

## Terms of reference and conduct of the inquiry

### Terms of reference

1. On 23 May 2012 the OFT made the following reference to the CC:
  1. In exercise of its duty under section 33(1) of the Enterprise Act 2002 (the Act) to make a reference to the Competition Commission (CC) in relation to an anticipated merger, the Office of Fair Trading (the OFT) believes that it is or may be the case that—
    - a. arrangements are in progress or contemplation which, if carried into effect, will result in the creation of a relevant merger situation in that:
      - (i) enterprises carried on by or under the control of Akzo Nobel N.V. will cease to be distinct from enterprises carried on by or under the control of Metlac Holding S.r.l.; and
      - (ii) as a result, the conditions specified in section 23(4) of the Act will prevail, or will prevail to a greater extent, with respect to the manufacture and supply of metal packaging coatings; and
    - b. the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services, including the manufacture and supply of metal packaging coatings.
  2. Therefore, in exercise of its duty under section 33(1) of the Act, the OFT hereby refers to the CC, for investigation and report within a period ending on 6 November 2012, on the following questions in accordance with section 36(1) of the Act—
    - (a) whether arrangements are in progress or contemplation which, if carried into effect, will result in the creation of a relevant merger situation; and
    - (b) if so, whether the creation of that situation may be expected to result in a substantial lessening of competition within any market or markets in the UK for goods or services.

*(signed)* ALI NIKPAY  
 Senior Director  
 Office of Fair Trading  
 23 May 2012

### Interim measures

2. We took steps to ensure the separate and independent operation of AkzoNobel and Metlac Holding during the course of our inquiry.
3. Both AkzoNobel and Mr Pier Ugo Bocchio in his capacity as Managing Director of Metlac and on behalf of the owners of the Bocchio shares in Metlac Holding gave [interim undertakings](#) to the CC under [section 80](#) of the Act on 9 and 10 July 2012

respectively for the purpose of ensuring the separate management of AkzoNobel and Metlac Holding whilst proceedings were ongoing.

## Conduct of the inquiry

4. On 24 May 2012, we posted on the CC website an [invitation to express views to us](#) about the merger and, on 12 June 2012, we posted an [administrative timetable](#) for our inquiry.
5. We also invited a wide range of interested third parties to comment on the merger. We sent detailed questionnaires to 39 customers and ten competitors and we gathered oral evidence through nine hearings with selected third parties. Evidence was also obtained through further written requests. [Summaries of our hearings](#) with third parties are published on our website.
6. Members of the Inquiry Group, accompanied by staff, visited the premises of both AkzoNobel and Metlac and were given presentations on the operation of their metal packaging coatings businesses.
7. On 27 June 2012, we published an [issues statement](#) on our website, setting out the areas of concern on which the inquiry would focus. [Non-confidential versions of responses to our issues statement](#) are published on our website.
8. We received written evidence from AkzoNobel and Metlac, and [non-confidential versions of their initial submissions](#) are on our website. We also held separate hearings with AkzoNobel and Metlac on 16 August 2012.
9. In the course of our inquiry, we sent to AkzoNobel and Metlac some working papers and extracts from those papers for comment. We also sent extracts from those papers to other parties for comment. In addition, we sent AkzoNobel and Metlac an annotated issues statement prior to the hearings we held with each.
10. On 20 September 2012, we published a [notice of provisional findings](#), a [summary of our provisional findings report](#) and a [notice of possible remedies](#) on our website. A non-confidential version of our provisional findings report was published on our [website](#) on 21 September 2012. [Non-confidential versions of responses to our provisional findings report and notice of possible remedies](#) are published on our website.
11. On 5 October 2012, we issued a [notice of extension](#) due to the scope and complexity of the inquiry. This changed the statutory deadline to 1 January 2013. A revised [administrative timetable](#) was published on 5 October 2012. This was further revised on 30 November 2012.
12. We held separate response hearings with AkzoNobel and Metlac on 16 October 2012 and 19 October 2012 respectively.
13. We sent to AkzoNobel and Metlac a remedies working paper and a post-provisional findings economic working paper for comment. We also sent extracts from the post-provisional findings economic working paper to other parties for comment.
14. A non-confidential version of our final report has been placed on our [website](#).
15. We would like to thank all those who have assisted in our inquiry.

## Can manufacturing process

FIGURE 1

### Two-piece beverage cans

1. Aluminium or steel strip arrives at the can manufacturing plant in large coils.



2. The strip is lubricated with a thin film of liquid and then fed continuously through a cupping press, which blanks and draws thousands of shallow cups every minute.



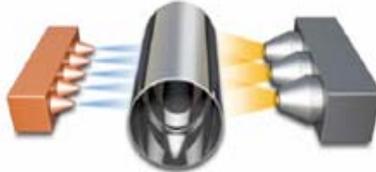
3. Each cup is rammed through a series of tungsten carbide rings. This is the drawing and ironing process which redraws the cup to a smaller diameter and thins the walls, whilst increasing the height.



4. Trimmers remove the surplus irregular edge and cut each can to a precise specified height. The surplus material is recycled.



5. The trimmed can bodies are passed through highly efficient washers and then dried. This removes all traces of lubricant in preparation for coating internally and externally.



6. The clean cans are coated externally with a clear or pigmented base coat which forms a good surface for the printing inks.



7. The cans pass through a hot air oven to dry the lacquer.



8. The next step is a highly sophisticated printer / decorator which applies the print design in up to six colours, plus a varnish.



9. A coat of varnish is also applied to the base of each can by the rim-coater.



10. The cans pass through a second oven which dries the ink and varnish.

11. The inside of each can is sprayed with lacquer. This special lacquer is to protect the can itself from corrosion and from any possibility of interaction between the contents and the metal.

12. Lacquered internal surfaces are dried in an oven.

13. The cans are passed through a necker flanger, where the diameter of the wall is reduced (necked-in). The tops of the cans are flanged outwards to accept the ends after the cans have been filled.



14. Every can is tested at each stage of manufacture. At the final stage they pass through a light tester which automatically rejects any cans with pinholes or fractures.



15. The finished can bodies are then transferred to the warehouse to be automatically palletised before despatch to the filling plant.



Source: Metal Packaging Manufacturers Association, 'How a two-piece drawn and wall-ironed drinks can is made'.

FIGURE 2

**Three-piece food cans**

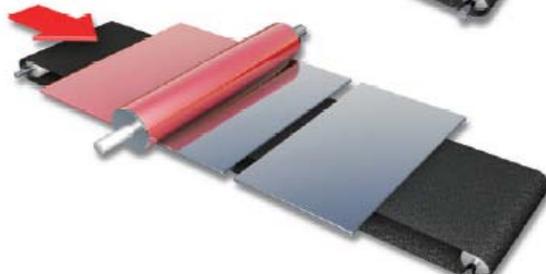
1. Steel strip arrives at the can manufacturing plant in large coils.



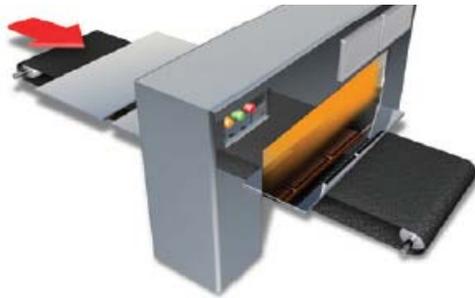
2. Steel strip is cut into large sheets



3. Lacquer is applied to the side of the sheets that will become the internal surfaces of the finished cans. This special lacquer is to protect the can itself from corrosion and from any possibility of interaction between the contents and the metal.



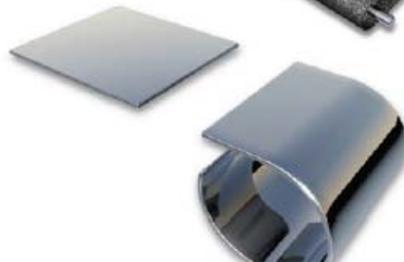
4. The lacquered sheets are dried in an oven.



5. The large sheets are slit into small sheets, one for each can body.



6. Each small sheet is rolled into a cylinder.



7. The cylinder edges are welded by squeezing them together whilst passing an electric current through them. This heats up the metal sufficiently for a sound joint to be made.



8. The inside surface of the weld is sprayed with lacquer and then cured by blowing heated air on to the outside of the cans.



9. The cans are passed through a flanger where the top and bottom of the can are flanged outwards to accept the ends.



10. Plain ends are seamed to the can bodies to close one end of every can.



11. The cans are passed through a beader where the walls of the cans have circumferential beads formed in them to give added strength.



12. Every can is tested at each stage of manufacture. At the final stage they pass through a pressure tester, which automatically rejects any cans with pinholes or fractures



Source: Metal Packaging Manufacturers Association, 'How a three-piece welded food can is made'.

## Buyer size

1. Table 1 presents information on the purchase volumes of some buyers, including the largest buyers, from individual suppliers in B&B and FCG markets, in the EEA in 2011.
2. It provides information on individual suppliers' total sales volumes in order to assess the share a particular customer has of a supplier's total sales volume for each main product segment. It provides information on total sales in the market in order to assess the share of an individual customer from the total quantity of coating products sold in the main product segments.
3. The figures in Table 1 suggest that the four largest customers (Ball, Can-Pack, Crown and Rexam), accounted for about [71–80] per cent of total purchases in the B&B market and all of the B2E segment. The four largest customers in FCG (Ardagh, Crown, Mivisa and Silgan) accounted for [41–50] per cent of total purchases. The top three customers (Ardagh, Crown and Mivisa) accounted for about [51–60] per cent in the Food segment,<sup>1</sup> while the customer side of the C&C and GL segments was much more fragmented.
4. In turn, individual customers purchased up to 20 to 30 per cent of total sales volume in the B&B market (Ball, [20–30] per cent) and almost 40 per cent of sales in B2E (Rexam, [31–40] per cent). Individual customers purchased up to 20 to 30 per cent of total sales volume in the Food segment (Crown, [20–30] per cent) and about one-tenth of supply in the C&C segment (Crown, [11–20] per cent) and in the GL segment (Crown, [11–20] per cent). This suggests that certain individual customers purchase a substantial proportion of both individual suppliers' volumes and the entire market's total sales volume, implying that losing the purchases of such a big customer would potentially be a substantial loss for individual suppliers. In contrast, smaller customers are individually of less importance for individual suppliers.

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<sup>1</sup> [X]

TABLE 1 Purchases by selected customers by sector in the EEA, 2011

Customer	Supplier					Total	% of total
	AkzoNobel	Metlac	Valspar	PPG	Other		
<b>B&amp;B</b>							
Ball	[X]	[X]	[X]	[X]	[X]	[X]	[21–30]
Can-Pack	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Elval	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Rexam	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Others	[X]	[X]	[X]	[X]	[X]	[X]	[21–30]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0
<b>B2E</b>							
Ball	[X]	[X]	[X]	[X]	[X]	[X]	[31–40]
Can-Pack	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Rexam	[X]	[X]	[X]	[X]	[X]	[X]	[31–40]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0
<b>FCG</b>							
Ardagh	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Can-Pack	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Mivisa	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Pelliconi	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Silgan	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Tecnocap	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Others	[X]	[X]	[X]	[X]	[X]	[X]	[51–60]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0
<b>Food</b>							
Ardagh	[X]	[X]	[X]	[X]	[X]	[X]	[21–30]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[21–30]
Mivisa	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Others	[X]	[X]	[X]	[X]	[X]	[X]	[41–50]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0
<b>C&amp;C</b>							
Can-Pack	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Pelliconi	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Guala	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Tecnocap	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Others	[X]	[X]	[X]	[X]	[X]	[X]	[61–70]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0
<b>GL</b>							
Ardagh	[X]	[X]	[X]	[X]	[X]	[X]	[0–10]
Crown	[X]	[X]	[X]	[X]	[X]	[X]	[11–20]
Others	[X]	[X]	[X]	[X]	[X]	[X]	[71–80]
Total	[X]	[X]	[X]	[X]	[X]	[X]	100.0

Source: Party responses to CC questionnaire.

Notes:

1. When figures were available from customers only, we used those figures.
2. When figures were available from suppliers only (ie from the AkzoNobel or Metlac customer transaction database) we used those figures.
3. When figures were available from both customers and suppliers we used customers' reported figures for consistency reasons as we do not hold customer transaction data for all suppliers listed in this table.<sup>2</sup>
4. Where we do not have a record of either supplier sales to a customer or customer's metal coatings purchases, this is indicated by a dash '-' in the table.
5. 'Others' figures for some suppliers in the Food and C&C segments are marked by a dash '-' as missing data for purchases by some customers means they cannot be accurately calculated.
6. The 'Others' figures for AkzoNobel, PPG and Valspar in the B&B market is likely to mainly account for purchases by [X].

<sup>2</sup> [X]

## History of the Metlac Group<sup>1</sup>

1. The Metlac Group was founded in 1986 as a metal packaging coatings business. The company was originally called Coates Italia S.p.A. and resulted from the acquisition of IVI's metal packaging business from PPG by three Italian families (the Bocchio, Barlotti and Maietta families). In addition, Coates Brothers plc acquired a minority 40 per cent shareholding in the company, which was then increased to 44.44 per cent.
2. In 1994, Total S.A. acquired Coates Brothers plc and thereby obtained the minority shareholding in Coates Italia S.p.A. In 1996, Total S.A. sold Coates Brothers plc to Valspar Corporation and sold its minority interest in Coates Italia S.p.A. to the three Italian families mentioned above.
3. In 1997, the Bocchio, Barlotti and Maietta families sold 44.44 per cent of the shares in Coates Italia S.p.A. to Mortar Investments International Limited, a subsidiary of ICI. As part of this transaction, ICI was granted a call option for the remaining shares (the 55.56 per cent controlling stake) in Coates Italia S.p.A. This option was exercisable at [REDACTED].<sup>2</sup>
4. [REDACTED]
5. In 2003 Metlac acquired Sicra S.r.l., a company active in the manufacture of coatings for collapsible tubes and monobloc aerosols, which was then incorporated into Metlac S.p.A.
6. In 2007, the Barlotti and Maietta families sold their shares in Metlac S.p.A. The transaction was effected via a corporate restructuring, resulting in the creation of Metlac Holding. Following the transaction, ICI, via its subsidiary ICI Italia S.p.A. held 49 per cent of the shares in Metlac Holding and the Bocchio family held 51 per cent. The Bocchio family's shares are divided as follows: 17.87 per cent are held by Mr Bocchio and the remainder are held by his two sons, Mr Davide Bocchio and Mr Diego Bocchio, with a 16.56 per cent shareholding each. [REDACTED] New shareholding arrangements were implemented between ICI and the Bocchio family:
  - (a) Metlac Holding Formation and Quotaholders Agreement dated 30 September 2007; and
  - (b) Metlac S.p.A. Shareholders Agreement dated 4 December 2007.
7. On acquisition of ICI in 2008, AkzoNobel inherited both the ICI shareholdings and also the arrangements set out between the Bocchio family and ICI in the agreements set out above. Metlac's operations were governed by these agreements until [REDACTED], together with the companies' by-laws and the relevant provisions of the Italian Civil Code, and any other applicable laws, and are now governed solely by the companies' by-laws and the relevant provisions of the Italian Civil Code.
8. At present, the Metlac Holding quotaholders are ANCI with a 49 per cent interest, and the Bocchio family, with a 51 per cent controlling stake (17.87 per cent being held by Mr Bocchio, 16.56 per cent by Mr Davide Bocchio and 16.56 per cent by

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<sup>1</sup> Metlac initial submission dated 14 June 2012, paragraphs 6–13.

<sup>2</sup> [REDACTED]

Mr Diego Bocchio).<sup>3</sup> Metlac is controlled by Metlac Holding with a 55.56 per cent interest, while the remaining 44.44 per cent of its capital is held by Mortar Investments International Limited (a wholly-owned subsidiary of AkzoNobel).

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<sup>3</sup> [X]

## AkzoNobel rights over Metlac Holding and Metlac

1. This appendix sets out the specific rights which AkzoNobel has over Metlac Holding and Metlac, via their governance arrangements. It first considers the rights held by AkzoNobel under the FQA and SHA and then considers the situation following the expiry of these arrangements in [REDACTED].

### Voting rights

2. AkzoNobel has 49 per cent of the voting share capital of Metlac Holding and approximately 44 per cent of the voting share capital of Metlac. The Bocchio family holds 51 per cent of the voting share capital of Metlac Holding and approximately 56 per cent of the voting share capital of Metlac. Until [REDACTED], the voting rights attached to the shareholdings for Metlac Holding and Metlac were subject to the FQA and SHA respectively, together with the companies' by-laws. Since [REDACTED], the voting rights have been determined according to the by-laws of each company. Under the by-laws of both companies, a majority of 80 per cent of the corporate capital is required to pass a resolution at the first call of a shareholders' meeting (at least 80 per cent of the corporate capital must be present at the meeting). A simple majority of the voting shares present is required to pass a resolution at the second call of a shareholders' meeting unless the vote relates to a listed item that requires a majority of 76 per cent.<sup>1</sup> AkzoNobel therefore has the ability to block any shareholder vote for Metlac Holding that requires more than 51 per cent of the voting share capital in its favour and for Metlac that requires more than 56 per cent of the voting share capital in its favour.

### Directors and Executive Officers

3. [REDACTED]
4. [REDACTED]
5. Mr Bocchio was appointed as Managing Director of Metlac pursuant to clause 5.7 of the SHA. [REDACTED]
6. [REDACTED]
7. [REDACTED]<sup>2</sup> Metlac told us that Mr Bocchio was appointed as General Manager by board resolution in 1986 (before Mr Bocchio was appointed to the board) for an indefinite duration and has continued to hold this position ever since. [REDACTED]
8. [REDACTED]<sup>3</sup>
9. [REDACTED]<sup>4</sup>

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<sup>1</sup> Metlac S.p.A. by-laws, Articles 18 & 20.

<sup>2</sup> [REDACTED]

<sup>3</sup> [REDACTED]

<sup>4</sup> [REDACTED]

## Business and strategy of the company

10. [REDACTED]<sup>5,6,7</sup>
11. [REDACTED]<sup>8</sup>
12. [REDACTED]<sup>9</sup> We asked both AkzoNobel and Metlac to tell us the extent to which AkzoNobel influenced the Metlac approved budget.
13. AkzoNobel told us that [REDACTED].<sup>10</sup>
14. Metlac told us that [REDACTED].
15. [REDACTED]
16. Metlac told us that, in practice, day-to-day management of the Metlac Group was under the control of Mr Bocchio and the directors appointed by him to the board. AkzoNobel has told us that, [REDACTED].
17. AkzoNobel accounted for the Metlac Group as an 'associate' which it defines as an entity in which AkzoNobel has 'significant influence, but no control, over the financial and operational policies'.<sup>11</sup>

## Confidential information

18. [REDACTED] In our view, these arrangements reinforced the control of the Bocchio family over Metlac.
19. [REDACTED]
20. [REDACTED] We further consider the potential removal of the firewall in our counterfactual analysis in paragraphs 6.33 to 6.36 of our report.

## Conclusion on governance of Metlac to [REDACTED]

21. Therefore under the SHA and FQA arrangements, it did not appear that AkzoNobel was able to control the commercial policy of the Metlac Group. [REDACTED]

## Governance of Metlac post [REDACTED]

22. [REDACTED]
23. Metlac told us that following the expiry of the FQA and SHA:
  - (a) [REDACTED] AkzoNobel retained its veto right in relation to contracts which had a duration longer than five years or which had an annual value in excess of 20 per cent of the annual turnover of the company (Clause 30(n) of Metlac's by-laws), and

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<sup>5</sup> [REDACTED]  
<sup>6</sup> [REDACTED]  
<sup>7</sup> [REDACTED]  
<sup>8</sup> [REDACTED]  
<sup>9</sup> [REDACTED]  
<sup>10</sup> [REDACTED]

<sup>11</sup> p147 of AkzoNobel NV's annual accounts described Metlac Group as a packaging coatings producing associate and p109 sets out its definition of associates and joint ventures.

contracts which exceeded the 3:1 ratio between total debt and net equity (Articles 34(g) and 30(g) of, respectively, Metlac Holding's and Metlac's by-laws).

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

24. AkzoNobel told us that under Metlac's and Metlac Holding's by-laws (respectively Clause 37 and Clause 40), shareholders holding at least one-third of the corporate capital (ie AkzoNobel) should have the right to have the companies' accounts certified by an auditing firm registered within the national register of auditing companies. It told us that Clauses 30(e) and 24(e) of the by-laws of Metlac and Metlac Holdings respectively provided that any proposal of the board of directors concerning the distribution of dividends was to be submitted to the shareholders'/quotaholders' meeting and was subject to a supermajority requirement.
25. Under the by-laws, the directors of Metlac are given 'the widest powers'.<sup>12</sup> This appears to mean that directors are given all powers not specifically determined as being a matter for the shareholders. Save for matters reserved under Article 30 of the by-laws, directors decide by a majority vote: 'resolutions will be adopted by a simple majority of those present'.<sup>13</sup> Matters specified as being for the decision of the shareholders are ones which do not go to the day-to-day commercial strategy or management of Metlac.<sup>14</sup>
26. [REDACTED]<sup>15</sup> The by-laws provided that all the directors except one needed to vote in favour of the appointment and revocation of the Managing Director. AkzoNobel would be able to veto the appointment of a new Managing Director if it chose to do so.<sup>16</sup>
27. Metlac told us that Mr Bocchio would remain as General Manager because the appointment was of indefinite duration and failing the appointment of a new Managing Director, operational decisions would remain with Mr Bocchio as General Manager subject to delegation of specific powers by the board. Article 30 of the Metlac by-laws provides that the resolutions of the board are taken by a simple majority except for a number of matters listed in Article 30 which require the consent of the AkzoNobel directors. Metlac told us that delegation of powers to the General Manager and determination of the content of those powers were matters requiring a simple majority vote by the board; 'AkzoNobel would therefore have no power to veto any delegation of powers to Mr Bocchio in his capacity as General Manager'. [REDACTED]
28. Metlac told us, but this is disputed by AkzoNobel, that the matters which required a supermajority vote (ie AkzoNobel directors to agree) under the by-laws such as the appointment of a General Manager and a Managing Director, decisions on increasing debt gearing, entry into long-term (more than five years) or high-value (more than 20 per cent of annual turnover) contracts and approval of related party contracts were matters which did not significantly impact on the operation of Metlac.
29. We note that these are the matters over [REDACTED].

