts and fittings are available for prompt delivery according to their needs. Consequently, all ventilation components distributors are competitors, whether or not they also manufacture.

Demand factors of concern to installers

- 2.12. Given the commodity nature of the products, the main drivers of competition are price and service. The range of products on offer is a given – all competitors offer essentially the same range covering all that an installer may need. Every distributor will offer a full range of circular ducts and fittings.
- 2.13. Competition on price is intense, a point consistently made in the CMA's interviews of Lindab's Branch Managers, its site visits and the Parties' internal documents. Ventilation system distributors offer discounts off their list prices to win business. Many customers seek quotes from several distributors. Therefore, individual

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branches and sales development managers have considerable freedom to give substantial discounts to win and retain business.

- 2.14. Service is defined mainly by delivery times, though all distributors seek to offer good customer service, for example, in terms of, staff interaction and opening hours. As stated, as timely delivery is very important, distributors stock circular ducts and fittings on-site and have their own vehicles to deliver orders. For companies which manufacture and distribute, where the manufacturing occurs at a different site to that at which the order is placed, they might deliver larger orders direct from the manufacturing site (as HAS-Vent does in some cases) or from a closer branch (as those with multiple branches can do) but delivery costs will still be a major consideration. To meet local demand, for example, Lindab's and HAS-Vent's branches have considerable freedom to vary the stock they hold and Lindab's set their own opening times and delivery operating hours.
- 2.15. Quote turnaround times can also be important. Orders will be lost if a quote is not sent to the installer within, what sometimes may be, just a matter of hours.
- 2.16. On the other hand, brand is not particularly important to the installer. Circular ducts and fittings are commodity products, which are interchangeable between different manufacturers for a given functionality. It is not uncommon for installers to split orders for a project's requirements between different distributors.

Geographic markets

- 2.17. Based on the above factors, the Parties believe that the market for the supply of circular ducts and fittings is local. Installers will usually look to distributors located in the area of their job-site, base or home. The catchment area from which they draw their own project work will affect which neighbouring ventilation system distributors they will consider to be available to them. It is for this reason attracting local business that some distributors have chosen to have more than one branch to expand their own reach to allow access more customers.
- 2.18. Lindab and HAS-Vent have few centrally determined policies or services. Apart from the fact that HAS-Vent elects to manufacture centrally, both Parties only conduct a few essential functions from their respective head offices, e.g., negotiating supply contracts (but not necessarily the subsequent purchasing, which may be done at the branch level), HR support, accounting, health and safety compliance, and IT support. Neither conducts wide-area marketing campaigns.

- 2.19. By contrast, in response to demand in its own market, each Branch decides on final selling prices, the exact range and volumes stocked and delivery schedules. Most significantly, it is almost invariably the branch that decides the end prices at which it sells its circular ducts, fabricated fittings and other components, including resold products such as pressed fittings.
- 2.20. Although there are some network-wide policies such as maximum discounts or target margins, this reflects the practical realities of running a business. Even from the variations in average discounts at branch level it is clear that discounts from list price are large and vary significantly (and that this translates into substantial variation in prices in percentage terms). Any national policies therefore reflect the aggregation of local competitive constraints, rather than competition to serve national customers, which do not exist. Further, as noted above, brand is not particularly important to installers and therefore is not a relevant feature of competition.
- *2.21.* The Parties would welcome the opportunity to assist the CMA as it develops the analysis for its local assessment.
- 2.22. Each of the Parties' branches face many remaining competitors post-merger. These competitors range from those with one-branch only to multi-branch operators. The latter include strong competitors such as Storm, SK Sales, JA Glover, and MAS.

Closeness of competition

- 2.23. The Parties are not particularly close competitors. As explained above, the overlap products that they sell are largely generic and commoditised. While both Parties strive to provide competitive prices and a high level of customer service, the same is true of their many competitors providing identical products.
- 2.24. While Lindab and HAS-Vent are both significant manufacturers of circular ducts and fittings when total sales across markets in England and Wales are aggregated, it is not known whether HAS-Vent is the second largest manufacturer in England and Wales, as asserted in the Phase 1 Decision. Indeed, the CMA, at that stage, was unable to establish with any certainty any market shares. Further, HAS-Vent's business model is rather different to Lindab's, with only a single manufacturing site. Nor is manufacturing capability particularly relevant to competition at the distribution level, as evidenced by the success and expansion of competitors with no manufacturing capability, such as Storm Ventilation and SK Sales.

- 2.25. The fact that they operate in several areas is not unique. Other distributors such as Storm Ventilation and SK Sales also operate similarly-sized branch networks.
- 2.26. The reality is that closeness of competition in the supply to installers of circular ducts and fittings must be decided on a local geographic market-by-market basis, in line with the fact that orders are generated through local branches in response to local market conditions. If an installer has a project out of its "home" area, it can place an order through a "home" area branch that has a branch in the other area or it can turn to any one (or more) of the ventilation components distributors also located close to the project site. Competition is still effectively local (to the project site).
- 2.27. That markets are local is supported by the Parties' internal documents. Indeed, paragraph 88(b) of the Phase 1 Decision acknowledges this fact. Where the Parties are competitors, a significant number of other competitors are invariably present and they will continue to exert a strong constraint on Lindab.

Entry and expansion

- 2.28. In its Decision in 2006 in Lindab/CCL, the OFT concluded that barriers to market entry for both the distribution and the manufacture of circular ducts and fittings were low. The Parties believe there is no evidence to suggest that anything has changed in this regard.
- 2.29. At the distribution level, it is not costly to set up a branch and obtain a number of vehicles to transport the products. European importers of pressed and fabricated fittings will give very favourable credit terms so the entrant does not have to pay for these stocks up front.² Further, the CMA should bear in mind that both Parties earn significant revenues from sales of products other than circular ducts and fittings. It is therefore easy for distributors in adjacent markets, who already have a branch, vehicles and customer contacts, to start to supply circular ducts and fittings.
- 2.30. There are no reputational or regulatory barriers. That reputation is easily gained is evidenced by the fact that there are so many one-branch ventilation distributors and duct manufacturers. All inputs are readily available. Customers are not tied into contracts, so can, and do, switch distributors with ease and multi-source.