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<sup>12</sup> Metlac S.p.A. by-laws, Article 25.

<sup>13</sup> Metlac S.p.A. by-laws, Article 30.

<sup>14</sup> Metlac S.p.A. by-laws, Article 20.

<sup>15</sup> [REDACTED] Article 24 of the Metlac S.p.A. by-laws provides that in the event of resignation of two or more directors the entire board is considered as simultaneously resigning, with immediate effect. [REDACTED]

<sup>16</sup> Metlac S.p.A. by-laws, Article 30(s).

30. We understand that under the Metlac by-laws, the directors appointed by the Bocchio family through Metlac Holding would be able to pass any decision requiring a simple majority vote and the directors appointed by AkzoNobel would be able to block any resolution requiring consent of six of seven directors.

31. [REDACTED]

### **Conclusion on future governance of Metlac**

32. As described in paragraphs 22 to 25 above, [REDACTED].

## Entry and expansion

1. In this appendix we consider the possibility of companies entering into or expanding within the B&B and FCG markets we have identified on a scale sufficient to constrain the merging parties from being able to increase prices (or otherwise worsen the offer) post-merger. In doing so, we consider whether such entry or expansion would be timely, likely and sufficient.<sup>1</sup>
2. Our analysis in Section 8 demonstrates that a significant proportion of UK sales in the B2E segment and FCG segments are likely to have been affected by rivalry between AkzoNobel and Metlac<sup>2</sup> and, absent the merger, we expected this proportion to increase (see paragraphs 8.210 – 8.212). We also noted that Metlac intended to strengthen its position in the B&B sector through the development of a BPA-NI B2I coating and that it was planning to enter the BE segment, giving rise to the possibility that Metlac might be able to exert a constraint in the future in these segments too.
3. In considering the issue of entry and expansion, we therefore focused upon whether a rival company, not currently active on current (or future) overlaps,<sup>3</sup> would be able to start supplying in the UK or anywhere else in the EEA.<sup>4</sup> When considering the prospects of companies already active in the segments in question (ie B2E, B2I, BE, Food internal, Food external, C&C internal, C&C external, General Line internal or General Line external), we tend to describe this as ‘expansion’; otherwise we use the term ‘entry’. In considering such entry and expansion, we focused upon the issues associated with supplying products in the relevant segment, taking these to be representative of the difficulties of supplying the specific overlaps we have identified.
4. In this appendix we therefore set out our views and evidence on:
  - (a) barriers to entry and expansion in the various markets/segments of interest; and
  - (b) the ability and willingness of potential competitors to enter/expand into/within the markets/segments of interest.
5. First, we discuss B2E (along with BE, which involves a similar production process), then FCG and finally B2I.
6. Before doing so, however, we provide a brief overview of the recent examples of entry, expansion and exit within the industry.

### Historic entry, expansion and exit

7. This section provides an overview of recent examples of entry, expansion and exit in the relevant metal coatings markets/segments. It sets out which product markets/segments entrants have chosen to contest, the scale at which they have sought to enter and then expand, the length of time entrants have been active within a market, and, in the case of exit, the means by which a firm has left the market.

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<sup>1</sup> CC2, paragraph 5.8.3.

<sup>2</sup> Either because they have both been qualified to supply the same plant with the same product or because they are both qualified to supply the same customer with the same product (and can therefore be expected to exert a meaningful constraint because they can be relatively rapidly qualified).

<sup>3</sup> ie products for which both Metlac and AkzoNobel are qualified to supply to a specific customer somewhere in the EEA.

<sup>4</sup> Because if a rival company is able to start supplying the overlap product to the overlap customer somewhere in the EEA, this would likely provide a constraint (Type II competition).

## ***Frequency of entry***

8. The three largest coatings manufacturers—Valspar, PPG and AkzoNobel (ICI)<sup>5</sup>—entered the (European) coatings industry via acquisitions of established coatings manufacturing businesses, which had been operating in the EEA market for more than 20 years. They have grown both organically and via a number of acquisitions that have consolidated the market.
9. In addition to these larger manufacturers, there have been several examples of entry and expansion in the relevant markets in the last decade. The following cases have been brought to the attention of the CC:
  - (a) Rembrandtin: Austrian coatings manufacturer formed through a management buyout from Altana in 2005. Rembrandtin traditionally had a focus on industrial coatings products and entered the market for FCG coatings in 2006 using a plant acquired during the buyout, which was reconfigured for the purpose.<sup>6</sup> Rembrandtin's FCG coatings business was subsequently acquired by Salchi in 2010/11.
  - (b) Diostyl: Netherlands-based coatings manufacturer, founded in 2008 by a group of individuals with previous experience in the sector. Diostyl sells a range of coatings for the FCG market, with a particular focus on general line and external coatings.
  - (c) VPL: German coatings manufacturer, which entered the industry in 2011 and is currently active in both FCG and B2E.
  - (d) Tiger: German company, founded in the 1930s, with a particular expertise in powder coatings. We understand that Tiger entered the FCG coatings market in 2010/11 with powder coatings for aluminium monobloc cans, having previously focused on automotive and other industrial uses.
10. Expansion from one relevant market (or segment) to another within the coatings industry has also taken place in the last decade with Salchi expanding from producing coatings for General Line products to producing food contact coatings, supported by the acquisition of a small Italian business in 2002. Diostyl indicated that it had expanded by entering the metal coatings industry through the production of general line products and FCG external coatings, before expanding into internal food coatings.
11. Valspar noted that Metlac had followed a similar strategy and had then expanded from FCG into the B&B market with external beverage coatings. In contrast, VPL appears to have entered directly into B2E on its foundation in 2011.
12. To date, only the three largest operators—Valspar, AkzoNobel and PPG—are actively supplying B2I coatings, [✂].

## ***Scale of entry and expansion***

13. Entry into coatings manufacturing over the last ten years has generally taken place on a small scale. Both Diostyl and VPL were start-ups that entered the FCG and B&B

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<sup>5</sup> Prior to its acquisition of ICI in 2008, AkzoNobel was not active in the packaging coatings market.

<sup>6</sup> [www.altana.com/press-news/press-news.html?newsID=566](http://www.altana.com/press-news/press-news.html?newsID=566).

markets (respectively) via toll-manufacturing agreements,<sup>7</sup> whereby a third party manufacturer produces coatings to their specifications. [REDACTED]

14. Tiger and Rembrandtin entered the FCG market with their own production facilities, which appear to have been adapted from producing industrial coatings. The FCG coatings business of Rembrandtin was generating around €[REDACTED] million in sales at the time it was acquired by Salchi, whilst we understand that Tiger has a very small presence in one segment of the FCG market.<sup>8</sup>
15. Diostyl stated that its strategy was to find 'gaps' in the market where can manufacturers had a need for a product that the larger operators were not supplying. The company indicated that several of the smaller operators functioned on this basis, with product rationalization by the larger manufacturers creating these gaps in the FCG market. This view was supported by Valspar, which noted that several of the small operators, including Schekolin, Salchi and Actega, were following this strategy.
16. Most of the new entrants to the coatings industry over the last decade have focused on the FCG market, with expansion taking place within the various segments of that market rather than via entry into the B&B market. However, VPL has entered the external beverage coatings segment, which is also served by IPC, a small coatings manufacturer.<sup>9</sup>
17. Metlac began manufacturing and supplying B2E in 1994 and started supplying American National Can (which later became part of Rexam) in Italy in 1997. In 2007 it expanded its supply of B2E to Rexam outside of Italy thanks to the award of a tender.

### ***Timelines for entry/expansion***

18. Diostyl told us that it took around six months between it setting up the business and delivering its first order to a customer but noted that it would take longer (18 months) to provide more complicated products. It emphasized that this was possible because it had previous knowledge of the industry [REDACTED], and because it chose to enter the GL segment first where the time taken to qualify a product was shorter than for food contact coatings. In addition, Diostyl noted that it had received support from customers to enter the market with a new product offering.
19. As far as the qualification process is concerned, it can vary between a few months (eg for some GL products) and several years (eg for food contact coatings). Length of qualification time will mainly depend on whether it is an internal or external coating. We discuss qualification in more detail in paragraphs 29 to 74 in the case of B2E, paragraphs 75 to 119 in the case of FCG and paragraphs 120 to 146 in the case of B2I below.

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<sup>7</sup> Some suppliers use large companies to toll manufacture coatings on their behalf. Toll manufacturing is an arrangement whereby a company with specialized equipment processes raw materials or semi-finished goods for another company (see [www.businessdictionary.com](http://www.businessdictionary.com)). This may occur either as part of an entry strategy (to eliminate the need for expensive capital equipment) or by a company to fulfil existing demand requirements. In some cases, suppliers will use a toll-manufactured product when testing it with customers and only start manufacturing it themselves as they move to supply larger volumes, in order to prevent capacity reorganization before demand for the product is settled. Toll manufacturers therefore create additional, flexible capacity in the market. Toll manufacturers range in size from large chemicals companies (such as Dow Haltermann (a subsidiary of Dow Chemicals) and Rutgers Group), to smaller, local manufacturers. Arrangements can vary in format from supplying a batch of chemicals to meet a one-off order through to partnering with a coatings supplier to invest in manufacturing capacity and develop new formulations that are tailored to customer needs.

<sup>8</sup> According to its website, Tiger produces powder coatings for aluminium monobloc aerosol cans: [www.tigercoatings.com/index.php?id=1386&L=1&C=1%27](http://www.tigercoatings.com/index.php?id=1386&L=1&C=1%27).

<sup>9</sup> [REDACTED]

20. AkzoNobel and Metlac told us that constructing a new plant would take between [REDACTED]. However, a new plant is not required for expansion and the capacity of existing plants can be readily increased much more quickly. [REDACTED]
21. Some new entrants, such as Diostyl, VPL and IPC did not start with their own manufacturing plant but relied on subcontracting production to toll manufacturers, which in turn may also reduce the time it takes for a business to start supplying product to customers. ([REDACTED])

### ***Customer-sponsored entry and expansion***

22. Some customers' submissions and views showed that they were interested in sponsoring entry and have done so in the past. Customer sponsorship of entry and/or expansion tends to involve a customer choosing to invest in testing and developing coatings formulations with one of its suppliers with the aim of qualifying new products and thereby expanding its supplier base. In the coatings industry, we understand that this phase of testing can be both costly and time-consuming but that once a coatings manufacturer has qualified its products with one customer, this encourages other customers to seek to qualify their products in the same way, ie qualification with one customer helps an entrant to build its reputation in the industry, which is important to enable further expansion.
23. While Metlac is the strongest example of how a supplier can enter certain market segments and how it can expand in the market when being sponsored by certain large customers (eg Rexam), it is not the only example, as, for example, [REDACTED]<sup>10</sup> and Ardagh has helped sponsor the expansion of various smaller suppliers in FCG coatings.
24. However, customers also reported difficulties in sponsoring entry. For example, some suppliers considered by the large customers for sponsorship have been reported to face difficulty gaining access to raw materials under changing market conditions (which in turn raises reliability issues), while other large companies expressed no interest in entering new market segments. One customer noted that sponsoring entry or expansion would be a long and expensive process because the smaller suppliers had neither the technical or industrial capabilities. Ardagh noted similar constraints, including the legislative environment.
25. Whilst we have been told of various approaches made by customers to the large chemical companies (such as BASF, DuPont) asking whether they would wish to enter the coatings market, we have not received any evidence that these companies are considering entering.
26. The likelihood of customer-sponsored entry occurring in the relevant markets, or segments of those markets, on a sufficient scale is analysed below.

### ***Exit***

27. Exit from the industry has generally taken place as the result of acquisitions by coatings manufacturers:
  - (a) Salchi acquired the FCG coatings business of Rembrandtin in 2010/11.

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<sup>10</sup> [REDACTED]

- (b) Grace Darex strengthened its position in the coatings industry through its acquisition of Grupo Sistiaga in 2007.
  - (c) Valspar acquired the coatings business of DIC (in exchange for selling DIC its inks business) in 2010.
  - (d) AkzoNobel acquired the Swedish packaging coatings and inks business Lindgens in 2010.
  - (e) In 2003 Metlac acquired Sicra S.r.l., a company active in the manufacture of coatings for collapsible tubes and monobloc aerosols.
  - (f) Polifarb sold its coatings business to SigmaKalon in 1999, which was in turn acquired by PPG in 2008.
  - (g) Retecsa, a Spanish producer of metal coatings, exited the industry, closing its production plant and selling its business to Jallut.
28. These exits demonstrated the process of consolidation that has taken place in the coatings manufacturing industry over the last couple of decades.

### **Entry and expansion in B2E and BE**

29. In this section we set out our views and the evidence on barriers to entry and expansion in the supply of B2E products. The evidence is set out under the following sub-headings, which reflect the possible barriers that we considered:
- (a) intellectual property, know-how and manufacturing process;
  - (b) capital requirements, capacity and economies of scale;
  - (c) technical support and reputation; and
  - (d) regulation and qualification of new products.
30. At the end of this section, we evaluate the likelihood of future entry/expansion and in doing so assess the impact that customer sponsorship of new entrants and/or smaller operators may have on the level of barriers to entry and/or expansion in the B2E coatings segment and how technological developments may impact upon entry/expansion going forward.
31. In what follows, we do not consider the ability of PPG and Valspar to expand, given the findings we have made about their ability to constrain price increases implemented by the merged entity. We note, however, that there are already two small suppliers active to some extent in B2E, VPL and IPC, [X]. Therefore in considering barriers to expansion, we focused upon any factors that would limit their ability to expand, and in considering barriers to entry we focused upon factors that would inhibit entry by suppliers not yet active in B2E, either by de novo entry (ie a company with no presence in the metal packaging coatings sector) or by a supplier present in other segments/markets.
32. Due to similar production facilities for B2E and BE, barriers to entry or expansion for BE are likely to be similar to those present for B2E coatings, and our conclusions in relation to BE would therefore be the same.

## ***Intellectual property, know-how and manufacturing process***

33. As we explained in Section 7 (see paragraph 7.14), B&B cans undergo a significantly different manufacturing process from FCG cans, which means that coatings for B&B need to be applied at great volumes and speeds, to supply large orders to major downstream customers very quickly: to withstand these different manufacturing processes, B&B coatings must be formulated differently from FCG coatings.
34. Whilst this does not necessarily mean that separate production facilities need to be used to supply B2E coatings, it does mean that suppliers need to have the technical know-how to be able to produce coatings that can withstand this manufacturing process.
35. AkzoNobel told us that the difference between a B2E coating and an external coating for food was a very minor change in formulation and that there were no significant technological or know-how requirements between the two different types of coatings. [REDACTED] also told us that B2E products were similar to FCG products and that [REDACTED] per cent of products were formulated using well-known/established technologies and that only a small proportion of metal packing products were defended by patents.
36. [REDACTED], on the other hand, told us that the production of some external coatings ([REDACTED]) for beverage cans was not straightforward due to the need to apply the coating to the cans at high speed and because beverage cans needed to be coated three-dimensionally (which means the external coatings need to demonstrate special properties such as fine dispersion and adhesiveness to cater for this).<sup>11</sup> [REDACTED] said that innovation requirements were highest in beverage cans: whilst only using a very thin layer, the coatings must be able to produce special effects such as [REDACTED]<sup>12</sup> and that they also had special requirements related to high-abrasion resistance, which Food and GL did not need. [REDACTED] said that this (complexity of application and high speed of beverage can making) was why some companies found it hard to qualify on particular products ([REDACTED]). [REDACTED] said that ownership of intellectual property and product formulations were key issues: competitor suppliers could not just copy a product formulation.<sup>13</sup>
37. In relation to prospective suppliers, [REDACTED] told us that in general it had approached different companies which worked in other segments to see if they would like to supply coatings to it but they had said that they did not have the expertise and the necessary investment (on this, [REDACTED] said that it would take £5–£8 million to develop an overvarnish from scratch). [REDACTED] said that it had one or two very small suppliers which it sought to qualify in relation to specialist B2E products ([REDACTED]) but that they were not interested in supplying higher-volume products.<sup>14</sup> In relation to other suppliers, [REDACTED] also told us that other smaller suppliers, such as [two suppliers], did not have the capabilities to produce water-based beverage can coatings and that although [three suppliers] were not known to it, it did not believe that they had suitable products for beverage can coatings.
38. [REDACTED]: '[REDACTED] Grace considers the [B&B] sector relatively unattractive [REDACTED].'

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<sup>11</sup> [REDACTED] told us that none of the FCG products had their external coatings applied on a rounded container. Instead, most of these either had no external coating, limited external coating or pre-applied external coatings. [REDACTED] said that developing coatings, whether inside or outside, for any non-B&B can or metallic container was much easier because the same difficulties with application did not arise.

<sup>12</sup> [REDACTED] told us that special effects and precision products were becoming more important in the beverage can market as [REDACTED] customers were looking for more and better brand differentiation.

<sup>13</sup> [REDACTED] noted that coatings manufacturers were increasingly seeking to protect their innovations in the external beverage can coatings market through patents given the important competitive advantages conferred by developing differentiated product offerings. [REDACTED] stated that, historically, the industry had seen a lot of 'copy-cating', where innovation by one coatings manufacturer was copied by another.

<sup>14</sup> [REDACTED]

39. This is also consistent with what [REDACTED] told us, which said that Grace was principally a compound supplier (not lacquer and coatings) and that Actega made lining compounds for the lids and ends for its cans, so they were not in the same business as PPG and Metlac.
40. Whilst Diostyl told us that there was a small chance that it might enter B&B with a revolutionary type technology, it was not something that it chose to do at the moment.
41. We therefore considered that the need for technical know-how is likely to limit the degree to which companies currently active in FCG or de novo entrants are able and willing to enter the B2E segment in that it may require significant investment to successfully develop such a product if a company has not supplied a B2E product before.

### ***Capital requirements, capacity and economies of scale***

42. As we have explained in Section 7 (see paragraph 7.17), the average monthly volume demanded by customers for B&B products is [REDACTED] higher than that for FCG products (see Table 2). Based on the volume supplied by AkzoNobel in 2011, we noted that the average monthly volume for B2E was nearly [REDACTED] as large as the average monthly volume for [REDACTED] (over [REDACTED] times larger than [REDACTED] volume, over [REDACTED] times larger than [REDACTED] volume and over [REDACTED] times larger than [REDACTED] volume). In absolute terms, the average (by customer) annual volume demanded from AkzoNobel equated to approximately [REDACTED] tonnes. This has likely implications for the amount of capacity required for B2E coatings compared with FCG products.
43. It also gives rise to the possibility that companies which can only enter on a relatively small scale may be unable to achieve the necessary economies of scale (at either the batch level, or the plant level) to compete effectively. On this point we noted that:
  - (a) AkzoNobel told us that there were notable economies of scale in production, with larger batch sizes permitting greater automation of production, and so lower labour costs, as well as a reduced quantity of cleaning and filtering products per kilo of output and greater utilization of production lines. AkzoNobel also believed that there were certain diseconomies of scale resulting from producing a higher number of stock-keeping units (SKUs), resulting from administrative, sales and IT complexity and more thorough cleaning requirements to switch between technologies.
  - (b) Valspar told us that, because the volumes in B&B were higher, bigger plants were needed to effectively produce these products. In addition, Valspar told us that having a single production plant could be an advantage in terms of managing a business (better communication, speed of decision-making, flexibility) but a disadvantage in that a disruption to production would mean that all a supplier's customers were let down resulting in reputational damage.
  - (c) [REDACTED] told us that there were economies of scale at the plant level and that it was optimized around the 25,000 to 30,000 tonnes level.
44. In relation to the smaller companies currently active in B2E, we noted that both VPL and IPC<sup>15</sup> produced B2E coatings via a toll-manufacturing arrangement. [REDACTED]

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<sup>15</sup> [REDACTED]

45. However, although we have been told that the use of toll manufacturing for external B&B coatings was a profitable means of operating and of expanding capacity to meet increasing demands, we received conflicting evidence as to whether toll manufacturing can be a viable long-term option for operating in the segment. Two customers ([REDACTED]) submitted that they had no concern in relation to such arrangements. By contrast, one customer ([REDACTED]) told us that toll manufacturing presented problems and risks and it would only purchase products produced via toll manufacturers in extreme circumstances and for a short period of time. Also, the larger volumes of certain products required by can manufacturers might result in economies from in-house production that might not be captured if toll manufacturing were used.
46. In any case, we note that:
- (a) Whilst [REDACTED] told us that it was forecast to grow by [REDACTED] tonnes in the next [REDACTED] ([REDACTED] per cent of which was in beverage coatings),<sup>16</sup> to date it has only been working with [REDACTED], which suggested that it had not managed to gain or was not yet interested in gaining business from other customers. We also noted that [REDACTED] told us that [REDACTED] essentially provided it with niche metal coatings products.
- (b) [REDACTED] had only recently entered the segment and according to [REDACTED] was not interested in supplying on a large scale. On the basis of its experience to date, [REDACTED] told us that it would take at least [REDACTED] years to develop [REDACTED] capabilities. [REDACTED] told us that it had not made decisions regarding the volumes of coatings that it would purchase from [REDACTED] and it did not know when these volumes would be available from [REDACTED] (because it was not yet qualified for some coatings and the tender process was ongoing).
47. In relation to the smaller companies which were active in FCG, we noted that: [REDACTED].
48. We accepted that assuming that plants could operate at 100 per cent of their capacity might be over-optimistic.<sup>17</sup> However, we consider that the evidence showed that smaller companies did have spare capacity, and were likely sufficient to be able to fulfil some B2E orders. However, we did not know whether they were able to achieve the same economies of scale as the larger companies which may be better able to exploit plant level or batch level economies of scale. On this, Schekolin told us that B&B prices were very low and mainly stable and that was why it was not active in this field (which suggests that it does not believe it is able to exploit economies of scale to the same degree as larger companies).<sup>18</sup> (Whilst Metlac is a one-plant operation supplying a wide range of different products and therefore might be less able to exploit batch-level economies of scale than those that operate a 'factory focused model' (ie focusing on one or a few different coating products), it may be well placed to operate plant level economies of scale.)

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<sup>16</sup> These seem to be optimistic. [REDACTED]

<sup>17</sup> Metlac told us that the manner in which spare capacity was measured in the industry (production capacity is measured on the basis that each production vessel operates at its full capacity (ie is full), operates continuously (ie 24 hours a day, subject only to regular cleaning and/or maintenance), and that all batches are made to optimum quality in the shortest time only) is much higher than practical capacity because it is impracticable and/or uneconomic to switch vessels between different product families. Therefore, a plant could utilize 100 per cent of its theoretical capacity only if demand exactly matched the production capacity for each product family. This does not happen in practice, as demand fluctuates both in absolute terms and also in terms of product mix. It stated that it could not therefore estimate actual 'realizable' capacity, as production volumes realizable depended on how closely the mix of customer demand matched the manufacturer's theoretical capacity over a given period.

<sup>18</sup> Schekolin told us that its key selling arguments were technological advantage, flexibility in order size, customer tailored products and fast reaction time. However, it said that for some products the main factors on which parties competed was price and for those products it had a low chance of being successful.

49. In relation to entry by companies not yet active in metal packing coating (or any packaging coating), AkzoNobel described the manufacturing process as being ‘highly scalable’ in terms of both the raw materials and equipment required, with low initial capital requirements. For example, AkzoNobel noted that an entrant could start by blending coatings in small portable containers and later scale up to producing larger batches in stationary tanks. It estimated the costs of the latter to be between €20,000 and €30,000. In terms of building a factory, AkzoNobel estimated that a ‘cold blending’ plant would cost €1 million to build, whilst a plant of the same size and scale as its plant in Vilafranca would cost €[REDACTED] million.
50. Metlac told us that both the lead time and investment required for starting a packaging coating facility formed a substantial barrier to entry into the market. Separately, it estimated that the cost of building a typical new plant would be around €[REDACTED] million. (This estimate was consistent with those provided by Valspar,<sup>19</sup> Actega and Schekolin,<sup>20</sup> although PPG told us that the typical expenditure required to enter the packaging coatings industry was low, estimating the costs of constructing a new plant at €[REDACTED] million. There was broad agreement that constructing a new plant would take between 18 months and two years.) Diostyl indicated that it took the business around six months to enter the industry because it used a toll-manufacturing agreement, whereas if it had chosen to build its own plant, the process would have taken ‘considerably longer’.
51. AkzoNobel also said that it was not necessary for a new entrant to the industry to build a plant of its own, given the option to set up a toll-manufacturing arrangement (which we discuss above in paragraph 45). Equally, AkzoNobel believed that the European market could be served from a manufacturing plant located outside the region, facilitating entry by an overseas competitor. [REDACTED], a US-based coatings manufacturer, provided an example of this, selling a small amount of coatings in the EEA despite having no local manufacturing or distribution presence. [REDACTED]<sup>21</sup> However, in our view it seems unlikely that this model of operation could sustain a larger-scale presence given that a number of customers told us that, whilst it was not necessary to have a plant in the same country to serve a customer, it was necessary to have a plant in the same region (because of transport costs and the need to provide technical support).
52. Whilst there is evidence that both existing suppliers and prospective entrants from the FCG market could expand to supply B2E orders, we found that:
- (a) where toll manufacturing is relied upon, this may not be a suitable long-term solution from the point of view of (at least some) customers;
  - (b) it is unclear whether companies entering on a small scale (and supplying anything other than niche products) would be able to capture the economies of scale that larger operators are able to exploit; and
  - (c) entry by de novo operators is likely to involve a significant capital investment (unless they are already involved in producing coatings for other sectors).

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<sup>19</sup> Valspar submitted an estimated cost of between \$20 million and \$40 million to build a typical production facility (although the upper end of this estimate may include a reactor for internal beverage B2I spray). Valspar noted that such a plant would take around two years to build.

<sup>20</sup> Actega estimated costs of €20–€30 million to build a plant with capacity of between 15,000 and 20,000 metric tonnes per year, although it noted that this might fall significantly in response to a move towards non-flammable coatings, ie water-borne or radiation-cured coatings rather than solvent-borne ones. This view was echoed by Schekolin, which also provided an estimate of €20 million for a new production facility.

<sup>21</sup> [REDACTED]

## **Technical support and reputation**

53. We also noted that, because of the large volume of cans produced by beverage can manufacturers, difficulties in applying coatings that interrupt the entire production process could result in a significant loss of output for the manufacturer. B&B (including B2E and BE) provision tended therefore to be associated with more demanding technical support than generally in FCG.
54. On this, Salchi mentioned the need to provide round-the-clock assistance to customers as a major reason why it did not currently plan to enter the B2E segment.
55. For the same reason, security of supply and reliability are major concerns for customers and suppliers need to build up reputation before being awarded with the significant shares of customers' demand. For instance, one customer ([REDACTED]) told us that although Metlac had been ready for many years, it took two to five years of internal argument to get behind Metlac,<sup>22</sup> and that 'it is trying to get the credibility in the market that is difficult'. [REDACTED] told us that it was a big risk changing products in beverage so it tended not to take that decision easily.
56. We found that the need to provide technical support and the need to develop a reputation for technical quality were barriers to the entry into/expansion within the B2E segment.

## **Regulation and qualification of new products**

57. The regulatory burden for B2E coatings is naturally lower than for food contact coatings, with the focus being on their mechanical properties (resistance to abrasion) and appearance, rather than on the need for coatings to be resistant to a range of food substances.
58. However, customer 'certification' or the 'qualification' of new products is a process by which a product is tested by the can manufacturer and the brand owner to verify that it performs as required. This process involves coating a can with the formulation, filling it with its intended contents and then checking after a given period of time that the can has not corroded and that the contents are of the quality expected. In many cases, cans are also subjected to heat, pressure and being dropped/knocked during this testing phase.<sup>23</sup> This process is distinct from regulatory approval of a product.
59. AkzoNobel indicated that the qualification process for external B&B coatings generally took 'six months or less'. AkzoNobel also submitted information on the costs customers incur in switching B&B coating suppliers. According to AkzoNobel, this analysis (which described hypothetical price increases required to induce customer switching when switching costs of €[REDACTED] and €[REDACTED]) demonstrated that even a very small price increase would be significant enough to justify that customer incurring a relatively high switching cost.<sup>24</sup>

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<sup>22</sup> [REDACTED]

<sup>23</sup> These additional tests are used to simulate a longer period of time in the can and so to accelerate the testing phase. For some canned products, shelf lives of several years are required such that, without adding heat and pressure, pack test would need to last years to test the performance of new products.

<sup>24</sup> According to this analysis, and in relation to B2E, if the cost of switching was €[REDACTED]: [REDACTED] would switch supplier if prices increased by [REDACTED] per cent ([REDACTED] per cent if switching costs were €[REDACTED]); [REDACTED] would switch supplier if prices increased by [REDACTED] per cent ([REDACTED] per cent if switching costs were €[REDACTED]); [REDACTED] would switch supplier if prices increased by [REDACTED] per cent ([REDACTED] per cent if switching costs were €[REDACTED]) and [REDACTED] would switch supplier if prices increased by [REDACTED] per cent ([REDACTED] per cent if switching costs were €[REDACTED]).

60. We reviewed AkzoNobel's submission on the price increases necessary to induce qualification of new suppliers and have the following observations:
- (a) Switching costs of €[redacted] to €[redacted] may well be consistent with the costs involved in qualifying a supplier who has been previously qualified, or is qualified elsewhere in the business. However, AkzoNobel's estimates are for de novo products and seem low compared with what some customers have told us about the costs of qualifying a de novo product (for example, Rexam told us that it would cost €[redacted] to switch an overvarnish or a base-coat spray (see paragraph 64)).
  - (b) This calculation did not factor in the risks associated with attempting to qualify and switch to a de novo product. As we explain in paragraph 8.51, products can fail to qualify at all and even if they do, suppliers are exposed to significant risks in the event that there is a failure with the metal packaging coating they use which tends to make them reluctant to switch to products where the reputation is not well established (implying that a large price increase would be required to make them switch).
  - (c) Finally, these figures are not consistent with the price increases customers have told us would be necessary to induce them to switch to de novo products (see paragraphs 8.35 and 8.40 to 8.42).
61. Metlac estimated that the cost to approve a new B&B product (from laboratory trials to final approval) could exceed €1 million, but added that this estimate had not been quantified in detail. It stated that the exact cost was not known by Metlac but it was in any case 'very expensive'. This was also due to the fact that testing new coatings required dedicating the production line of a B&B can manufacturer to the trial, inevitably resulting in a period of interruption and loss of production.
62. Ball told us that the cost and time taken to switch between qualified suppliers was minimal but that the cost and time involved in product qualification was significantly more onerous. [redacted]
63. When asked about the switching process associated with its two top B2E products in terms of purchases in the UK,<sup>25</sup> Ball told us that, in both cases, it would take six to nine months to switch (including qualification) to a product that had never been qualified before and that its answers would not vary significantly between products within the B2E segment, nor depend on the number of plants at which switching would take place. Ball also told us that, in addition to the physical switch time as captured above, it would serve notice on the supplier and run down stocks from the incumbent before switching and that this would take around [redacted] for lower-volume products and [redacted] for bulk-volume products.
64. Rexam, on the other hand, stated that it took between [redacted] to switch to a different supplier of external beverage can coatings, including the time required to qualify the new product. Rexam told us that switching time and costs would apply to the B2E sub-segment as follows (for switching all of Rexam's requirements):
- Overvarnish will take [redacted] to switch supplier, including the period of qualification. The cost to switch would be approximately €[redacted]<sup>26</sup> and would involve [redacted] people and we would need to alter [redacted] machines ([redacted]). Base coat spray would take approximately [redacted] to switch supplier,

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<sup>25</sup> [redacted]

<sup>26</sup> Rexam told us that the cost of qualification for only one plant would be around £[redacted] but it also told us that switching supply at just one plant was unusual.

including the period of qualification. The cost to switch would be approximately €[REDACTED] and would involve [REDACTED] people and we would need to alter [REDACTED] machines per plant to achieve this ... and so on. Basecoats can be time consuming even with qualified products in particular plants. This can lead to high costs for supplier and Rexam and be very time consuming.

65. When asked about the switching process associated with its two top B2E products in terms of purchases in the UK,<sup>27</sup> Rexam told us that it would take [REDACTED] to switch a product which had been qualified by someone in the industry (assuming it managed to qualify) and [REDACTED] to switch (including qualification) to a product that had never been qualified before (assuming it managed to qualify). In all cases, Rexam told us that existing suppliers would need to increase price by [REDACTED] per cent in the case of white basecoat on aluminium, and [REDACTED] per cent in the case of overvarnish, before Rexam would switch. (However, Rexam said that its responses assumed that qualification would actually occur and reflected the fact that [REDACTED].) Rexam said that [REDACTED].<sup>28</sup>
66. One customer ([REDACTED]) told us that a switch from one supplier to another, [REDACTED] could in some circumstances be time- and resource-consuming. [REDACTED]
67. [REDACTED] told us that to qualify a product that was already in use elsewhere in the industry was relatively cheap and the timing could be as short as one week and that timing was driven by the customer. [REDACTED] said that, in the case of a completely new coating, with a significantly different chemical composition, the timings and test procedures would be much longer (between six months and two years in relation to B2E).
68. Valspar stated that the qualification of a new product could take between one and five years, with external coatings sitting at the lower end of that range.
69. A number of parties told us that formal tendering processes and contracts were more common in the beverage can market, for both external and internal coatings. AkzoNobel indicated that [REDACTED] tendered for contracts of [REDACTED], and Can-Pack for one year, whilst in the BE segment Novelis and Hydro offered one-year contracts.<sup>29</sup>

### ***Likelihood of entry and/or expansion in B2E***

70. This section sets out our assessment of the potential for future entry into and/or expansion within the B2E segment. In doing so, we take into consideration the willingness of customers to explore sponsorship of new entrants (which can help overcome barriers to entry/expansion). Customers have a history of sponsoring suppliers in the B2E segment, with at least three suppliers having been sponsored to enter this segment. [REDACTED] Metlac entered the B2E coatings segment in approximately 1994 (and it started to supply B2E coatings to two Italian plants of American National Can in 1997, which later became part of Rexam). Rexam supported the development of Metlac's business outside Italy, over a number of years, both because Metlac offered more innovative products and because it offered more competitive prices and contract terms compared with the larger coatings suppliers. Rexam also emphasized

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<sup>27</sup> White basecoat and overvarnish.

<sup>28</sup> Rexam also told us that its answers assumed switching supply at no more than [REDACTED] plants ([REDACTED] per cent of the total). Rexam said that for risk mitigation purposes Rexam applied, where possible, [REDACTED] a main supplier and a back-up supplier. Rexam said that it would not deliberately only switch the UK plants in isolation without having an unusual set of circumstances.

<sup>29</sup> Hydro noted that whilst one-year contracts were typical, it did offer longer contracts as well.

that it had sought to do the same with a number of other coatings manufacturers, including [REDACTED].<sup>30</sup>

71. When asked about their willingness and ability to sponsor entry into or expansion within the B2E segment:
- (a) [REDACTED] told us that beverage external is one of the largest volume markets so it would not attempt to develop the smaller suppliers for those products. [REDACTED] said that the smaller suppliers lack the necessary capacity and so it would not want to fragment supply amongst the minor players.
  - (b) [REDACTED] told us that many of the smaller suppliers were reluctant to enter the B&B coatings market, both external and internal, as a result of the significant costs associated with developing new products and supporting customers [REDACTED]. [REDACTED] stated that whilst it would be able to support another entrant and/or expanding company [REDACTED], the process would take a long time and [REDACTED]. [REDACTED] said that there were a few very small niche suppliers in B2E which it was working with but scaling them up would be difficult, expensive and time-consuming and potentially risky (in that one of the other suppliers could absorb them).
  - (c) [REDACTED] on the other hand told us that it would consider switching to IPC or VPL (in addition to Valspar and PPG) if the merged entity were to increase prices.
72. We also have not received any evidence that any of the smaller suppliers in FCG are currently considering expanding into B2E.

## **Conclusion**

73. In conclusion, we consider that, notwithstanding the scope for customer sponsorship in this segment, it is unlikely that expansion by existing small suppliers or entry by others would be timely, likely and sufficient to undermine post-merger price increases by the merged entity. This is because the need: for technical know-how; to provide technical support; to operate on a large scale; and to have a strong reputation, limit the ability of companies to expand within B2E or enter the segment. The process of qualification tends to render it less likely that entry/expansion would be timely (although this may be less of an issue for companies that are protected by medium- to long-term contracts).
74. We have noted the possibility that the industry may be on the verge of significant technical change as a result of the need to introduce BPA-NI coatings (which may affect B&B as well as Food and C&C). The need to convert their products to BPA-NI coatings would require customers to go through a wide process of requalification which, in principle, all suppliers may compete for. However, we do not believe that this development, if it were to impact upon B2E, would materially reduce the barriers we have identified: whilst customers might be more prepared to accept the costs of going through the qualification process with a new entrant (because they are having to go through the qualification process with everyone including incumbents), we consider that the barriers relating to know-how, technical support, scale of operation and reputation would persist.

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<sup>30</sup> [REDACTED]

## Entry and expansion in the FCG market

75. This section sets out the evidence that we assessed in relation to the barriers to entry and expansion in the market for FCG coatings. As in the case of B2E, we consider expansion in relation to companies already active in the segment (eg Food internal, Food external, C&C external, C&C internal, GL external and GL internal) and entry in relation to companies which have not previously supplied a product in that segment.
76. By way of background, Table 1 sets out the different suppliers that are already active in the different segments (according to the MIS dataset).

TABLE 1 **Smaller suppliers active in FCG sub-segments**

<i>Sub-segment</i>	<i>Companies active (on the basis of sales made in the UK 2006–2011)</i>	<i>Companies active (on the basis of sales made in the EEA excl Italy 2006–2011)</i>
Food internal	[4 suppliers]	[10 suppliers]
Food external	[3 suppliers]	[7 suppliers]
C&C internal	[2 suppliers]	[8 suppliers]
C&C external	[2 suppliers]	[8 suppliers]
General Line internal	[4 suppliers]	[9 suppliers]
General Line external	[5 suppliers]	[10 suppliers]

Source: MIS dataset.

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[REDACTED]

77. The evidence is set out under the following subheadings:
- (a) intellectual property, know-how and manufacturing process;
  - (b) capital requirements, capacity and economies of scale;
  - (c) technical support and reputation; and
  - (d) regulation and qualification of new products.
78. At the end of this section, we also assess a number of factors highlighted by the main and third parties that may lessen these potential barriers to entry, including:
- (a) customer sponsorship of entry and/or expansion; and
  - (b) technological developments (BPA-NI products).

### ***Intellectual property, know-how and manufacturing process***

79. A number of companies made some general comments on the availability of the technological know-how necessary to compete in metal packaging coatings.
80. AkzoNobel stated that the core coatings technology was well established, being several decades old, with raw material components that were well known and easily available,<sup>31</sup> whereas Metlac cited the ‘specific know-how required to compete effectively’ as forming a substantial barrier to entry.
81. Valspar agreed with AkzoNobel that the basic coatings technology was well established and available to a number of the smaller operators in the market, whilst [REDACTED] highlighted that the technology was easily available from public sources, although

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<sup>31</sup> AkzoNobel initial submission.

[X] did originally obtain some of its technology under a licence from [X]. PPG told us that knowledge of formulating food contact coatings was the key to entering that segment and that this was something an entrant could gain through collaboration with can manufacturers.

82. Some parties made some specific comments on the extent to which smaller suppliers have the know-how to expand within the segments in which they are already active, or enter into other segments in particular:

(a) Ardagh told us that whilst the smaller players in the industry were capable of formulating new products, they had tended to focus on gaining expertise and a strong market position in particular segments of the market, rather than trying to cover all segments where, in many cases, they did not have sufficient technology to compete effectively. Ardagh noted that several of the smaller coatings businesses did not offer a full product range at the moment and might not have an interest in expanding into all segments.

(b) [X] indicated that it might be able to switch some of its niche products to [X],<sup>32</sup> but emphasized that the smaller coatings manufacturers were not strong in terms of R&D and that this, together with limited industrial capacity (see below) and access to raw materials,<sup>33</sup> would impede their expansion (although, in relation to price, it said that the smaller suppliers generally operated at a considerable discount to AkzoNobel, PPG and Valspar and that in any competitive situation it had never moved any volume back to AkzoNobel, PPG or Valspar from the other suppliers).

(c) Diostyl said that AkzoNobel and Metlac had much wider scope and capacity and this affected the degree to which it could compete with them.

83. We also noted that:

(a) When asked to what extent other small companies like Grace and Actega could replicate what Metlac has done (including selling at low prices), Valspar said that today Metlac was the concern because it had become large even in some commodity products, but in terms of offering niche products the other companies were doing the same job as Metlac. Valspar told us that these smaller companies were very competitive because they had good technologies, good credibility and good service, so they could definitely be an alternative to Metlac. Valspar also said that occasionally smaller companies jumped into the commodity area in order to win some significant volume.

(b) Actega told us that, as long as customers had no coating systems from AkzoNobel and/or Metlac which were specified by end-users and/or brand owners (ie specific internal protective coatings), it was in a position to compete in nearly all product categories and regional markets in the EEA. Actega also said that, even after the merger, there would still be several small, medium and large suppliers of rigid metal packaging coatings active in the market so new suppliers for nearly all product groups could be quickly found and qualified.

(c) Grace said that for the product categories in which it competed it believed it could supply broadly similar products to AkzoNobel and Metlac.

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<sup>32</sup> [X] also said that [X] had no interest in export.

<sup>33</sup> [X] identified scale as being important for access to certain raw materials, with some smaller operators finding it difficult, on occasions, to obtain the necessary raw materials and, as a result, letting down their customers. It gave the example of a smaller manufacturer in the market failing to deliver coatings [X].

(d) [REDACTED]

(e) [REDACTED]<sup>34</sup>

84. In summary, we found that companies had different views as to whether smaller suppliers would have the technical know-how to expand within their segment (to supply products that they have not qualified before) and into other segments.

### **Capital requirements, capacity and economies of scale**

85. [REDACTED] indicated that one of the reasons some of the smaller players might not scale up was due to the costs involved in developing additional capacity. Ardagh told us that its ability to sponsor substantial expansion with the FCG market depended on the access to finance of the smaller coatings suppliers, as well as their willingness to scale up and become a strategic supplier.
86. However, a number of coatings manufacturers, including [REDACTED], Actega and Grace, told us that they had spare capacity to increase output (see paragraph 47), which suggested that smaller companies do have spare capacity to accommodate some switching from the merged entity to them. Whether they are able to exploit the same economies of scale as the larger companies is less clear. However, we have been told that smaller suppliers can be competitive (see [REDACTED] comment in paragraph 82 and Valspar comment in paragraph 83).

### **Technical support and reputation**

87. We have noted in paragraph 53 that FCG tends to be associated with less demanding technical support than B&B and technical support is therefore less likely to represent a barrier to entry/expansion into and within this market.
88. Whilst reliability is still very important in FCG (particularly in relation to food contact coatings, but also more generally<sup>35</sup>), we consider that customers may be somewhat more willing to take the risk to switch to a new supplier in relation to FCG (particularly external coating products), compared with high-volume B&B products. Notwithstanding this view, we consider that reputation remains important in FCG as well, although we note that many of the smaller suppliers already have a well-established reputation, at least in the segments in which they are active.

### **Regulation and qualification of new products**

89. [REDACTED]
90. Metlac identified the need to comply with both the US (FDA) and the EU regulations (as well as certain member state specific regulations) for materials that come into contact with food as creating a barrier to entry for a new company.
91. Diostyl indicated that the various regulations that governed the metal coatings industry, particularly in relation to food contact coatings, required significant resource to manage. It said that a number of companies in the broader 'paint' industry had failed

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<sup>34</sup> [REDACTED]

<sup>35</sup> A number of companies indicated that the performance of a coating was the single most important factor to the can manufacturers, followed by technical assistance/customer service and price.

to enter the coatings market, despite potentially attractive margins, as a direct result of regulation.