² As explained by the Managing Director at the CMA's HAS-Vent site visit on 18th June 2024.

- 2.31. At the manufacturing level, the low barriers to entry and expansion are a direct result of ducts and fittings being commoditised and no licences of intellectual property are needed to manufacture them. The equipment used in manufacturing circular ducts and fittings is widely available, either first-hand or second-hand. The sheet-metal machine operators are not highly skilled and are low-paid. If not already available within the business, training is a service offered by the circular machinery manufacturers themselves, including as a stand-alone package without a machine purchase.
- 2.32. As ventilation components distributors expand, they sometimes look to add circular duct manufacture to their businesses, e.g., All Duct and SK Sales. The pool of potential entrants is large. Alongside entirely new entrants are existing rectangular manufacturers, ventilation component distributors and installers themselves. The former, in particular, can easily incorporate circular production into their existing facilities, as they will already have some of the machinery needed, as well as the necessary storage space, vehicle(s) and machine operator(s).
- 2.33. If the price of circular products were to rise significantly, this would encourage Installers to enter and this acts as an additional deterrent to existing distributors. Installers already make rectangular products for other Installers, in order to maximise the return on their investment and even though those Installers are their competitors in the installation of building ventilation systems. Examples of installers that have added their own circular production include Mersey Vent, McColloughs and Pro Duct.
- 2.34. Examples of recent entry and expansion, which demonstrate that entry is easy and attractive, include:
 - Storm Ventilation Supplies entered the market in 2017 and has steadily expanded to operate a formidable network of 10 branches across the country, including in areas local to Lindab branches in Birmingham, High Wycombe, Leeds, Manchester and Southampton.
 - Ductfix entered in 2020.
 - Northern Fans added two branches in 2022, in Nottingham and Leeds.
 - L&B Ventilation Supplies opened in 2017 and operates from its branches in Norwich and Chelmsford.
 - iDuct opened in Manchester in 2021. iDuct was an installer with rectangular production (called Auto Extract). It has now set up a ventilation components supply business with spiral manufacture.

- F&S Ventilation opened in Chelmsford in 2022.
- DW Ducting Supplies, an on-line Ventilation Distributor, opened in Leicester in 2023.
- Ventilation Land opened in Slough in 2020. It operates as an on-line Ventilation Distributor and as a physical Branch.
- Simply Vent opened in Keighley in 2020.

3. No competition concerns arise from the Merger

- 3.1. The Parties do not believe that the Merger will lead to an SLC in respect of the supply of circular ducts and fittings. For example, the Merged Entity would not be able to raise prices or degrade its products or service as a result of the Merger.
- 3.2. The Merged Entity could not raise prices as a result of the Merger for several reasons including:
 - The presence of many competitors that price aggressively in each of the overlap areas;
 - Circular ducts and fittings are *standardised* products, that can be bought from different distributors and still interconnect to build the ventilation system;
 - Switching between distributors and multi-sourcing is easy given the absence of binding supply contracts;
 - Lindab doubts any manufacturer is using its circular machinery to full capacity. This availability of capacity serves a constraint on prices.
- 3.3. Similarly, Lindab could not degrade its service. It could not provide poorer quote turnaround or delivery times without losing business to competitors. It could not reduce the range of circular ducts and fittings it offers or installers would be forced, indeed, to go elsewhere. It could not reduce its opening hours or quality of its staff and standards without losing custom.
- 3.4. Further, the CMA should bear in mind that sales of circular ducts and fittings make up a minority of each Party's sales, with the remainder drawn from products where there is minimal overlap between them and sufficient competitors remain. These other product sales and competitors directly constrain all aspects of service, which are shares across products, and provide a further constraint on price, since many customers will buy a wider range of product categories from the Parties, and an

increase in prices of circular ducts and fittings will cause them to lose sales of other products.

- 3.5. With respect to innovation, standard circular ducts and fittings have not materially changed since the OFT's Decision in 2006.
- 3.6. Further, the Parties do not believe there are any large-scale building ventilation system installation projects taken on by installers for which Lindab/HAS-Vent are installers' only choice of distributor of circular ducts, fittings or for whom alternatives would not exist if Lindab were to raise prices or degrade service. In particular, there are no "national" customers who require supply across England and Wales.
- 3.7. Finally, the Parties note that the majority of customers responding to the market investigation at Phase 1 did not raise concerns (paragraph 103, Phase 1 decision). The Parties have only received positive or neutral feedback from their customers, who have either welcomed the Merger or have been indifferent towards it. While some concerns were raised by a supplier and some competitors at Phase 1, the Parties expect that the CMA to be circumspect on putting weight on concerns from competitors in horizontal cases, or any other third party, that may have commercial incentives to raise concerns, as per its guidance (paragraph 9.13, Mergers: Guidance on the CMA's jurisdiction and procedure (2024 revised guidance)).

4. Conclusion

- 4.1. The Parties are confident that the evidence presented to the CMA will demonstrate that the Merger may not be expected to result in a SLC in any market. The Parties believe that the overlap markets in which Lindab will operate post-merger will remain competitive with sufficient constraint to prevent Lindab raising prices or reducing any aspect of service.
- 4.2. The Parties remains at the disposal of the CMA to assist with the CMA's consideration of these issues during the Phase 2 inquiry.