92. Crown told us that the smaller players in the industry might not scale up across the product range for several reasons, one of which was the cost of the regulatory obligations that they would have to fulfil in order to comply with the requirements of the FDA and EFSA, particularly for BPA-NI products.
93. [REDACTED] However, AkzoNobel emphasized that the barrier of customer certification was lower in relation to general line products, which would be an entry point to the FCG market, from where a business could expand into external coatings for caps and closures prior to entering the market for internal coatings for food cans.
94. AkzoNobel estimated that it qualified 'at least [REDACTED] every year', with the process for external coatings taking six months or less and that for internal food coatings taking up to 24 months. Similarly, Metlac has qualified [REDACTED] with its customer base in the last five years, which equates to almost ten new product qualifications per month.
95. Metlac said that 'the most important constraint to the expansion of production [by smaller suppliers] is represented by the complex approval procedures established by the main customers'. The company emphasized that the burden of approval lay with both the customers and the suppliers, with the former reluctant to initiate the testing of new products, which created a barrier to expansion for smaller producers.
96. PPG said that it had qualified 'more than [REDACTED]' in the EMEA region over the last five years. Some of these products were entirely new, whilst others were modifications of existing products. PPG indicated that the time taken to qualify new products was between six months and two years.
97. Ardagh told us that it took between 12 and 18 months to qualify an external coating for food cans, whilst the process of qualifying an internal coating could take significantly longer. It gave the example of qualifying an internal lacquer with Metlac, which took 48 months.
98. When asked about the switching process associated with two Food Internal products,<sup>36</sup> [REDACTED] told us that it would take: 18 to 24+ months to switch to a product which had been qualified by someone else in the industry in the case of [REDACTED] and 24 to 36 or more months in the case of [REDACTED].
99. [REDACTED] told us that its response to this question would vary between products in the same segments and between products in different segments. [REDACTED] also stated that it would take one year to 18 months to qualify an internal product if a supplier was already qualified [REDACTED]; three to four years if it had never qualified that product with [REDACTED]; and that to qualify an external product would take 18 months.
100. [REDACTED]
101. [REDACTED]
102. When asked about the costs and time involved in switching supplier of food coatings, [REDACTED] told us that there was no straightforward answer as the extent of testing would depend on the specific foodstuff and the required shelf-life of the canned product. It said that the whole procedure typically would take two to three years (or longer). [REDACTED] said that costs to [REDACTED] would include manufacturing costs (lost production) and R&D

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<sup>36</sup> [REDACTED]

costs (sample evaluation, extended shelf-life testing with regular examinations). [REDACTED] also said that increasingly with novel chemistries, approval had to be obtained through the Food Contact Notification process which was both time-consuming and costly. [REDACTED] also told us that it could take 12 to 15 months to qualify a new product, and three to six months longer for internal coatings.

103. [REDACTED]<sup>37,38,39</sup>
104. We asked the same question to Guala as regards its two top C&C external products.<sup>40</sup> Guala told us that it would in both cases take 18 to 24 months to switch to a product which had been qualified by someone in the industry and that existing suppliers would need to increase price by at least [REDACTED] per cent before Guala would switch and at least 24 months to switch to a product which had never been qualified before, and that existing suppliers would need to increase price by at least [REDACTED] per cent before Guala would switch.
105. Guala noted that it had answered the price increase questions on a hypothetical basis and that in practice it might have to accept higher price increases in Italy if [REDACTED] remained small and unable to expand capacity.
106. Guala also told us that, compared with the estimates it provided in relation to C&C external (see paragraph 8.42), the total time taken to switch for internal C&C coatings might be up to 12 months longer and that the amount by which an existing supplier would need to increase price before it would switch might also be higher by another [REDACTED] per cent. Guala also told us that the main cost of switching was represented by the reduction in efficiency of the production and productivity during the tests, the work of at least one employee in each plant to follow the qualification process, as well as costs for approval by its own customers. Guala estimated that the costs of switching to Metlac would be approximately €[REDACTED] for each plant for all the four products they required, and that these costs would be higher if it switched to another supplier.
107. Caldicot told us that the process of qualifying an internal coating involved gaining its process approval as well as going through the end-user change programme which included shelf-life tests, and that the overall process could take 12 months. UCP told us that, 'assuming the potential supplier already had achieved FDA approval, and that the trials were successful the first time around, it might cost around £[REDACTED] to go through the process necessary to qualify an internal C&C coating with it, and that this was made up of trial time on the coating line and closure presses, aluminium consumed, print technician and QC time and attendance at customer line trials'.
108. In relation to Food and C&C products, Silgan told us that certification and qualification could be costly and time consuming (two to four years). [REDACTED] told us that it would take at least one year for C&C internal coatings but less for C&C external, while Hydro said that the qualification process took in general about 6 to 24 months.
109. Afon told us that the cost to qualify FCG products could vary. It said that a controlled trial might cost £2,000 to £3,000 (although for some products it would be £4,000 to £5,000). It told us that it did work to quantify the time costs as it carried out trials for some of its customers. It said that it was currently trialling a [REDACTED] product for [a major customer] at the cost of £8,500.

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<sup>37</sup> [REDACTED]  
<sup>38</sup> [REDACTED]  
<sup>39</sup> [REDACTED]  
<sup>40</sup> [REDACTED]

110. [REDACTED] However, AkzoNobel emphasized that the barrier of customer certification was lower in relation to general line products, which would be an entry point to the FCG market, from where a business could expand into external coatings for caps and closures and food cans prior to entering the market for internal coatings.
111. Valspar highlighted that the process of qualification for a general line product could take around six months, whilst that for a food contact product would be at least 18 months, if not more.
112. [REDACTED] noted that the development of a new product could take 'a few months', followed by 12 to 18 months to get the coatings qualified with customers, although this time frame could be shortened if the customer sought to 'push' the process.
113. Diostyl told us that customers could be reluctant to switch products due to the uncertainty over whether new formulations would meet customer requirements in all circumstances. This view was supported by Ardagh, which noted that it was possible to spend over a year testing a new product and then discover that it did not function as required. Ardagh indicated that companies had a greater incentive to incur the costs and potential risks of switching where they were buying large volumes of a homogeneous product.
114. AkzoNobel told us that in the FCG market, only [REDACTED] entered into contractual arrangements (lasting up to [REDACTED]), with other customers buying on a less formal basis than in the B&B sector as a result of the smaller batch sizes and volumes together with the more bespoke formulations that characterized the market. AkzoNobel told us that the ability to 'push' the process was supported by its previous evidence of qualifying the coatings for [REDACTED] with [REDACTED], which took [REDACTED] months from the first lab sample to the delivery of the initial commercial batch. The speed of this qualification was due to the fact that [REDACTED] needed to provide a solution to the problem. As such, the length of time for qualification was not set in stone and, in most cases, could be shortened if required by the customer.
115. [REDACTED] Similarly, Valspar noted that many can manufacturers sought out the best terms every few months, refusing to enter into long-term agreements.

### ***Likelihood of entry and/or expansion in FCG***

116. As in B&B, customer sponsorship of entry and/or expansion in the market appeared to occur, with both Crown and Ardagh indicating that they have sought to encourage and support entry and expansion in the FCG coatings market. For example, Ardagh noted that it had also helped sponsor the expansion of Metlac and Salchi. Diostyl told us that it had been encouraged into the market following the consolidation of the coatings market and concerns from the can manufacturers regarding their dependency on a few large coatings suppliers.<sup>41</sup> However, we also note that customers pointed to a number of difficulties in sponsoring entry, including access to raw materials, technical and industrial capabilities, length of the process, legislative environment, etc, and this suggests that customer-sponsored entry is a viable option only under certain conditions.
117. In relation to future developments, in particular BPA-NI, Ardagh told us that it was seeking to qualify 'any [BPA-NI] potential solution offered by our supplier base, so

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<sup>41</sup> The can makers were concerned both about the availability of niche products, given the moves by the large suppliers towards rationalizing their portfolios, and about the prices they were being offered which had risen following the consolidation of the market.

anybody who can come up with a solution can get the opportunity to get it trialled in our lab'. Similarly, Valspar indicated that the introduction of BPA-NI legislation could result in the use of 'new technologies, new chemistries, new suppliers, new process[es]'.

118. Against this background, we considered whether barriers to expansion within or entry into the FCG segments (namely food contact coatings) would increase as a result of any widespread adoption of BPA-NI products. Our analysis of innovation, in particular the extent to which smaller suppliers are well placed to compete in this area, is set out in Appendix G. The information we received provides a picture where some small suppliers, but not all of them, appear to be able to develop BPA-NI products. While we did not have enough information to assess how small suppliers are placed compared with Metlac, we could not rule out that they would be able to replicate Metlac in BPA-NI products for FCG end-use.

## **Conclusion**

119. Based on our assessment of the evidence in relation to barriers to entry/expansion into the production of FCG coatings, we found that the low initial capital requirements, together with the strong interest and ability on the part of customers to sponsor entry or expansion in the market, means that entry or expansion is likely in some segments of the FCG market, in particular the General Line sub-segments. There was some evidence to suggest that qualification times are sufficiently short (and therefore switching costs sufficiently low) to enable timely entry/expansion in relation to external food and C&C coatings although we could not be confident of this. Longer qualification times and therefore switching costs in relation to food contact coatings suggested that timely entry/expansion is least likely, in comparison with other sub-segments, in relation to Food internal and C&C internal (although we could not rule out the possibility that it would happen).

## **Entry and expansion in B2I**

120. This section sets out the evidence that we assessed in relation to the barriers to entry and expansion in B2I. Many of the statements made in the previous sections regarding barriers to entry and expansion for FCG and B2E are also relevant in this case, hence in this section key differences will be highlighted. The evidence is set out under the following subheadings:
- (a) intellectual property, know-how and manufacturing process;
  - (b) capital requirements, capacity and economies of scale;
  - (c) technical support and reputation; and
  - (d) regulation and qualification of new products.
121. At the end of this section, we also assess a number of factors highlighted by the main and third parties that may lessen these potential barriers to entry, including customer sponsorship of entry and/or expansion; and technological developments.

## ***Intellectual property, know-how and manufacturing process***

122. Metlac told us that barriers to entry were particularly high in B2I due to technology that was partly protected by patents. [REDACTED]

123. AkzoNobel also indicated that barriers to entry were highest in B2I ‘due to the different production process, the levels of food contact regulation and the significant buying power of the Global Customers which dominate the market’.
124. [REDACTED] supported these viewpoints, highlighting that inside spray ‘is a very difficult product to develop’, although it also noted that the products that the industry used now had been around for decades.
125. [REDACTED] also told us that there was significant technical expertise involved in developing inside sprays because they needed to:
- (a) protect cans against a range of different products, with varying levels of corrosiveness—this is because many customers, including [REDACTED], did not want to stop production lines in order to change the spray used when the end-use of the cans changed;<sup>42</sup> and
  - (b) be applied to the cans via a high-speed spraying process, which created challenges in terms of achieving an even covering of the correct thickness.
126. [REDACTED] emphasized that innovation within the segment for B2I tended to focus on reducing costs rather than enhancing performance, since all sprays must meet the technical requirements, and beyond such requirements brand owners did not see significant value in innovations in the same way that it did with external coatings, although AkzoNobel noted that B2I coatings could be innovative ([REDACTED]).
127. Schekolin told us that technology was also a hurdle as lacquers had to be developed and these products were not simple, as they had to be cheap and fulfil all regulatory requirements, whereas [REDACTED] emphasized that the main barrier to entry in the B2I segment related to the capital outlay rather than the technology required to develop the products (and we discuss capital requirements in more detail below).
128. We therefore considered that the need for technical know-how was likely to limit the degree to which companies currently active in B2E, FCG, or not yet in metal packaging coating, are able and willing to enter the B2I segment in that it may require significant investment to successfully develop such a product if a company has not supplied a B2I product before.

### ***Capital requirements, capacity and economies of scale***

129. All the parties we consulted stated that entry into the B2I coatings segment required significant scale in order to be cost effective.
130. When asked how difficult it is for a metal packaging coatings company to start supplying B2I if it has not supplied this previously, Actega told us that the resin technology requirement meant that ‘a new market participant must therefore not only develop and qualify their coating system but also need to have access to appropriate resins’. Valspar told us that the production of B2I required large reactors, which were ‘much more expensive’ than the plant required for other coatings products. It estimated that it would cost ‘a few million euro to build a significant plant with a lot of capacity’.
131. [REDACTED] indicated that to re-enter the internal B&B coatings segment would require significant investment in a resin reactor that a company of its size found ‘scary’ in

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<sup>42</sup> [REDACTED]

light of the low prices and concentrated structure of the industry. Schekolin told us that such supply was rather difficult, as in this market prices were very low so a sophisticated, fully automated production had to be set up in order to get good margins. Crown commented on the fact that a new entrant such as Metlac would need to 'spend a lot of money to install the necessary equipment to start making internal spray in quantities that would matter'. [REDACTED]

132. AkzoNobel estimated that adding an additional resin reactor to a plant, [REDACTED], would cost between €[REDACTED] million and €[REDACTED] million, provided that there was already sufficient space on the site. If a site already had a reactor facility, an additional reactor would cost between €5 million and €10 million. It also indicated that a plant would take between 18 months and two years to construct.

133. [REDACTED]

134. Diostyl told us that epoxy technology (required for internal sprays) would be more difficult to toll manufacture as most plants would not have the reactors needed to produce the resin:

Epoxy technology is typically manufactured by an upgrade process which requires the maintenance of certain levels of temperature and pressure in the reaction vessels and you are then suddenly into an area where this is not something that the vast majority of paint plants could do. Very specialist plants could do it.

It also said that to start supplying inside spray involved substantial requirements, notably in terms of production reliability and capacity, product qualifications and adequate insurance.

135. We therefore found that the need to invest in expensive capital and operate at a scale necessary to achieve economies of scale represented barriers to entry into B2I. However, to some extent these barriers could potentially be mitigated by customer sponsorship since active support by customers may make companies more confident that they can achieve the necessary volumes to justify this level of capital investment.

### ***Technical support and reputation***

136. As in the case of B2E, because of the large volume of cans produced by beverage can manufacturers, difficulties in applying B2I coatings that interrupt the entire production process could result in a significant loss of output for the manufacturer, which means that provision tends to be associated with more demanding technical support than in FCG and suppliers would need to build up a reputation before being awarded with significant shares of customers' demand.

137. We therefore consider that the need to provide technical support and reputation is likely to limit the degree to which companies active in FCG are able to enter B2I: we found that companies currently active in B2E or BE may be in a better position because they are more likely to be willing and able to develop the necessary technical support and may have already established a reputation in providing coatings in B&B, albeit not specific B2I coatings.

### ***Regulation and qualification of new products***

138. AkzoNobel told us that the qualification process for B2I could last between 6 and 12 months. AkzoNobel also submitted estimates of testing costs for products which were

borne by customers, which indicated that testing a new B2I product was significantly more expensive (approximately €[REDACTED]) than testing a new external FCG product (approximately €[REDACTED]), and similar to costs for testing a new internal food coating (approximately €[REDACTED]). Costs for testing products which were not new were somewhat lower (AkzoNobel estimated that the costs for customers were approximately €[REDACTED] for a B2I product and €[REDACTED] for an external coating for a two-piece can).

139. This view was not supported by the can manufacturers. [REDACTED] noted that switching to a non-approved spray would take a minimum of three years due to pack tests and customer approvals. [REDACTED] told us that qualifying new products in the internal spray segment was both costly and time-consuming. It cited the example of [REDACTED], which had spent the last [REDACTED] years trying to qualify its inside spray with [REDACTED] without success.<sup>43</sup> Rexam told us that inside spray would take approximately [REDACTED] years to switch supplier, including the period of qualification. The cost to switch would be approximately €[REDACTED] to Rexam, more to the supplier, and would involve [REDACTED] people [REDACTED] and we would need to alter [REDACTED] machines per plant to achieve this.
140. Valspar said that the qualification procedure for an internal beverage can coating could take between one and three years.
141. Customer switching appeared to be further complicated by difficulties in scaling up (to industrial level) the use of qualified products to use on production lines. [REDACTED]
142. [REDACTED]

### ***Likelihood of entry and/or expansion in B2I***

143. In relation to customer sponsorship, [REDACTED] told us that it had been active in seeking to encourage entry into the segment for internal sprays. As noted previously, it has spent [REDACTED] years working with [REDACTED] in order to qualify the latter's spray with [REDACTED] customers. Similarly, [REDACTED].
144. [REDACTED] told us that, following its tender process, it had proactively sought to encourage the entry of new suppliers into the B&B market in order to enlarge the pool of suppliers for future tenders.
145. [REDACTED]<sup>44</sup>

### **Conclusion**

146. B2I is the most concentrated segment of the metal packaging coatings sector, with AkzoNobel and Valspar providing [81–90] per cent of B2I and PPG the remainder. Metlac is the only supplier that we have been told about that is planning on entering this segment. Given the need for technical know-how, the need to recover the high fixed-cost base through operating at high volumes, the need to offer technical support and have an established reputation and the lengthy, costly and risky process to qualify and scale up for industrial use, entry and/or expansion by anyone other than Metlac in this segment does not appear to be likely, timely or sufficient. The reason why we consider that Metlac may be better placed than others to enter this segment

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<sup>43</sup> [REDACTED]

<sup>44</sup> [REDACTED]

relates to its position in B2E (where it has already developed a reputation and customer relationships with B&B customers whose support is necessary to overcome some of these barriers). Notwithstanding this view, Metlac would still need to overcome some hurdles to enter this segment, and we discuss this in more detail in Section 9.

## Innovation and product range

1. This appendix considers whether Metlac is an innovative firm. Metlac's ability to innovate is relevant to whether or not it will be able to continue to supply its current customers and also to grow its business. We considered customer and competitor views on Metlac's level of innovativeness and also considered whether the merger would be likely to result in less rivalry on innovation.
2. We also considered that the industry seemed to be on the verge of a significant technological change, ie the development of BPA-NI products, and the recent French legislation described in paragraph 2.77 of our report could potentially speed up the transition. The need to convert their products to BPA-NI coatings would require customers to go through a wide process of requalification for which, in principle, all suppliers may compete. Put another way, the move towards BPA-NI could potentially level the playing field and remove, at least partly, the incumbency advantage that existing suppliers currently enjoy by virtue of being already qualified. While the introduction of BPA-NI could be an opportunity for expansion and growth, especially for small suppliers, it could also represent a risk if a supplier runs behind in the race to develop BPA-NI products.

### Innovation

3. Innovation<sup>1</sup> is a characteristic that was mentioned by customers in relation to Metlac, including customers that are supplied by both AkzoNobel and Metlac and which made up a significant proportion of UK demand for metal packaging coatings.
4. One customer ([REDACTED]) told us that: 'I would say that in 2010 we gave an award during one supplier meeting to Metlac for the best innovation and dynamic, so we currently do rate Metlac's laboratory output.'
5. Crown expressed 'a fantastic amount of respect for [Metlac's] technological capacity, and their ability to develop new products'.
6. Rexam sees Metlac 'as being very innovative in this marketplace' and mentioned that post-merger 'this price driver, this innovation driver, this [REDACTED] is no longer going to be there'.
7. One customer ([REDACTED]) told us that:
 

Metlac are great innovators, for example speciality varnishes. Their products also tend to be of superior quality. Metlac are fast developers and will include special niche programmes for their customers. The other suppliers tend to concentrate on main production variants of materials. In the can market, 'specials' are very appealing to our customers and [REDACTED] are continuously looking for more of these. By their very nature, these runs are typically of lesser volumes, which the main suppliers are not necessarily interested in.
8. [REDACTED] noted that:

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<sup>1</sup> Innovation may embrace several aspects of a product: technical performance, aesthetic features, composition (removal of potentially harmful chemicals), etc.

a strong technological decline will affect the market in the medium run. The main reason for that is that the merger will eliminate from the market the sole competitive player who has been able to challenge the position of large corporations such as AkzoNobel, PPG and Valspar, offering superior quality at low prices (including the capacity to offer BPA-NI coatings). Post-merger, we will totally be in their hands, at least for the higher quality coatings, which are not offered by smaller suppliers (such as our current suppliers [REDACTED]).

9. One customer ([REDACTED]) told us that it expected the merger to result in:

reduced incentives to innovate, as well as less effective technical support and lower quality of packaging coatings. A counterfactual scenario is offered by the US market, where quality is generally lower in all likelihood because no US supplier has been able to challenge the main players' position, as Metlac has successfully done in Europe.

[REDACTED] also told us that it also expected the merger to affect R&D.

10. [REDACTED] also expected the merger to affect R&D.

11. AkzoNobel submitted that Metlac was not considered to be a particularly innovative manufacturer.<sup>2</sup> AkzoNobel noted that the technology and formulations in relation to external coatings for both two-piece and three-piece cans were long-established and the production of coatings in these segments was quite a basic process. It submitted that innovation was of greater relevance in relation to BPA-NI products and internal coatings. More generally, it said that Metlac was not particularly innovative and Metlac's R&D investment was much smaller than its own, with Metlac having [REDACTED] full-time staff whilst AkzoNobel had over [REDACTED] full-time staff (working only on research and development). [REDACTED] of these full-time employees work solely on BPA-NI coatings in the B2I segment. AkzoNobel further submitted that it was not aware of a single commercial product not based on pre-existing technology brought to market by Metlac. Furthermore, it stated that Metlac had [REDACTED] patents ([REDACTED] relating to metal packaging coating) compared with AkzoNobel's [REDACTED], PPG's [REDACTED] and Valspar's [REDACTED] metal packaging coating patents.

12. We also reviewed internal documents provided by AkzoNobel, which provided some information on its views on the innovative characteristics of AkzoNobel and various of its competitors.

13. AkzoNobel provided its [REDACTED]. This report found that AkzoNobel had weaknesses compared with key competitors (PPG and Valspar) and other competitors in relation to some areas.

14. In particular it had weakness in relation to pricing and product innovation at the time of the report. It stated: '[REDACTED]'.<sup>3,4</sup> It also noted that '[REDACTED]'. The [REDACTED] described Metlac as a 'strong regional supplier' and noted that 'Metlac was not mentioned for their innovativeness by interviewees'. Metlac is also described as 'not having any specific "stand-out" technologies', although it was described as having a very broad product

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<sup>2</sup> It referred to the [REDACTED] and the BKartA in its Phase II investigation relating to this proposed merger in support of this submission.

<sup>3</sup> AkzoNobel submitted that this statement related to the development of BPA-NI products, which at that time had not been made available for testing with customers. AkzoNobel's progress in developing BPA-NI coatings has since been made more visible. However, the report does not refer to BPA-NI.

<sup>4</sup> [REDACTED]

line and by one 'well-regarded industry watcher' as 'the finest, cleanest, most well-organized, well-managed and best performing coatings manufacturer in Europe'.<sup>5,6</sup>

15. Comparing AkzoNobel's and Metlac's strengths [REDACTED], AkzoNobel stated that [REDACTED]. It noted that the transaction [REDACTED].<sup>7</sup>
16. The internal documents provided by AkzoNobel identify product innovation as one of its relative weaknesses, but do not specifically compare its level of innovation to that of Metlac.
17. Metlac submitted that the merger would remove innovation competition between 'the two leading innovators'. Metlac told us that its level of innovation was the reason why large customers, such as [REDACTED], had switched significant portions of their business to Metlac. Metlac submitted that its innovation related to its R&D spend, investment in product range, production processes (ie automated manufacturing of coatings) and client service.<sup>8</sup> It also submitted that it was also developing coatings [REDACTED]. In relation to innovation relating to removal of potentially harmful chemicals other than BPA, we noted that both AkzoNobel and Metlac have submitted that they are working on this.
18. In our view, whilst R&D spend and quality of production process are relevant to innovation, they are not decisive factors in a consideration of whether or not Metlac's level of innovativeness is a significant factor in the competitive dynamics of supply of metal packaging coatings.<sup>9</sup> The number of R&D employees and level of R&D spend is not always reflective of the innovativeness of a company as smaller companies may have more nimble customer response and development processes. The factors we have analysed are general statements on Metlac's level of innovation.<sup>10</sup>
19. In their responses to our question on whether Metlac products have any advantages over products of other suppliers, three out of 18 respondents explicitly mentioned innovation in relation to Metlac's products and two additional customers highlighted superior product.<sup>11</sup> [REDACTED] told us that Metlac's products had a quality advantage over those of AkzoNobel, that they warranted better performance and a larger volume of AkzoNobel coating was needed for similar results, compared with Metlac's product, and gave the example of an epoxyphenolic varnish.
20. We did not seek to measure if Metlac was more innovative than AkzoNobel. We noted that both AkzoNobel and Metlac were mentioned by customers as providing high quality products. We did not receive any evidence to indicate that Metlac's

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<sup>5</sup> [REDACTED]

<sup>6</sup> AkzoNobel noted that this comment appeared in a section on the competitive dynamics of the metal packaging coatings market, where the principal suppliers were identified as Valspar (the largest), PPG and AkzoNobel. Metlac is listed among a group of other suppliers, including Darex (Grace), Actega and Schekolin, while further regional companies such as Rembrandtin (acquired by Salchi), Salchi, Tikkurila and Foreco are also listed. Schekolin is singled out for its high levels of innovation, with the [REDACTED] noting that its UV rim coating for B&B was 'considerably ahead' and that 'Schekolin is often mentioned as being particularly gifted at forecasting new areas of technology interest, and beginning work before others'. Actega is noted in the report for having 'strategic R&D efforts'.

<sup>7</sup> [REDACTED]

<sup>8</sup> AkzoNobel submitted that these factors did not relate to development of new or improved products. It noted that even on the basis of these factors AkzoNobel's R&D spend was significantly higher than that of Metlac; it had a product range [REDACTED] times that of Metlac (and saw Valspar and PPG as having similar-sized portfolios to AkzoNobel). It noted that production processes and client services were not measures of innovation.

<sup>9</sup> We have not carried out a detailed comparison of either the R&D spend of the parties or the quality or efficiency of their production processes. A number of companies have stated that Metlac's operations may be more efficient than others in the market and [REDACTED]. This information is taken into account as relevant when reviewing Metlac's ability to offer low prices.

<sup>10</sup> AkzoNobel submitted that these statements came from customers which responded to the CC market questionnaire, many of which were Metlac customers. In this regard, we note that all customers which provided responses to the CC are customers of AkzoNobel, one of which was supplied by AkzoNobel from 2006 to 2010 but not in 2011. All customers that were sent questionnaires by the CC bar two are customers of AkzoNobel.

<sup>11</sup> As our question referred to advantages of Metlac's products in general, not just innovation, the other customers highlighted different product characteristics, like price, quality of support service, ease of negotiations, etc.

products are inferior to those of its competitors (ie such that Metlac would need to price lower in order to sell its products). The information received on its general innovativeness led us to conclude that Metlac is likely to be able to continue to offer high-quality products in the future.

### **BPA-NI innovation**

21. BPA-NI coatings are already in use for FCG products (particularly Food and C&C) even in the absence of legislative requirement and customers have increasingly expressed an intention to switch to BPA-NI coatings. In B&B, as far as we are aware, BPA-NI coatings are not being used on a commercial basis.
22. Below we set out evidence provided on BPA-NI innovation in relation to the B&B and FCG markets to determine whether, if and when the markets move to BPA-NI coatings, Metlac is likely to be able to continue to compete and whether there is any indication it would be in a strong position in any market to continue to exert a competitive constraint on other suppliers. We have considered innovation in B&B and FCG separately.

### ***BPA-NI innovation in B&B***

23. We were told that [REDACTED]. Indeed, despite the fact that the external coatings do not come into significant contact with drink, a number of customers have confirmed that an entire BPA-NI beverage solution is required (inside spray, basecoat, rim varnish, end coating, and external overvarnish) to prevent cross-contamination of the BPA-NI internal coatings during the manufacturing process.
24. We investigated the extent to which customers consider Metlac well placed in the development of BPA-NI in B&B.
25. [REDACTED] Metlac told us that [REDACTED].
26. [REDACTED]
27. [REDACTED]
28. [REDACTED] told us that it was working with PPG, Valspar and AkzoNobel (but not with Metlac), although it did not have a fit-for-purpose BPA-NI B&B coating from any of these suppliers currently. [REDACTED] We did not receive information from [REDACTED].
29. While the evidence is limited, we noted that a number of customers active in B&B are currently testing Metlac's BPA-NI products and two of them ([REDACTED]) have indicated that they would consider purchasing these products from Metlac. The evidence provided to us indicated that Metlac, along with AkzoNobel, Valspar and PPG, was developing BPA-NI B&B coatings and we are of the view that a move to BPA-NI B2E coatings would, if anything, enhance Metlac's ability to further expand its B2E supplies, given its strong position in development of BPA-NI coatings.
30. In Appendix F we also considered whether the adoption of BPA-NI technology may affect the ability of smaller suppliers to enter/expand in the B&B market.

### ***BPA-NI innovation in FCG***

31. Many customers were already using BPA-NI coatings for food products (especially for baby-food packaging) and we were told ([REDACTED]) that the market for food-contact

coatings was moving towards BPA-NI even in the absence of legislation that mandates its use.

32. AkzoNobel provided information on how developed its BPA-NI trials for particular products are with various customers.<sup>12</sup> This information indicated that it is testing [REDACTED].
33. Metlac provided a similar summary of its BPA-NI coatings development in a presentation prepared for its customer, [REDACTED]. Of approximately [REDACTED] coatings for Food, GL and C&C it gave [REDACTED] examples of where other customers (other can makers) are with Metlac in the same approval process. Where it had information on its competitors it seems to be at a broadly similar place in the approval stages. In relation to BPA-NI products, Metlac stated that it had 'the technological edge' and had developed 'a complete range of BPA-NI products for all packaging coating segments', which other players had not.
34. [REDACTED] Similarly, Guala told us that the move to BPA-NI was forcing it to qualify new products. [REDACTED] As companies will be unable to import cans containing BPA into France, the requirement will have pan-European implications. [REDACTED]
35. [REDACTED] We noted that Metlac was already producing a number of BPA-NI Food coatings. More than 60 per cent of its production in the Food segment was for BPA-NI products and its customers included [REDACTED].
36. AkzoNobel's 2011 'Packaging Coatings Submission for the ICO Strategy Booklet' recognized Metlac's strength in a sub-segment of BPA-NI for food coatings, noting: [REDACTED].
37. [REDACTED] told us that 'Metlac has a considerable competitive edge over its competitors in terms of higher R&D capabilities and more effective technical services. We also appreciate Metlac for its significant product portfolio of caps and closures coatings, including a wide range of Bisphenol-A coatings'. For this reason it noted that it had switched away from PPG and ICI (AkzoNobel).
38. One customer ([REDACTED]) told us that technical expertise and R&D resources would be a key element in evaluating the suppliers that were more likely to succeed in qualifying BPA-NI products, and not all suppliers were equal in this respect.
39. One customer ([REDACTED]) told us that it rated Metlac as the best supplier in terms of the ability to deliver BPA-NI.
40. Another customer ([REDACTED]) expressed a favourable view on Metlac's innovation progress in the BPA-NI segment. In particular, it rated Metlac as 'number one, top of the heap'. It told us that only Metlac and [REDACTED] were currently able to provide a full BPA-NI [REDACTED]. [REDACTED] expected the merger to result in 'Less competition on the BPA-NI field with a potential impact for the final customers'. [REDACTED] (Table 1 below) [REDACTED].

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<sup>12</sup> AkzoNobel described the qualification of a new product as a five-stages process: preliminary tests, plant trial, validation, scale up and final approval.

TABLE 1 [redacted] ranking of coatings suppliers by BPA-NI

Beverage	Food	Closures	Speciality packaging	Aerosols
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
	[redacted]		[redacted]	
	[redacted]		[redacted]	

Source: [redacted].

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41. [redacted] also told us that its policy was that if it could get the BPA non-intent product that worked well in its plants and could get it for the same cost, it switched and so in a number of cases it had already switched to BPA-NI. However, it was left with a rump of products, where the costs were currently too high to switch to BPA-NI and there was insufficient competition across those products to bring the prices down. The move to BPA-NI was a serious issue for it and ‘when we have had a Metlac BPA free or BPA non-intent solution, it has always been 90 times out of 100 the cheapest’. It stated that AkzoNobel was behind on BPA-NI development and ‘one of their principle reasons for trying to acquire the rest of Metlac is to get themselves back into the race on BPA because they have been out of the race’.
  42. [redacted] told us that Metlac had been particularly innovative in the field of BPA-NI. [redacted]
  43. [redacted] told us that Metlac offered new possibilities with BPA-NI coatings for food while Caldicot said that Metlac was a small player and so did not believe it had the facilities or the resources to do the level of research on BPA-NI products that companies such as AkzoNobel, Valspar and Grace Davison could.
  44. As part of our evaluation of the merger impact on BPA-NI innovation we also considered whether there is any indication small suppliers would be in a position to compete on BPA-NI and possibly replicate Metlac’s constraint.
  45. One customer ([redacted]) told us that:
 

if the merger proceeded, there is a risk that there may be even less suppliers than at present because few players have a sufficiently diversified range of BPA-free coatings, which is very important for caps and closures, and offer coatings having a good performance (once BPA is eliminated, the problem is that coatings have generally a much lower performance). In addition, the incentive to innovate would be significantly reduced.
- [redacted] also indicated that the smaller suppliers (apart from Grace) generally did not offer the necessary range of coatings which met the high technology standards for C&C coatings.
46. [redacted] told us that smaller suppliers’ limited R&D capability in BPA-NI would likely limit their capacity to compete effectively in the future. It also told us that its policy was to have at least two qualified suppliers for each coating [redacted]. In [redacted] view one of the more significant effects of the merger would be to reduce supplier choice [redacted].
  47. [redacted] noted that it was looking for BPA-NI solutions from all suppliers. All suppliers we spoke to or received information from have told us that they are developing BPA-NI solutions. In relation to BPA-NI-related innovation, when asked whether it would rate Metlac equally well vis-à-vis the competitors, [redacted] responded: ‘Yes. Today, to be fair, we have all the suppliers coming in with solutions. For each end use we can count

two to three suppliers that could probably supply the product, in which we can count Metlac.’ However, it also told us that it was not easy to find suppliers which had sufficient technological knowledge to supply BPA-NI coatings. It said that it was currently unclear to what extent the smaller suppliers would have the resources to develop competitive BPA-NI products, although some companies such as Grace and Diostyl (in addition to Metlac) had previously shown strong innovation capabilities. [REDACTED]

48. [REDACTED] One customer ([REDACTED]) told us that:

Potential suppliers of internal lacquers BPA NI are practically all major lacquer producers: Valspar, PPG, Akzo Nobel, Metlac, Grace, Salchi, Actega, Schekolin. The bigger ones (1–3) will have the competitive advantage and will probably have more products commercially developed within 1 year’s time.

49. A number of suppliers confirmed that they are developing BPA-NI solutions for FCG coatings. Schekolin said that it had developed BPA-NI coatings for two- and three-piece cans, for internals and side seams. Actega has been developing and supplying BPA-NI alternatives to epoxy coatings for several years. Grace believed it had commercially acceptable solutions for use in the Food, C&C and GL categories. [REDACTED] PPG had been working on BPA-NI coatings for many years and was in a position to supply them if customers demanded them.

50. In relation to our question on how the proposed merger would have an impact on technological, regulatory or other developments in the market, five out of 18 customers expressed concerns in relation to the slowing down of BPA-NI-related innovation.<sup>13</sup>

51. Overall, the evidence showed that Metlac is well placed with respect to BPA-NI food contact coatings. As set out above, we received some evidence that some of the smaller suppliers are generally weaker in BPA-NI product development than the biggest four. That said, a number of smaller suppliers are developing BPA-NI products and [REDACTED]. As such, while there may be a time lag before the smaller suppliers can catch up with the larger suppliers in BPA-NI product development, we have not received sufficient evidence to show that they would be unable to provide a credible alternative to Metlac in the event of the merger.<sup>14</sup>

## Product range

52. A number of customers were concerned that the merger would lead to rationalization of Metlac’s product range. We considered, particularly based on their experience of previous acquisitions in this sector, whether there was evidence indicating that AkzoNobel may have incentives to reduce its product range if Metlac’s constraint was removed after the merger.

53. First, we reviewed evidence on the existing product portfolio of suppliers. We stress, however, that we did not seek to determine who had the widest product range but only to have an initial view of the width of the product range of the merging parties.

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<sup>13</sup> AkzoNobel submitted that this indicated that the market was not generally concerned about BPA-NI innovation slowing down as a result of the proposed merger as only a minority of respondents specifically mentioned this in response to our question.

<sup>14</sup> AkzoNobel referred to comments from Ardagh and Caldicot to support the proposition that AkzoNobel, not Metlac, was among the leading BPA-NI producers. [REDACTED]

54. AkzoNobel stated that it had a much wider product range than Metlac and that its range was approximately the same size as that of Valspar and PPG, while Metlac's was nearer to that of smaller suppliers.
55. Metlac stated that it was able to offer customers a wider product range than other suppliers, as the larger suppliers had more standardized product offerings and smaller suppliers had focused on particular products for limited applications. Metlac stated that the width of its product portfolio came from its willingness to customize products more than other suppliers. It was of the view that by innovating to offer a wide product variation it effectively gained share from larger competitors.
56. PPG told us that it saw itself as having a wider product range than both Metlac and AkzoNobel.
57. Crown told us that, in its view, both AkzoNobel and Metlac offered a much wider range of products than other suppliers, including [REDACTED].
58. Crown provided [REDACTED]. AkzoNobel noted that customers would not be best placed to determine product range as they were not aware of small differences between one SKU and the next, nor the number of variations on coatings each supplier had. As such, the table below may not tell us much about suppliers' actual product ranges—rather that Crown chooses to purchase a wide range of its products (over half) from AkzoNobel and Metlac.

TABLE 2 [REDACTED]: active coating products per suppliers, 2011

<i>Supplier</i>	<i>Total</i>
[REDACTED]	[REDACTED]
Total	[REDACTED]

Source: [REDACTED].

59. Ardagh noted that the smaller suppliers focused on particular products (Grace on food external end coatings, Actega on external coatings) and that Salchi currently did not have products for all the segments and developing such products could take significant amounts of time.
60. Overall the information provided to us indicated that Metlac probably had a wider product range than the smaller suppliers.
61. We received comments from a number of customers as regards the potential impact of the merger on the product range of the parties.
62. [REDACTED]
63. Silgan noted that 'should AkzoNobel standardize its product portfolio (changing or cancelling Metlac products) we see high cost for the requalification procedures'. [REDACTED] told us that 'the merger is likely to reduce the product offer as product lines will be

stream lined'. [REDACTED] noted that it expected 'product range rationalisation in the non beverage category (all segments) amongst the two companies'.

64. AkzoNobel submitted that 'it would seek synergies from the acquisition and it was highly unlikely that Metlac is operating large numbers of, or any, unprofitable product lines' and would not be likely to discontinue lines in the face of customer demand for the relevant products. AkzoNobel told us that some product rationalization would occur due to similarities between AkzoNobel and Metlac products due to common technology heritage (from when ICI and Metlac cross-licensed products) and in such a case a determination of which product to keep would be discussed with customers. It told us that it would also look to rationalize more generally to reduce the number of SKUs it had to stock, but this would be done slowly (over the course of two to three years), in discussions with customers about the best formulations to use.
65. AkzoNobel provided details of the rationalization process which occurred following its 2009 acquisition of Lindgens (a smaller inks and coatings supplier). It submitted that it did not immediately discontinue product lines and maintained a large number of Lindgens products in response to customer demand. AkzoNobel submitted that in relation to inks for two piece cans, where there was no substantial overlap between ANPG and Lindgens, the Lindgens ranges had been retained (and upgraded where necessary); the Lindgens range for three-piece inks (which overlapped with that of ANPG) was being reviewed together with that of ANPG and it was anticipated that approximately [REDACTED] per cent of the products would be discontinued but without a loss of product range; and of Lindgens [REDACTED] FCG coatings products at least [REDACTED] had been retained and those which had been discontinued were replaced by ANPG products. AkzoNobel stated that no ex-Lindgens customer was left without supply.
66. For those products which both Metlac and AkzoNobel supply, it would seem possible for it to be in AkzoNobel's interests to follow a rationalization process similar to that following its acquisition of Lindgens. For some customers this may involve having to requalify a product, either to secure the supply of the required product or to maintain a multi-sourcing approach. As such, a selected group of customers may lose an element of choice and/or face switching costs. This could be the case in B2E where the number of alternative suppliers is limited whereas in FCG the issue appears of lesser concern in light of the fact that in the instances where Metlac and AkzoNobel overlap there usually exist a number of alternative smaller suppliers (qualified with the same product either at the same plant or somewhere else in the EEA) from which customers could relatively easily source.

## Analysis of procurement examples and switching

1. We have analysed the following:
  - Evidence provided by AkzoNobel summarizing [redacted] procurement instances which occurred between 2008 and 2011. AkzoNobel told us that for the FCG market the information only covered about [redacted] per cent of the total EEA sales value, and possibly significantly less, based on a rough approximation.<sup>1</sup> In the B&B market, the coverage was higher as formal tenders are used more often. Based on a rough estimate, the coverage of the sales value was approximately [redacted] per cent.<sup>2</sup>
  - Information provided by AkzoNobel regarding tenders which occurred in the B&B market.
  - Information provided by Metlac regarding wins and losses in recent years.
  - Information submitted by customers regarding switching which occurred in recent years.

### A. Tender and procurement data submitted by AkzoNobel

2. Competition between suppliers can be investigated through the analysis of individual procurement processes. In particular, one can gain insights into Metlac's ability to win business from its competitors and exert competitive pressure on them. We were provided with information regarding the small number of tenders that have occurred in the industry in recent years, all of which were in the B&B market. Formal tendering is not the norm in the FCG market and therefore we analysed data on particular instances when customers procured a particular product. These instances only form a very small proportion of the total number of occasions where customers were purchasing products, but they may nonetheless account for a larger proportion of the switches which occurred.

### Data on [redacted] procurement instances between 2008 and 2011

3. AkzoNobel<sup>3</sup> provided evidence of [redacted] procurement processes. AkzoNobel submitted that this data only covered about [redacted] per cent of total EEA sales in the FCG market

<sup>1</sup> AkzoNobel stated that this was calculated as follows: the value of all contracts of FCG customers in the EEA was summed and added to half of the value of the sum of the [redacted] contracts ([redacted] manufactures in both the FCG and B&B segments); when only the volume was listed, an average price computed from the other contracts was used. This was then set in proportion to the total FCG segment size of €[redacted] million. AkzoNobel told us that some customers were active outside the EEA, and some of the contracts would have run for less than the four-year period covered by the [redacted] procurement instances. AkzoNobel said that the proportion of the market covered by the database would be overstated by this simplified calculation and in reality be significantly less than [redacted] per cent. We have not been able to replicate these calculations.

<sup>2</sup> AkzoNobel told us that this calculation was based on the same logic as above and that the proportion was likely to be overstated due to products included in the list being shipped outside the EEA. AkzoNobel has stated that it cannot readily separately identify intra-EEA sales from this data, although in principle it considers the amount of extra-EEA sales to be relatively small.

<sup>3</sup> AkzoNobel submitted to the OFT a document 'Metal packaging coatings business won and lost by AkzoNobel (and Metlac, where known) during the period 2008-2011'. This data was not compiled by AkzoNobel to analyse competition in the markets, but was compiled in the context of review of the Metlac transaction by the BKartA and OFT, explained as follows:

The win-loss data which were initially provided to the OFT on 29 February 2012 were compiled from a number of sources, including data provided by AkzoNobel to the BKartA and input from sales representatives at AkzoNobel. Following the case review meeting with the OFT on 19 April, this was then supplemented by further information from AkzoNobel sales representatives on other business that AkzoNobel had competed for. This expanded version was then supplied to the OFT on 24 April. [redacted] Therefore, the list provided was based on the subjective memory of what was or

and [X] per cent of total EEA sales in the B&B market. We have not been able to replicate these calculations. AkzoNobel submitted that these procurement events were not a comprehensive source of competitive interaction between the relevant suppliers, and therefore could not be relied upon with confidence.<sup>4</sup> We acknowledged that the data we held on procurement is not comprehensive, in particular for the FCG market, and hence we have not placed significant weight on it.

4. [X] of the [X] procurement processes ([X] in the FCG market and [X] in the B&B market) were clearly for delivery to outside of the EEA and have therefore been excluded. With respect to the B&B market, some procurement by large customers covers delivery to countries within and outside of the EEA. We were unable to determine the proportion of these contracts that was delivered outside of the EEA and have therefore not excluded these contracts from the analysis. The analysis below focuses on the remaining [X] procurement processes (with a value of €[X] million<sup>5</sup>).<sup>6</sup>
5. AkzoNobel submitted that the information provided on procurement would not give a clear indication of overlaps, since suppliers may not be capable of bidding for all coatings which form part of the procurement process (eg Metlac was unable to bid for the supply of B2I spray as part of the [X] tender). In other words, Metlac and AkzoNobel may have both participated in the same overall procurement process, but for different products—and this is not reflected in the information.
6. We accept that if a procurement event involved multiple product types then Metlac and AkzoNobel may not have directly competed against one another in the overall procurement event. However, in many cases the information provided by AkzoNobel appears to refer to a single product type, especially with regard to FCG procurement. In the B&B market, where a significant number (and significant proportion of value) of procurement events may have involved multiple product types, we have taken into account the more disaggregated information submitted to us on formal B&B tenders as discussed in paragraphs 9 to 17 below.
7. Reviewing the procurement data provided, Metlac participated in [X] ([X] per cent) of all [X] procurement events and was a successful bidder<sup>7</sup> [X]. In [X] out of [X] instances where Metlac competed against AkzoNobel, Metlac also competed against other suppliers (such as Valspar, PPG and smaller suppliers). In the [X] remaining cases AkzoNobel was the only known competitor listed.
8. The total value of instances in which Metlac and AkzoNobel participated, for those procurement events where information on value was supplied, was around €[X] million. We estimated that Metlac's wins were of a magnitude of around €[X] million over four years.<sup>8</sup> Metlac's EEA sales for 2008 to 2011 totalled

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was not relevant to AkzoNobel. This means that in particular in FCG, the information provided only covers a very small, and therefore most likely non-representative, proportion of the market as most of the business is conducted in a way that would not allow AkzoNobel to know who it is competing against; in some cases, it would not even know that it was losing a part of the business it was supplying to a competitor. If sales representatives were to spend more time looking through more files and correspondence to find additional contracts won or lost where they believe the customer was also considering offers from other identified suppliers, we believe that this would only be likely to result in a small increment in the number of contracts, and would not materially increase the proportion of the market covered.

<sup>4</sup> AkzoNobel also noted that this information was not switching data and could not be used to calculate diversion ratios. We are aware of this and this is a reason why we have not been able to calculate diversion ratios in this case.

<sup>5</sup> This figure takes account of the fact that the [X] tender in this list of [X] procurements refers to annualized values rather than total values. [X]

<sup>6</sup> It should be noted that some of the procurement events involved multiple products and not all bidders bid for each and every product for every event. A successful bidder is therefore a bidder that wins some business in the procurement event.

<sup>7</sup> See the second footnote to paragraph 4.

<sup>8</sup> We acknowledge that this is a very rough estimate which is particularly sensitive to whether the total or annualized value of multi-year contracts are used. [X] Other assumptions made in this calculation include: (a) if there were multiple successful bidders but information on the value won by each was not available, then it was assumed that Metlac won the share of value as it did volume (b) if information on volume won by each bidder was not available then it was assumed that it was split evenly.

€[redacted] million. On this basis we estimated that the business Metlac won when competing with AkzoNobel in these [redacted] procurement events accounted for [31–40] per cent of Metlac's yearly turnover.

## **B&B**

9. Of the [redacted] procurements<sup>9</sup> [redacted] were in B&B.<sup>10</sup> Of the [redacted] procurement events in B&B, [redacted] were exclusively for BE or B2I coatings which Metlac does not produce. Metlac participated in [redacted]<sup>11</sup> it was successful in (although these procurement events sometimes involved multiple products and Metlac may not have bid for each product or indeed won business for each product that it bid for within a contract).<sup>12</sup>
10. AkzoNobel submitted additional evidence on B&B tenders that covered all [redacted] of the formal tenders issued by B&B customers for the supply of metal packaging coatings into the EEA between 2008 and 2012.<sup>13</sup> Apart from [redacted] products of [redacted], all these tenders could be identified in the list of [redacted] procurement instances discussed above. [redacted] of these [redacted] tenders involved more than one product ([redacted]). The tender information is set out in Table 1.<sup>14</sup> Metlac did not take part in [redacted] with which it was not qualified for B2E until recently, and one issued by [redacted] for [redacted] coatings that Metlac does not currently supply.

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<sup>9</sup> In order to carry out the following analysis on FCB and B&B procurement we attempted to categorize each procurement event as being either FCG or B&B.

<sup>10</sup> AkzoNobel participated in [redacted] out of the [redacted] B&B procurement events on the list.

<sup>11</sup> AkzoNobel also participated in each of these [redacted] procurement events. Metlac only bid for B2E, as it does not supply B2I and BE.

<sup>12</sup> For example, Table 1 shows that for [redacted].

<sup>13</sup> As stated in paragraph 4 of this Appendix, these tenders cover delivery to countries within and outside of the EEA. We were unable to determine the proportion of these contracts that was delivered outside of the EEA and therefore we did not exclude these contracts from the analysis.

<sup>14</sup> [redacted]



16. [REDACTED]. Metlac has provided us with further information which shows that Metlac recorded annual sales of [REDACTED].<sup>16</sup> We do not hold complete information as to whether the increase or reductions in business comes from switching or from industry growth. However, [REDACTED] provided information on its B2E purchases of overvarnish which shows that it shrunk by [11–20] per cent from 2009 to 2011. [REDACTED] told us that in 2009 it tendered its coatings requirements within a global tender process to which only the three large global suppliers (AkzoNobel, Valspar and PPG) were included as they were the sole suppliers having a global presence. [REDACTED] awarded some volumes to Metlac via ‘non-tender’ processes and stated that it did not award further volumes to Metlac for various reasons, including [REDACTED] strategy to contract with multiple suppliers and actual qualified product status.
17. The evidence discussed in this section shows that Metlac competed with AkzoNobel and won business from it (as well as from Valspar and PPG) in B2E.

## FCG

18. [REDACTED] of the [REDACTED] procurement events were in FCG. As shown in Table 2, Metlac participated in [REDACTED] events<sup>17</sup> ([REDACTED] per cent of events) and was a successful bidder<sup>18</sup> in [REDACTED] which was more than any other supplier (for instance, AkzoNobel won some business in [REDACTED] events<sup>19</sup>). Several suppliers won relatively small volumes/value, but overall at least one smaller player participated in [REDACTED] events and at least one smaller player was successful in winning some business in [REDACTED] events. However, none of the smaller suppliers won business in more than [REDACTED] events.

TABLE 2 Percentage of FCG procurement events suppliers participated and won business in, 2008 to 2011

	<i>per cent</i>	
	<i>Procurement events participated in</i>	<i>Number successful</i>
Metlac	[REDACTED]	[REDACTED]
AkzoNobel	[REDACTED]	[REDACTED]
Valspar	[REDACTED]	[REDACTED]
Actega	[REDACTED]	[REDACTED]
Salchi	[REDACTED]	[REDACTED]
PPG	[REDACTED]	[REDACTED]
Grace	[REDACTED]	[REDACTED]
Jallut	[REDACTED]	[REDACTED]
Proa	[REDACTED]	[REDACTED]
Retecsa	[REDACTED]	[REDACTED]
Rembrantin	[REDACTED]	[REDACTED]
Hockback	[REDACTED]	[REDACTED]
Janecke & Schneeman	[REDACTED]	[REDACTED]
Zeller	[REDACTED]	[REDACTED]
Schekolin	[REDACTED]	[REDACTED]
Sistiaga	[REDACTED]	[REDACTED]
Aret	[REDACTED]	[REDACTED]

Source: AkzoNobel information and CC estimates.

Note: Sample size: [REDACTED] procurement events.

<sup>16</sup> Sales figures were computed using information from the Metlac customer transactions and cost database.

<sup>17</sup> AkzoNobel participated in [REDACTED] where Metlac participated.

<sup>18</sup> See the second footnote to paragraph 4.

<sup>19</sup> AkzoNobel participated in [REDACTED] out of the [REDACTED] events in the FCG segment.

19. Specifically with regard to the FCG procurement events in which Metlac participated, it encountered a range of competitors including: AkzoNobel, PPG, Valspar, Actega, Grace and Aret.
20. The procurement data submitted by AkzoNobel provided evidence of some instances in which AkzoNobel and Metlac competed in the FCG market. However, due to the proportion of [X] per cent of demand that the FCG information is said to represent, we were unable to draw strong conclusions on the level of competition between the parties on a wider scale.

### **Switching analysis**

21. The switching information set out in this section shows evidence of Metlac winning business where it competes and winning a significant proportion of this business from AkzoNobel. However, given the relatively low proportion of demand represented by the FCG information in particular we cannot draw strong conclusions on the degree to which Metlac competes aggressively across all of the segments in which it is active.
22. The survey commissioned by AkzoNobel to GfK NOP<sup>20</sup> recorded only [X] instances of switching in the last five years on a sample of 23 customers. However, as noted in paragraph 8.165 of our report, the customers that responded to this survey do not represent a significant proportion of demand, at a UK or EEA level. Also, the sample does not include B2E customers and therefore we attached limited weight to the survey responses.
23. This section reviews the last two sets of evidence mentioned in paragraph 1 above:
  - information provided by Metlac regarding wins and losses in recent years; and
  - information submitted by customers regarding switching which has occurred in recent years.

### **B. Information on wins and losses provided by Metlac**

24. Metlac provided us with information on some sales won from competitors in 2009 to 2011, set out in Table 3. The data in Table 3 covers a large proportion of the volume switched to Metlac in B2E in recent years. However, it is unclear what proportion of the total volume switched to Metlac in FCG these examples represented.

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<sup>20</sup> GfK NOP: 'Metal Packaging Coatings Market—A research report prepared for AkzoNobel' (15 November 2012).

TABLE 3 Examples of sales won by Metlac from competitors in 2009 to 2011 (unless otherwise indicated)

Customer	Volume t	Previous supplier*	Segment
Crown	[X]	[X]	FCG
	[X]	[X]	FCG
	[X]	[X]	GL
Ardagh (incl Fipar)	[X]	[X]	Food
	[X]	[X]	Food
Silgan (incl V&N)	[X]	[X]	Food
	[X]	[X]	C&C, Food
Litalsa	[X]	[X]	Food
Metaprint	[X]	[X]	GL
Can-Pack	[X]	[X]	C&C
Total FCG	[X]		
Rexam	[X]†	[X]	B&B (ext)
Ball (incl Aerocan)	[X]‡	[X]	B&B (ext)
Total B&B	[X]		

Source: Supplier information and CC estimates.

\*We acknowledge that some customers, especially the largest ones, tend to multisource, and therefore it may not always be clear from which supplier the sales won have been actually switched. [X]

†[X]

‡[X]

Note: [X]

25. The switched volumes in Table 3 represented approximately [X] and [X] per cent of Metlac's total sales volumes for the period 2009 to 2011 in the FCG and B&B markets respectively. These figures suggest that Metlac was successful in winning sales from its major competitors, AkzoNobel, Valspar and PPG, over the past few years.
26. The figures also indicated that of Metlac's total wins of [X]t in the B&B market, [X]t (which represented about [X] per cent of Metlac's sales in B&B in 2011) were from AkzoNobel. [X]t out of the [X]t out of total wins were from AkzoNobel (which represented around [X] per cent of Metlac's sales in 2011).<sup>21</sup> This indicated that, in particular in B2E, Metlac grew (and became the second player in the market in terms of volumes) mainly through sales diverted from AkzoNobel. This is also consistent with AkzoNobel stating in its Acquisition Request that it has [X] to Metlac.
27. In FCG, while we observed instances of switching from AkzoNobel to Metlac, given that it is unclear to what extent the volume switched to Metlac in FCG (set out in Table 3) is representative of the total volumes switched to Metlac in the relevant period, it is difficult to draw any conclusions from this. Metlac provided further evidence on sales won by Metlac from AkzoNobel in the various segments of the FCG market in 2011 and 2012 (see Table 4 below). The total sales won from AkzoNobel in 2011 amounted to [X] kt, which represented more than [X] per cent of the FCG growth experienced by Metlac in the period 2010/11 ([X] kt).

<sup>21</sup> [X] per cent ([X]t out of [X]t) of total wins in the FCG segment came from AkzoNobel.

TABLE 4 Sales won by Metlac from AkzoNobel

Year	Customer	Quantity t	Segment
2011	[REDACTED]	[REDACTED]	Food
2011	[REDACTED]	[REDACTED]	C&C
2011	[REDACTED]	[REDACTED]	GL
2011	[REDACTED]	[REDACTED]	Food
2011	[REDACTED]	[REDACTED]	Food
2011	[REDACTED]	[REDACTED]	GL
2011	[REDACTED]	[REDACTED]	Food
2011	[REDACTED]	[REDACTED]	C&C
Total 2011		[REDACTED]	
2012	[REDACTED]	[REDACTED]	Food
2012	[REDACTED]	[REDACTED]	GL
2012	[REDACTED]	[REDACTED]	Food
2012	[REDACTED]	[REDACTED]	GL
2012	[REDACTED]	[REDACTED]	Food
2012	[REDACTED]	[REDACTED]	C&C
Total 2012 (full-year forecast)		[REDACTED]	

Source: Metlac's initial submission.

28. At our request, Metlac also provided information on volumes lost to competitors, set out in Table 5.

TABLE 5 Examples of sales lost by Metlac to competitors in 2009 to 2011

Customer	Volume (t)	New supplier	Segment
[REDACTED]	[REDACTED]	[REDACTED]	C&C
[REDACTED]	[REDACTED]	[REDACTED]	C&C
[REDACTED]	[REDACTED]	[REDACTED]	Food
[REDACTED]	[REDACTED]	[REDACTED]	GL

Source: [REDACTED]

29. The figures in Table 5 show that lost sales volumes of [REDACTED]t (all in the FCG market) corresponded to [REDACTED] per cent of Metlac's total sales volumes over 2009 to 2011 in the FCG market. Metlac did not lose sales in B2E to any competitor ([REDACTED]) and the sales that it lost in FCG were to smaller customers accounting for a small proportion of its overall turnover. We did not receive other evidence of volume lost by Metlac in favour of competing suppliers except for PPG provided an example of volumes that Metlac had lost against it.

### C. Customer evidence on switching

30. We also reviewed a small sample of switching data provided to us by customers and the OFT which had initially been provided to the BKartA.<sup>22</sup> Of the 11 customers' responses to the BKartA to which we had access, only six companies provided switching information ([REDACTED]). In addition, [REDACTED] provided information to us in a similar format.

<sup>22</sup> The BKartA asked the customers the following question (QF4e) 'Please indicate any changes in your procurement structure in the EEA in the last 5 years in the case of metal packaging coatings (for all four categories: beer & beverages, food, caps & closures, general line) so far as you have switched a significant proportion of your EEA-wide purchase volume from one supplier to another (changes of at least 10 per cent compared with the previous year OR changes of 20 per cent over the entire period'.

31. [redacted] provided switching data for the B&B market. While [redacted] did not specify the segment in which the switching took place, [redacted] submitted switching information for a number of specific B2E products in relation to [redacted].<sup>23</sup>

[redacted]

32. This additional evidence from [redacted] reiterated that switching occurs, at least to some extent, in this market.

33. Customers provided data on switching for 2007 to 2012. Not all customers provided data for all of the years. Tables 6 and 7 summarize customer switching in the FCG market from 2009 to 2011, and in 2008 to 2010 respectively, each for a different (albeit overlapping) set of customers.

34. The table below summarizes customer switching for five customers ([redacted]) in the FCG market for years 2009 to 2011.

TABLE 6 Switches in FCG [redacted] for 2009 to 2011

	<i>tonnes</i>					
	<i>AkzoNobel</i>	<i>Metlac</i>	<i>PPG</i>	<i>Valspar</i>	<i>Other</i>	<i>Total</i>
<i>2009–2010</i>						
AkzoNobel		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Metlac						[redacted]
PPG	[redacted]				[redacted]	[redacted]
Valspar		[redacted]			[redacted]	[redacted]
Other		[redacted]			[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
<i>2010–2011</i>						
AkzoNobel		[redacted]		[redacted]		[redacted]
Metlac						[redacted]
PPG	[redacted]	[redacted]			[redacted]	[redacted]
Valspar		[redacted]	[redacted]		[redacted]	[redacted]
Other		[redacted]			[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Source: Response by customers to the BKartA Market Questionnaire and CC calculations.

35. The figures from Table 6 show that Metlac won about [redacted] kt out of the [redacted] kt (60 per cent) which were switched by these [redacted] customers in the FCG market for the years 2009/10 and 2010/11. [redacted] of these switches were to Metlac from Valspar (approximately [redacted] kt out of [redacted] kt). Only approximately [redacted] kt of [redacted] kt won were switched to Metlac from AkzoNobel, [redacted] kt from PPG and [redacted] kt from other smaller suppliers. The rest of the switched volume in FCG ([redacted] kt) went to, respectively, AkzoNobel with [redacted] kt (13 per cent), PPG with [redacted] kt (4 per cent), Valspar with [redacted] kt (4 per cent) and other suppliers with [redacted] kt (20 per cent).

36. Table 7 summarizes customer switching for four customers ([redacted]) in the FCG market for years 2008 to 2010. It does not include information for [redacted] as they did not provide information for the 2008/09 period.

<sup>23</sup> The switching instances to Metlac described partly overlap with, but extend, the data provided in Tables 3 and 4.

TABLE 7 Switches in FCG [redacted] for 2008 to 2010

	tonnes					
	AkzoNobel	Metlac	PPG	Valspar	Other	Total
<i>2008–2009</i>						
AkzoNobel		[redacted]	[redacted]			[redacted]
Metlac						[redacted]
PPG		[redacted]				[redacted]
Valspar			[redacted]		[redacted]	[redacted]
Other					[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
<i>2009–2010</i>						
AkzoNobel		[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Metlac						[redacted]
PPG					[redacted]	[redacted]
Valspar					[redacted]	[redacted]
Other		[redacted]			[redacted]	[redacted]
Total	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Source: Response by customers to the BKartA Market Questionnaire and CC calculations.

37. The figures from this table show that Metlac won about [redacted] kt out of the [redacted] kt (32.7 per cent) which were switched by these [redacted] customers in the FCG market for the years 2008/09 and 2009/10. Approximately [redacted] kt out of [redacted] kt of these switches were to Metlac from AkzoNobel, [redacted] kt were from PPG and [redacted] kt from suppliers other than the big three players. The remaining [redacted] kt of FCG switches went to PPG ([redacted] kt), Valspar ([redacted] kt) and other suppliers ([redacted] kt).
38. Also, Litalsa told us that it switched its purchases of [redacted]t of varnish for food cans from AkzoNobel to Metlac.
39. This information shows that Metlac won business from its three largest competitors in FCG. It also shows that the smaller suppliers managed to capture a significant amount of the volume switched, suggesting that they may also exert a competitive constraint in FCG. However, we are unable to draw strong conclusions from this analysis as it is a very small switching sample in terms of the proportions of the markets it represented (as the customers were not asked to provide information on all volumes they had switched, but only ‘changes of at least 10 per cent compared with the previous year Or changes of at least 20 per cent over the entire period’).
40. We also note the statements by the BKartA on switching in its decision:

From the supplier switch analysis it would appear that with respect to the turnover of the manufacturers seen in pairs in the years 2009–2011 only 1 per cent was incurred by customers switching from AkzoNobel to Metlac. The changes between Valspar and Metlac on the other hand are higher and are between 0–6.2 per cent. The highest switching quota was for 2010 in which the quota of customers switching from Valspar to Metlac was 6.2 per cent.

*Additional switching information from [redacted]*

41. [redacted] provided a chart showing the evolution of shares of supply to it in the FCG market from 2007 to 2011. This indicated the amount of switching between its main suppliers. Metlac’s share of supply to [redacted] rose from [redacted] per cent in 2007 to [redacted] per cent in 2011, while AkzoNobel’s fell from [redacted] per cent to [redacted] per cent in the same period and Valspar’s share fell from [redacted] per cent to [redacted] per cent.

## FIGURE 1

### Suppliers to [REDACTED] market share evolution in the non-beverage segment

[REDACTED]

Source: [REDACTED]

#### **Conclusion**

42. In our view the procurement and tender data set out above provides some evidence that Metlac competes effectively for business in both the B&B and FCG markets.
43. Given the relatively low proportion of demand represented by the FCG information in particular we cannot draw strong conclusions on the degree to which Metlac competes aggressively across all of the segments in which it is active. Yet, the evidence we received indicated that Metlac won business where it competed and won a significant proportion of this business from AkzoNobel. The procurement data also provides evidence that smaller suppliers participated and won in a significant number of the FCG procurement events.

## Market shares in metal packaging coatings in the EEA and the UK, 2009 to 2011

### Market shares by volume and value in the EEA and the UK

1. Based on information submitted to us by metal packaging coatings suppliers, we have computed value and volume market shares for each party. We received data for EEA and UK sales from AkzoNobel, Metlac,<sup>1</sup> Actega, Diostyl, Grace, PPG, Salchi, Schekolin and Valspar. We did not receive volume data for Diostyl and Salchi.<sup>2</sup>
2. For Tables 1 to 12 and Tables 19 to 30 for 'Others' we used AkzoNobel estimates for the others, with the following modifications. As AkzoNobel did not report information for Diostyl, Salchi and Schekolin separately, for the volume table, we subtracted the volume of Schekolin and for the value table we subtracted the values of Diostyl, Salchi and Schekolin. We note that, when Diostyl and Salchi value data is taken into account, AkzoNobel figures turn out to slightly underestimate the actual sales by value of 'Others' in some segments. A similar issue may also arise with the volume data but we are unable to check. The resulting market shares by volume might therefore be slightly higher than the actual shares.
3. Using estimates provided by Metlac for 'Others' would result in slightly higher market shares (generally 1 to 3 per cent) in most tables and only significantly different market shares in relation to GL.
4. For Tables 13 to 18 and Tables 31 to 34 we use the estimates provided by AkzoNobel for 'Others', as Metlac does not supply to all segments of the B&B market. There is no UK table for the BE segment as according to the data we received no sales of BE coatings have been made in the UK in the period 2009 to 2011.<sup>3</sup>
5. A list of the tables is reported below:
  - Tables 1 and 2 show market shares (by volume and value) for the total EEA supply of metal packaging coatings and Tables 19 and 20 show this information on a UK basis;
  - Tables 2 and 3 show market shares (by volume and value) for the B&B market coatings and Tables 21 and 22 show this information on a UK basis;
  - Tables 5 and 6 show market shares (by volume and value) for the FCG market coatings and Tables 23 and 24 show this information on a UK basis;
  - Tables 7 and 8 show market shares (by volume and value) for Food coatings and Tables 25 and 26 show this information on a UK basis;
  - Tables 9 and 10 show market shares (by volume and value) for C&C coatings and Tables 27 and 28 show this information on a UK basis;

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<sup>1</sup> [REDACTED]

<sup>2</sup> Salchi did not provide a detailed apportionment of its sales in each FCG segment, but told us that its sales (in value) could be apportioned [REDACTED] per cent GL, [REDACTED] per cent C&C and [REDACTED] per cent Food, which we have done for each year.

<sup>3</sup> [REDACTED]

- Tables 11 and 12 show market shares (by volume and value) for GL coatings and Tables 29 and 30 show this information on a UK basis;
- Tables 13 and 14 show market shares (by volume and value) for B2E coatings and Tables 31 and 32 show this information on a UK basis;
- Tables 15 and 16 show market shares (by volume and value) for B2I coatings and Tables 33 and 34 show this information on a UK basis; and
- Tables 17 and 18 show market shares (by volume and value) for BE coatings.

6. AkzoNobel submitted to us that the market shares for FCG set out in these tables understated the size of the smaller competitors. It told us that this was particularly the case for Grace in Food and Actega in C&C (in its view their market shares in these segments were much higher than 10 per cent). As stated in paragraph 1 above, we have calculated these market shares based on the actual sales volumes and values provided by the suppliers listed in these tables. We do not have figures for all of the smaller suppliers, as noted in paragraphs 2 and 3 above, but have used AkzoNobel's estimates of 'Others' and, as noted, these may slightly underestimate (rather than overestimate) FCG market size (ie a larger 'Others' figure would only make Grace and Actega's shares smaller). As such, these shares represent our best estimates of market shares in these markets.

### **Market shares by volume and value in the EEA**

TABLE 1 Market shares by volume for the total metal packaging coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[41–50]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[11–20]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 2 Market shares by value for the total metal packaging coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
PPG	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Diostyl	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Salchi	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 3 Market shares by volume for the B&B market in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[31–40]	[X]	[31–40]	[X]	[41–50]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[31–40]	[X]	[41–50]	[X]	[51–60]
Valspar	[X]	[31–40]	[X]	[31–40]	[X]	[21–30]
PPG	[X]	[21–30]	[X]	[21–30]	[X]	[11–20]
Grace	[X]	[0]	[X]	[0]	[X]	[0]
Actega	[X]	[0]	[X]	[0]	[X]	[0]
Schekolin	[X]	[0]	[X]	[0]	[X]	[0]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 4 Market shares by value for the B&B market in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[31–40]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[41–50]
Valspar	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
PPG	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Grace	[X]	[0]	[X]	[0]	[X]	[0]
Actega	[X]	[0]	[X]	[0]	[X]	[0]
Schekolin	[X]	[0]	[X]	[0]	[X]	[0]
Diosyl	[X]	[0]	[X]	[0]	[X]	[0]
Salchi	[X]	[0]	[X]	[0]	[X]	[0]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 5 Market shares by volume for the FCG market in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[41–50]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[11–20]	[X]	[11–20]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 6 Market shares by value for the FCG market in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Diostyl	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Salchi	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 7 Market shares by volume for Food coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[31–40]	[X]	[31–40]	[X]	[41–50]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[21–30]
Combined	[X]	[51–60]	[X]	[51–60]	[X]	[51–60]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 8 Market shares by value for Food coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[51–60]	[X]	[41–50]	[X]	[41–50]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Diostyl	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Salchi	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 9 Market shares by volume for C&C coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[11-20]	[X]	[11-20]	[X]	[11-20]
Metlac	[X]	[11-20]	[X]	[11-20]	[X]	[21-30]
Combined	[X]	[31-40]	[X]	[31-40]	[X]	[31-40]
Valspar	[X]	[11-20]	[X]	[11-20]	[X]	[21-30]
PPG	[X]	[21-30]	[X]	[21-30]	[X]	[11-20]
Grace	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Actega	[X]	[0-10]	[X]	[0-10]	[X]	[11-20]
Schekolin	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Others	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 10 Market shares by value for C&C coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[11-20]	[X]	[11-20]	[X]	[11-20]
Metlac	[X]	[11-20]	[X]	[11-20]	[X]	[11-20]
Combined	[X]	[31-40]	[X]	[31-40]	[X]	[31-40]
Valspar	[X]	[21-30]	[X]	[11-20]	[X]	[21-30]
PPG	[X]	[21-30]	[X]	[21-30]	[X]	[11-20]
Grace	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Actega	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Schekolin	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Diosyl	[X]	[0]	[X]	[0]	[X]	[0]
Salchi	[X]	[0-10]	[X]	[11-20]	[X]	[11-20]
Others	[X]	[0]	[X]	[0]	[X]	[0]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 11 Market shares by volume for GL coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[11-20]	[X]	[21-30]	[X]	[21-30]
Metlac	[X]	[0-10]	[X]	[0-10]	[X]	[11-20]
Combined	[X]	[21-30]	[X]	[31-40]	[X]	[31-40]
Valspar	[X]	[11-20]	[X]	[11-20]	[X]	[0-10]
PPG	[X]	[21-30]	[X]	[21-30]	[X]	[21-30]
Grace	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Actega	[X]	[0-10]	[X]	[0-10]	[X]	[0-10]
Schekolin	[X]	[0]	[X]	[0]	[X]	[0]
Others	[X]	[21-30]	[X]	[21-30]	[X]	[21-30]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 12 Market shares by value for GL coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Metlac	[X]	[0–10]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Valspar	[X]	[0–10]	[X]	[11–20]	[X]	[0–10]
PPG	[X]	[31–40]	[X]	[31–40]	[X]	[21–30]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0]	[X]	[0]	[X]	[0]
Diosyl	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Salchi	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 13 Market shares by volume for B2E coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Metlac	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[41–50]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[31–40]
PPG	[X]	[21–30]	[X]	[11–20]	[X]	[11–20]
Others	[X]	[11–20]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 14 Market shares by value for B2E coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Valspar	[X]	[21–30]	[X]	[31–40]	[X]	[31–40]
PPG	[X]	[21–30]	[X]	[11–20]	[X]	[31–40]
Others	[X]	[11–20]	[X]	[11–20]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 15 Market shares by volume for B2I coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Metlac	[X]	[0]	[X]	[0]	[X]	[0]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Valspar	[X]	[41–50]	[X]	[31–40]	[X]	[21–30]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[0–10]
Others	[X]	[0]	[X]	[0]	[X]	[0]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 16 Market shares by value for B2I coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Metlac	[X]	[0]	[X]	[0]	[X]	[0]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Valspar	[X]	[41–50]	[X]	[41–50]	[X]	[21–30]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0]	[X]	[0]	[X]	[0]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 17 Market shares by volume for BE coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Metlac	[X]	[0]	[X]	[0]	[X]	[0]
Combined	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[31–40]
PPG	[X]	[51–60]	[X]	[51–60]	[X]	[51–60]
Others	[X]	[0]	[X]	[0]	[X]	[0]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 18 Market shares by value for BE coatings in the EEA, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[11–20]
Metlac	[X]	[0]	[X]	[0]	[X]	[0]
Combined	[X]	[21–30]	[X]	[21–30]	[X]	[11–20]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[31–40]
PPG	[X]	[51–60]	[X]	[51–60]	[X]	[41–50]
Others	[X]	[0]	[X]	[0]	[X]	[0]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

## Market shares by volume and value in the UK

TABLE 19 Market shares by volume in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[51–60]	[X]	[41–50]	[X]	[61–70]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[51–60]	[X]	[51–60]	[X]	[61–70]
Valspar	[X]	[31–40]	[X]	[31–40]	[X]	[21–30]
PPG	[X]	[11–20]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 20 Market shares by value in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[51–60]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[51–60]	[X]	[41–50]	[X]	[51–60]
Valspar	[X]	[21–30]	[X]	[21–30]	[X]	[21–30]
PPG	[X]	[11–20]	[X]	[11–0]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 21 Market shares by volume for B&B products in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[51–60]	[X]	[41–50]	[X]	[61–70]
Valspar	[X]	[41–50]	[X]	[41–50]	[X]	[21–30]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 22 Market shares by value for B&B products in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[41–50]	[X]	[31–40]	[X]	[51–60]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[61–70]
Valspar	[X]	[31–40]	[X]	[41–50]	[X]	[31–40]
PPG	[X]	[11–20]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 23 Market shares by volume for FCG products in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[61–70]	[X]	[51–60]	[X]	[51–60]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[61–70]	[X]	[51–60]	[X]	[51–60]
Valspar	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[11–20]	[X]	[11–20]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 24 Market shares by value for FCG products in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[51–60]	[X]	[41–50]	[X]	[41–50]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[51–60]	[X]	[41–50]	[X]	[41–50]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[21–30]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[11–20]	[X]	[11–20]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 25 Market shares by volume for food coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[81–90]	[X]	[81–90]	[X]	[71–80]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[81–90]	[X]	[81–90]	[X]	[71–80]
Valspar	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
PPG	[X]	[0–10]	[X]	[11–20]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 26 Market shares by value for food coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[71–80]	[X]	[61–70]	[X]	[61–70]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[71–80]	[X]	[61–70]	[X]	[61–70]
Valspar	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
PPG	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 27 Market shares by volume for C&C coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[41–50]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[51–60]
Valspar	[X]	[41–50]	[X]	[41–50]	[X]	[31–40]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[11–20]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 28 Market shares by value for C&C coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[41–50]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[41–50]	[X]	[51–60]	[X]	[51–60]
Valspar	[X]	[51–60]	[X]	[41–50]	[X]	[31–40]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 29 Market shares by volume for GL coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[31–40]	[X]	[21–30]	[X]	[21–30]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[31–40]	[X]	[21–30]	[X]	[21–30]
Valspar	[X]	[0–10]	[X]	[11–20]	[X]	[0–10]
PPG	[X]	[31–40]	[X]	[21–30]	[X]	[21–30]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[11–20]	[X]	[31–40]	[X]	[31–40]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 30 Market shares by value for GL coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[31–40]	[X]	[21–30]	[X]	[21–30]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[31–40]	[X]	[31–40]	[X]	[31–40]
Valspar	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
PPG	[X]	[31–40]	[X]	[21–30]	[X]	[21–30]
Grace	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Actega	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Schekolin	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Others	[X]	[11–20]	[X]	[21–30]	[X]	[21–30]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 31 Market shares by volume for B2E coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[21–30]	[X]	[21–30]	[X]	[31–40]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[41–50]	[X]	[31–40]	[X]	[51–60]
Valspar	[X]	[31–40]	[X]	[41–50]	[X]	[31–40]
PPG	[X]	[21–30]	[X]	[11–20]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 32 Market shares by value for B2E coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[31–40]	[X]	[21–30]	[X]	[41–50]
Metlac	[X]	[11–20]	[X]	[11–20]	[X]	[11–20]
Combined	[X]	[41–50]	[X]	[31–40]	[X]	[51–60]
Valspar	[X]	[21–30]	[X]	[41–50]	[X]	[31–40]
PPG	[X]	[21–30]	[X]	[11–20]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 33 Market shares by volume for B2I coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	kt	%	kt	%	kt	%
AkzoNobel	[X]	[51–60]	[X]	[51–60]	[X]	[71–80]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[51–60]	[X]	[51–60]	[X]	[71–80]
Valspar	[X]	[41–50]	[X]	[41–50]	[X]	[21–30]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

TABLE 34 Market shares by value for B2I coatings in the UK, 2009 to 2011

Supplier	2009		2010		2011	
	€m	%	€m	%	€m	%
AkzoNobel	[X]	[41–50]	[X]	[41–50]	[X]	[71–80]
Metlac	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Combined	[X]	[41–50]	[X]	[41–50]	[X]	[71–80]
Valspar	[X]	[41–50]	[X]	[51–60]	[X]	[21–30]
PPG	[X]	[0–10]	[X]	[0–10]	[X]	[0–10]
Total	[X]	100.0	[X]	100.0	[X]	100.0

Source: CC estimates.

## Analysis of the AkzoNobel MIS database

### Introduction

1. Prior to our provisional findings, AkzoNobel submitted an economic analysis of the degree to which Metlac and AkzoNobel overlapped in supplying the same product to the same customer (in the same country), based on information contained in the MIS database maintained by AkzoNobel. On the basis of this analysis, AkzoNobel submitted that 'outside of Italy, Metlac is a minor player that is far less close a competitor to AkzoNobel than Valspar or PPG'.
2. In our provisional findings, we set out our view that we could not rely on the information contained in the MIS database because, to the extent we had been able to test the database, we had concerns regarding its accuracy. We also noted that the MIS database did not capture situations where suppliers may be qualified to supply a product to a customer but they had not yet supplied any volume, and as such any analysis based on this dataset might understate the degree of overlap.
3. Following AkzoNobel's request for a data room to allow its economic advisers to assess the extent to which the MIS estimates were accurate, we provided AkzoNobel's economic advisers with access to Metlac's customer transaction database. We also provided Metlac's economic advisers with access to the MIS database. The data room was held on 2 and 3 October 2012. On 4 October 2012, AkzoNobel's economic advisers submitted a report that discussed the results of its analysis (*AkzoNobel/Metlac: data room Report*, 4 October 2012). In its response to our provisional findings Metlac submitted that its economic advisers came to a similar view to that set out in our provisional findings regarding the accuracy of the MIS database.
4. This appendix:
  - (a) addresses the comments raised by AkzoNobel's economic advisers in its data room report and further assesses the extent to which the MIS database accurately reflects Metlac's actual transactions; and
  - (b) extends AkzoNobel's economic advisers' analysis by calculating an 'augmented' overlap between AkzoNobel and Metlac which defines an overlap as cases where AkzoNobel and Metlac both supply the same product to the same customer somewhere in the EEA (ie is based on the aggregation of sales by customer/product (not by location))<sup>1</sup>.

### Accuracy of the MIS database

5. In our provisional findings we stated (paragraph 8.81):
 

we were able to compare AkzoNobel's MIS database estimates for Metlac sales to particular customer plants with information held on Metlac's own customer transaction database. This comparison covered approximately 30 per cent of the Metlac-related information in the MIS database. We found very significant differences between AkzoNobel's

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<sup>1</sup> We explain below the rationale behind defining overlaps in this way.

estimates of Metlac's sales to these plants and Metlac's actual sales to these customers. There were substantial differences between volumes in the two ...; some customer-plant pairs shown in the MIS database as not served by Metlac were actually supplied by Metlac; and some customer-plant pairs shown as supplied by Metlac in the MIS database were not actually supplied by Metlac ....

### ***AkzoNobel's economic advisers comments in its data room report***

6. AkzoNobel stated that there were two types of inaccuracies that could affect the overlapping results:
  - (a) For a given combination of location/product, Metlac was shown having not supplied a customer in the MIS, but had actually supplied at some point in time which would understate the degree of overlap between Metlac and AkzoNobel<sup>2</sup> (where AkzoNobel had also supplied for the same location/product combination).
  - (b) The total volume purchased by a customer of a given product in a given location where both Metlac and AkzoNobel were present in the MIS differed from the reality. This could affect the weighted overlap between Metlac and AkzoNobel.
7. In relation to the first type of inaccuracy, we discuss below how frequently the MIS database may fail to account for instances of overlaps (or accounts for false overlaps) between Metlac and AkzoNobel.
8. As regards the second type of inaccuracy, we acknowledge that the results of the overlap analysis are not affected if the volume supplied by one supplier is not accurately estimated provided that the total amount purchased by a given customer (in a given location) is correctly reported.<sup>3</sup> We were unable to check whether this data has been accurately reported as we do not have information on the total volume purchased by customers per location and product from any source other than MIS. However, given that we observed some significant inaccuracies in the MIS database in recording the volume sold by Metlac, we are then not confident that the MIS is any more accurate in estimating the volume supplied by other suppliers and, as a consequence, the overall purchase of customers.
9. On this point, AkzoNobel submitted that the potential inaccuracy in the total amount purchased by customers 'cannot have a material effect', and this is supported by the evidence that 'the discrepancy between actual Metlac sales and Metlac sales as recorded in the MIS database as a proportion of total sales for all customers where AkzoNobel was also present ... is just under [ $\frac{1}{10}$ ] per cent'.
10. We noted that AkzoNobel's economic advisers' figure is only based on the discrepancy in Metlac's sales, and does not directly address the question of whether the total volume of a given product purchased by a customer is estimated accurately. The MIS might also contain inaccurate estimates for the sales of other suppliers.

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<sup>2</sup> The opposite can also be true and it would have the effect of overstating the overlap between Metlac and AkzoNobel.

<sup>3</sup> This is because the overlap figures are based on the total volume purchased by one customer in a given location in the relevant period (2006 to 2011 in AkzoNobel's analysis). Therefore, in theory, underestimation of Metlac's sales and overestimation of sales made by other suppliers could balance out, leaving unaffected the total volume purchased by the customer. Also, the results would not be significantly affected if Metlac's sales represent a small proportion of the volume purchased by a customer in a given location and the estimates of other suppliers' sales are accurate.

11. That said, we noted that we were unable to establish the magnitude of this potential bias and accepted that the potential inaccuracy does not necessarily bias the results downwards relating to the extent of overlap between Metlac and AkzoNobel.
12. While we were unable to ascertain the accuracy of the MIS in estimating the total purchase by customers, we show below that (a) the MIS failed to account for several instances of overlap (the first type of inaccuracy), and (b) even if one assumed that the second type of inaccuracy is of negligible magnitude, the first type is likely to understate the extent of overlap between the parties.

### ***MIS vs CTD: some initial statistics***

13. First, we provide some general statistics on the MIS and the CTD (customer transaction database). According to the MIS, Metlac sold [X] kt between 2007 and 2011 in the EEA (excluding Italy). However, the CTD reports overall [X] kt sold by Metlac over the same period. The major discrepancies between the two datasets are found in the FCG market, in particular in the Food segment, where the MIS's estimate is less than half of Metlac's actual sales.

### ***Assessing the degree to which MIS inaccurately estimates the degree of overlap: comparison between MIS vs CTD at sub-segment level***

14. Whilst we were unable to check the accuracy of the MIS dataset at the product-line level,<sup>4</sup> we further explored the accuracy of the MIS database by carrying out a full comparison between the MIS and the CTD database at the sub-segment level, ie we compared what information they hold on the purchases made by a given customer in a given country within a given sub-segment (Beverage external, Food internal, Food external, C&C internal, C&C external, GL internal and GL external).<sup>5,6</sup>
15. As far as the customer location is concerned, we have followed AkzoNobel's approach and aggregated customers' plants at country level. Also, we did not consider Italy, as it was excluded from AkzoNobel's analysis. We consider the period 2007 to 2011 as the CTD does not contain information on Metlac's 2006 transactions.
16. AkzoNobel also submitted that the CC had failed to match customers listed in each of the two databases in a number of cases, in particular when customers' names were changed due to mergers and acquisitions occurred in the past years. We adopted the approach suggested by AkzoNobel's economic advisers and aggregated sales of customers that are currently under common ownership and improved the matching between the two databases using the information contained in the do-files elaborated by AkzoNobel's economic advisers in the data room.<sup>7</sup> Similarly, we have aggregated sales of suppliers that are currently under common ownership, namely DIC with Valspar, Lindgens with AkzoNobel, and Altana and Rembrandtin with Salchi.
17. The MIS database includes [X] combinations of customer, location and sub-segment. According to the data contained in the MIS database, Metlac overlaps with

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<sup>4</sup> The MIS database and Metlac's CTD each use a different classification of products which makes it difficult to unambiguously match the two databases at the product-line level.

<sup>5</sup> We have not considered B2I and BE as Metlac is not currently in these segments.

<sup>6</sup> Metlac told us that some products might be used for both internal and external coatings and therefore it was not possible to identify the sub-segment uniquely. We excluded these products from the analysis at the sub-segment level. We note, nonetheless, that there are very few of these products.

<sup>7</sup> We noted, nonetheless, that AkzoNobel's economic advisers did not match the customers in this way in its initial analysis submitted on 12 July 2012.

AkzoNobel in [%] combinations, ie there are [%] cases where Metlac and AkzoNobel supply the same customer in the same country with a product in the same sub-segment. This corresponds to a total volume purchased by customers in the period 2007 to 2011 of [%] kt ([%] per cent of the volume of the total market).

18. When Metlac's actual data (ie the CTD database) are used, there are [%] overlaps at the sub-segment level. The MIS database correctly identifies [%] overlapping combinations but it fails to account for [%] instances where Metlac and AkzoNobel overlap at the sub-segment level (while it records [%] cases where no overlap has actually occurred to date), although we acknowledge that not all of the [%] cases mentioned above necessarily qualify as situations in which both Metlac and AkzoNobel are qualified to supply the same product to a given customer in a given location.
19. The instances of sub-segment overlap not recorded in the MIS include sales to the major customers in the industry, ie [%]. According to Metlac's actual data, customer/location/sub-segment combinations that were supplied by both AkzoNobel and Metlac accounted for [%] kt ([%] per cent of the total market).
20. We acknowledge that some of the sales recorded in the CTD may relate to volumes sold for the purposes of testing and qualifying a new product (rather than ongoing supply) but we were unable to ascertain in which cases, if any, Metlac has not reached approval. Nonetheless, even if we assume that Metlac is yet to be qualified in cases where the sales related to a customer of a given product in a given location have been less than 1,000 kg in the period 2007 to 2011, the MIS would still fail to account for [%] instances of sub-segment overlap.
21. We also note that the MIS underestimates Metlac's actual sales by [%] per cent on average<sup>8</sup> (approximately [%]t per combination of customer, location and sub-segment). For [%] combinations, the MIS database underestimates Metlac's actual sales by [%]t on average, while it overestimates in the remaining [%] combinations by [%]t on average.
22. The sub-segment overlaps in the UK that the MIS does not capture are: [%].<sup>9</sup>
23. Table 1 below summarizes the results of the comparison at sub-segment level.

TABLE 1 CTD and MIS comparison, 2007 to 2011—by sub-segment

<i>Instances of Metlac/AkzoNobel overlap</i>	
Instances of overlaps based on MIS	[%]
Instances of overlaps based on CTD	[%]
Instances of overlaps based on either MIS or CTD	[%]
	[%]
Instances identified in both databases	
Only in CTD	[%]
Only in MIS	[%]
	[%]
Metlac total volume based on MIS (kg)	
Metlac total volume based on CTD (kg)*	[%]
Difference (kg)	[%]

Source: CC calculations based on the MIS database and Metlac's CTD.

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\*This does not equal the total actual sales made by Metlac in the EEA (excluding Italy) in the period 2007 to 2011 ([%] kt). The figure only reflects Metlac's actual total sales for the combinations of customer/location/sub-segment that we were unambiguously able to match with the MIS.

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<sup>8</sup> As a proportion of Metlac's sales as estimated in the MIS.

<sup>9</sup> The transaction recorded in the CTD likely refers to a sample volume sold for the scope of running the testing process.

24. Despite these inaccuracies, the MIS database is the most comprehensive source of information at the product line level that we have received and we have made use of it in assessing the extent of pre-merger competition in the market. Nonetheless, our previous analysis suggests that any overlap figures generated by using the MIS database are likely to understate the proportion of sales over which pre-merger AkzoNobel and Metlac compete. This appears true also in light of the fact that the MIS dataset fails to account for cases in which Metlac is qualified but has not yet made any sales, as described further in Section 8.
25. We noted AkzoNobel's submission that:
- the overall conclusion in our papers is solely based on the ranking of the overlap between AkzoNobel and Metlac as compared to the overlap between AkzoNobel and other suppliers. Therefore, the overall conclusion that Valspar and PPG are closer competitors to AkzoNobel than Metlac would only be affected, if the two inaccuracies referred to above disproportionately often affect only the presence of Metlac. However, there is no reason to believe that Metlac is underrepresented in the MIS database any more than other suppliers.
26. On this point, we do not think that it is meaningful to assess the closeness of competition at such a high level of aggregation when there is evidence to indicate that the process of qualification and other switching barriers means that competition takes place at a more disaggregated level. We consider that the value of this analysis is in its ability to provide an indication of the proportion of sales over which we might expect rivalry between AkzoNobel and Metlac to be particularly strong (because they are both qualified or easily to qualify) and as a useful tool to help identify where the merger might remove the direct constraint that one party places on the other.

### **Further analysis of the MIS database**

27. The evidence indicated that companies that are both qualified to supply the same product to the same customer (albeit to different plants in the EEA) compete, albeit somewhat less than the competition that occurs between companies qualified to supply the same product to the same customer in the same location. To assess the extent of this type of competition between the parties (which in the interests of clarity we term Type II competition<sup>10</sup>), we have estimated the proportion of UK sales which relate to circumstances in which both AkzoNobel and Metlac both supply a given customer with the same specific product, although possibly at different plants (we call this overlap analysis our 'augmented overlap' analysis).
28. The weighted (by volume) augmented overlap between AkzoNobel and Metlac is calculated as follows:
- (a) We identified every combination of customer and product in the UK that was supplied in the period 2006 to 2011, according to the MIS.
- (b) Among these, we identified the combinations of product and customer where both Metlac and AkzoNobel supplied the same customer with the same product (at some point in time between 2006 to 2011) somewhere across the EEA according to the MIS, and classify these as augmented overlaps.

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<sup>10</sup> See paragraph 8.55.

(c) To establish what proportion of UK sales these augmented overlaps represent, we summed the total UK sales associated with each overlap (ie purchased in the UK by the relevant customer) and divided the resulting figure by the total volume supplied in the sub-segment in the UK in the period 2006 to 2011.

29. Table 2 below presents the results of the augmented overlap analysis according to the MIS. The table also indicates how many additional suppliers are also active on the overlap, what proportion of UK sales they are active on, and who they are.

TABLE 2 Volume of product/customer where AkzoNobel and Metlac are both active as a proportion of the total UK, 2006 to 2011

Sub-segment		Instances of overlap	Overlap Metlac/Akzo %	Additional suppliers where Metlac and Akzo overlap (augmented overlap) (%)						Additional supplier identity*
				0	1	2	3	4	5	
Food	Int	[REDACTED]	[0-10]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[At least six suppliers]*
Food	Ext	[REDACTED]	[0-10]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[At least three suppliers]
Closures	Int	[REDACTED]	[0]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Closures	Ext	[REDACTED]	[11-20]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[Two suppliers]
General Line	Int	[REDACTED]	[0-10]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[Four suppliers]
General Line	Ext	[REDACTED]	[21-30]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[At least three suppliers]
B2E	Ext	[REDACTED]	[41-50]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	Valspar, PPG
<b>Total</b>		[REDACTED]	[0-10]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
<b>Total excl BE and B2I</b>			[21-30]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
<b>FCG</b>		[REDACTED]	[1-10]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	

Source: CC's calculation on the MIS database.

\*It is possible that there may be other suppliers qualified for these particular products but, for the reasons set out in Section 8, the MIS database does not capture instances where suppliers are qualified to supply but has not supplied the particular coating to that customer.

30. We identified [REDACTED] instances of the augmented overlap, [REDACTED] in B2E, [REDACTED] in Food ([REDACTED] external and [REDACTED] internal), [REDACTED] in C&C external and [REDACTED] in GL external ([REDACTED] for internal and [REDACTED] for external). The overlap between the parties on this basis is [41-50] per cent in B2E, [0-10] per cent in Food internal, [0-10] per cent in Food external, [11-20] per cent in C&C external, [0-10] per cent in GL internal and [21-30] per cent in GL external. There is no overlap in C&C internal. The overlap over the entire UK metal packaging coatings sector (excluding B2I and BE where Metlac is currently not active) amounts to [21-30] per cent ([1-10] per cent in the FCG market).

31. The [REDACTED] in B2E refer to coatings for two-piece aluminium cans purchased by [REDACTED]. We note that in both cases [REDACTED] as well as [REDACTED] supply [REDACTED] with a similar product (although not necessarily at the same plant).

32. We are aware that [REDACTED].

33. In Food, the augmented overlaps relate to [REDACTED] and [REDACTED]. [REDACTED] is active on [REDACTED] these overlaps, while [REDACTED] and [REDACTED] are active in relation to the [REDACTED]. Other suppliers which have also been active on the overlaps include [REDACTED] and [REDACTED]. In C&C external, we identified [REDACTED] of augmented overlap, [REDACTED] concerning [REDACTED] for a [REDACTED]. [REDACTED] and [REDACTED] are also active on these overlaps. The overlap in GL internal refers to a [REDACTED] to [REDACTED] with [REDACTED] and [REDACTED] also active. Finally, in GL external there are [REDACTED] of overlap [REDACTED] concerning [REDACTED] to [REDACTED]. In [REDACTED] of these cases [REDACTED] and [REDACTED] are also active whereas in [REDACTED] no other supplier apart from Metlac and AkzoNobel has been active.

### **Metlac as a pricing constraint on AkzoNobel**

1. Information provided by customers suggests that Metlac's low pricing strategy played a key role in its recent success. This appendix explores this evidence.
2. AkzoNobel submitted that Metlac's market strategy was not distinct from its competitors' as undercutting competitors on price was no more noticeable as a strategy from Metlac or AkzoNobel than from PPG, Valspar or any other coatings manufacturer.
3. This appendix explores the evidence in relation to Metlac's pricing strategy. In particular, we analysed the following information:
  - evidence from oral hearings and responses to our market questionnaires regarding whether Metlac's prices are lower than those of other suppliers;
  - evidence on how often customers used Metlac as a 'stick' to reduce the price of their incumbent supplier;
  - data submitted by customers to the BKartA (and subsequently to the OFT and CC) on the prices of the five most important (in terms of purchased volumes) packaging coatings purchased by customers; and
  - price comparison on a sample of products selected by AkzoNobel and Metlac.
4. All four pieces of evidence pointed to Metlac being a low-priced supplier. Whilst price is clearly an important factor for customers, it is not the only factor customers take into account when making their supply decisions. Product reliability—in particular, a supplier's ability to supply the requisite volumes to the correct quality standard—may in some cases be more important to the customer than price. Other important factors included the quality of the product, technical support to a plant, capacity of the supplier, access of the supplier of metal packaging to raw materials, specifications of the buyer of the metal packaging coatings produced by the supplier, supplier R&D expenditure/innovation potential and avoidance of dependency on one supplier. The evidence we collected suggests that Metlac is well ranked by customers with respect to most of these competitive factors (reliability, quality of product, technical support, R&D, etc) and it does not appear therefore to pursue a low-quality/low-price strategy.
5. A possibility as to why Metlac has not sought to expand too rapidly at the expense of reliability is that, given the costs involved in qualifying new products, customers may be reluctant to switch unless there appear to be significant price advantages. Finally, there is evidence (see below) that Metlac's low prices have been used by some customers as a means to negotiate reductions in the prices offered by incumbent suppliers; such reductions may have enabled incumbents to retain the business. Where Metlac sought to compete for customers, it was often successful, as shown by the switching and procurement information set out in Appendix H.

**A. Evidence from the CC's oral hearings with parties and responses to the CC's market questionnaires regarding whether Metlac's prices are lower than other suppliers**

6. This section summarizes the information from customer's responses to questionnaires and oral hearings with customers as to whether Metlac is a low-priced supplier.
7. Metlac was often mentioned as the lowest-priced supplier by customers that purchase a substantial share of their demand from it. Customers also mentioned that Metlac was sometimes used to extract better terms even when the customer did not switch purchases to them; Metlac was perceived as a high-quality and innovative provider as well as a low-priced supplier; and Metlac currently has an edge over AkzoNobel for (possibly next generation) BPA-NI products.
8. Customers made the following specific points:
  - [REDACTED] which purchased external beverage coatings from Metlac, told us that Metlac was often the lowest-priced competitor. It was perceived as offering very fair commercial terms relative to other suppliers. [REDACTED]
  - [REDACTED] said that Metlac was the lowest-cost player on all products. [REDACTED]
  - [REDACTED], which purchased [REDACTED] coatings from Metlac, believed generally that Metlac was the lowest-priced supplier for these products. [REDACTED] expected that for the products for which it had received and negotiated prices, Metlac would be cheaper in [REDACTED] per cent of the cases. [REDACTED] also used cheaper offers from Metlac to extract lower prices from existing suppliers even without switching its purchases. [REDACTED] said that it was interested in Metlac supplying all its product ranges to exert pressure on other suppliers.
9. [REDACTED], on the other hand, purchased [REDACTED] from Metlac and did not believe that [REDACTED], whilst Caldicot said that it had no experience with Metlac.
10. We also examined responses to our questionnaires from major customers (this overlaps but extends the customer base with whom we had oral hearings) and from small customers (although the response rate of this group was lower than the group of large customers). These confirmed the general picture that emerges from the hearings. Of the 14 customers that were supplied by Metlac, only one customer, [REDACTED], stated that it did not see Metlac as a low-priced supplier. Responses from four customers were unclear.
11. AkzoNobel submitted that these responses were biased, as it would be surprising if companies which purchased from Metlac did not view it as a low-priced supplier. It also criticized the response rate from our questionnaire (18 of 39), comparing this response rate of 46 per cent unfavourably with the response rate the BKartA received to its questionnaire (of 55 per cent, from a pool of 54 customers). We examine this issue below but note that even if it were the case that mainly Metlac customers had responded to our questionnaire, we are entitled to accord weight to their views.<sup>1</sup> The fact that not all customers respond does not affect the value of the responses we received to our inquiry.

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<sup>1</sup> [REDACTED]

12. We requested information from AkzoNobel and Metlac regarding their UK and EEA customers.<sup>2</sup> We sent detailed questionnaires to 15 large customers, all of which were supplied by AkzoNobel and 14 of which were supplied by Metlac. Only three of these customers did not respond to our questionnaire, and one of these three sent us its response to the BKartA questionnaire.
13. We sent questionnaires to 24 smaller customers, 21 of which were supplied by AkzoNobel in 2011 (and one further customer supplied by AkzoNobel in 2010) and 11 of which were supplied by Metlac. Of the seven smaller customers selected from Metlac's customer lists, approximately [redacted] per cent of AkzoNobel's metal packaging coating sales were supplied to these customers in 2011. Of these 24 smaller customers, only six responded to our questions and one further customer provided its response to the BKartA questions.
14. We received more responses from customers of AkzoNobel than customers of Metlac, and many were also customers of Valspar, PPG and smaller suppliers. There was a high degree of commonality between the customers of the parties. Of the customers which supplied both parties, only one did not provide any information to us (ie either a response to our questionnaire, or its response to the BKartA questionnaire).
15. On this basis, we are of the view that the customer responses we received are not biased towards existing customers of Metlac alone and represent a good sample of customers' views on the level of competitive rivalry between AkzoNobel and Metlac.
16. [redacted] provided more detail on how the prices of [redacted] evolved over time and how these prices responded to various events happening in the market. Figure 1 illustrates this price evolution for these suppliers. The price at the beginning of the presented period is set at 100 and all consequent price increases are related to that value of 100. [redacted]

FIGURE 1

**Price evolution (2007 to 2011) for [redacted]**

[redacted]

Source: [redacted]

Note: [redacted]

17. Figure 1 indicates that Metlac's prices rose more slowly than the prices of [redacted]. In terms of the vertical axis on the right-hand side, Metlac had the lowest price index, [redacted].

**B. How often customers used Metlac as a 'stick' to reduce the price of their incumbent supplier**

18. AkzoNobel submitted that each of the main coatings suppliers, particularly in the B&B sector, was highly responsive to price due to the market strength of the four main customers in that sector. It said that its largest customers, in particular, were able quickly and easily to switch large contracts between suppliers<sup>3</sup> to obtain the best

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<sup>2</sup> We sent questionnaires to all [redacted] UK customers listed by AkzoNobel and all [redacted] UK customers supplied by Metlac. We sent questionnaires to 20 EEA customers listed by AkzoNobel and Metlac's top 20 EEA customers (removing customers which were identified by Metlac as 'Italy' in its customer lists, on the basis that these customers are likely to focus solely on Italy [redacted]).

<sup>3</sup> Customers may qualify more than one supplier for coatings, allowing them to switch between suppliers. Nevertheless, how quickly switching can occur will depend on a variety of factors, including the particular customer and whether the supplier is qualified to supply the coating already with that customer at another plant (see Section 8 of our report and Appendix H).

prices and that, as part of their procurement process, these customers would often issue pricing guidance to prospective suppliers and expect those suppliers to offer or match the lowest price.

19. While AkzoNobel submitted that the relative buyer power of Rexam, Ball, Crown and Can-Pack meant that each of the participants in the metal packaging coatings market undercut the prices of their competitors, evidence provided to us suggested that customers used Metlac in particular to constrain the prices of AkzoNobel, Valspar and PPG. Certain customers submitted that they used Metlac's low prices or quotes of low prices to obtain lower prices from the other suppliers in the course of multi-round negotiations. We followed this up by requesting information in relation to this issue. This is particularly important given that formal tenders are not common in metal packaging coatings (although there is some tendering in the B&B market).
20. We sent a questionnaire to 39 customers asking them to provide details of any instances in the past five years where Metlac's lower pricing has been a factor used in pricing discussions with other metal packaging coatings suppliers, in order to successfully drive a lower price from those other suppliers. We also asked customers to estimate the proportion of pricing discussions with metal packaging coatings suppliers where Metlac's lower pricing is referenced (and the proportion of their total volume of metal coatings purchases that is affected by these discussions). Alternatively, if Metlac's pricing was not used as a negotiating factor with other suppliers any more frequently than any other metal packaging coatings supplier's prices are used to negotiate a lower price, customers were asked to indicate this.
21. Of the 20 respondents:<sup>4</sup> nine customers said that they used Metlac's low prices or quotes of low prices to lower the prices of the other suppliers;<sup>5</sup> one customer stated that it had not used Metlac's pricing as a negotiating factor with other suppliers any more frequently than others to negotiate lower price; three customers stated that they had not used Metlac's prices to drive down the prices of competing suppliers; and three customers submitted that Metlac was not one of their suppliers and therefore they had not used its prices to drive down prices for other suppliers. Three customers did not provide a useful answer to the question.<sup>6</sup> One further customer ([REDACTED]), when asked if it used Metlac's pricing as a stick, stated: 'As far as your question is concerned our experience is that over all Metlac's lower pricing acts as a barrier against unilateral price increases by the industry.' But it also noted that 'we did not use Metlac prices to lower competition prices. When there is another competitor with good prices it is logical competition prices to be kept on a lower level.'
22. The extent to which Metlac's prices or price quotes were used in negotiations with other suppliers varies. In some cases, Metlac's low prices were only used to inform customers about possible target levels of price in negotiations with suppliers. In other cases, Metlac's low price quotes were used more explicitly in pricing negotiations.
23. [REDACTED] provided examples of how Metlac's low prices have been used to decrease prices [REDACTED]. In particular, [REDACTED] submitted that [REDACTED], Metlac's prices were used to:
  - (a) bring down prices of [REDACTED];
  - (b) bring down prices of [REDACTED]; and

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<sup>4</sup> Twelve respondents only purchase FCG products, two respondents only purchase B&B products and the remaining six purchase both B&B and FCG coatings.

<sup>5</sup> [REDACTED] told us that it had also been using and was planning to reference other smaller suppliers (ie apart from Metlac) in its negotiations with the large suppliers. It is not clear whether [REDACTED] meant that it used smaller suppliers' prices in negotiations with the large suppliers in the same way in which it used Metlac's prices.

<sup>6</sup> A further eight customers acknowledged receipt of our questionnaire but chose not to respond to it.

(c) bring down prices of [REDACTED].

24. In each of these cases, competitors were not able to match Metlac's prices [REDACTED].
25. [REDACTED] provided [REDACTED] specific examples of how it used Metlac's prices or price quotes to bring down the prices of competing suppliers. The price decreases [REDACTED] was able to secure range from [REDACTED] to [REDACTED] per cent and were over substantial volumes:  
[REDACTED]<sup>7,8,9,10</sup>
26. [REDACTED] provided examples of using information on Metlac's prices to reduce prices on [REDACTED] (ranging from 2.5 to 10 per cent of [REDACTED] volume) and [REDACTED] (5 per cent of [REDACTED] volume in the specific sub-segments).
27. The evidence in this section indicates that some customers claim to use Metlac's low pricing as a 'stick' to reduce the price offered by their other suppliers and that they do not use other customers' prices in the same manner or to the same extent. The constraint that Metlac placed on the market appears to be equally strong across different competitors and different sub-segments. The examples set out in paragraphs 23 to 26 above indicated that the volumes involved are not insignificant.

### **C. Evidence from responses submitted to the BKartA regarding Metlac as the lowest-price supplier**

28. This section examines evidence on Metlac's pricing that was submitted by several customers as part of their response to the BKartA questionnaire.<sup>11</sup> Customers were asked to describe how the prices of the five most important packaging coatings purchased by their company have developed in recent years and to provide average prices (€/kg) for each year.<sup>12</sup> The BKartA decision summarized the information from customers as follows:

the analysis of the individual prices reveals that the prices of Metlac are not always the best compared with AkzoNobel, PPG and Valspar. Nine of the undertakings involved in the survey purchased a certain product from Metlac and at the same time also from another undertaking. Four of the undertakings named prices of which the Metlac prices were best, for three undertakings the Metlac prices were higher than the offers of the competitors, whereas in the case of two of the undertakings the Metlac prices were in some cases more expensive and in some cases cheaper. Thus the information regarding individual prices does not confirm that Metlac is always the cheapest supplier.<sup>13</sup>

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<sup>7</sup> [REDACTED]  
<sup>8</sup> [REDACTED]  
<sup>9</sup> [REDACTED]  
<sup>10</sup> [REDACTED]

<sup>11</sup> The exception is [REDACTED] whose source is its response to the CC's Market Questionnaire.

<sup>12</sup> In its market questionnaire to customers, the BKartA asked the following specific question:

Please describe how the prices of the five most important packaging coatings purchased by your company have developed in recent years. Please indicate the average purchase price (net/€/kg) of the respective supplier for the respective year. If you have purchased the same product from several suppliers, please indicate their prices separately. Please give a rough estimation of the average proportion (in percentage) this product accounts for in your EEA-wide purchase volume of metal packaging coatings.

<sup>13</sup> BKartA Decision, paragraph 104.

29. We do not have access to the full set of customer responses from the BKartA. We do have copies of the BKartA responses containing evidence from 11 customers.<sup>14</sup> Metlac was one of the suppliers of the five most important packaging coatings for seven of these customers. Their responses are summarized in Tables 1 to 3 below. We distinguished between broad categories of products—ie B&B (which is only B2E as Metlac does not supply B2I and BE), Food and C&C. The remaining four customers for which we had these responses did not use Metlac as a supplier for their five most important packaging coatings and their information cannot therefore be used to compare Metlac's prices with others.

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<sup>14</sup> These customers are [REDACTED]. While we have [REDACTED] response to the BKartA questionnaire, we do not have its answer to this specific question and instead we used [REDACTED] response to the CC's Market Questionnaire.

TABLE 1 Metlac's position in terms of price of B&B (B2E) products supplied to customers

Customer	Product	% of total purchases	Other suppliers	Comment	Price difference between Metlac and 2 <sup>nd</sup> lowest (%)*						
					2007	2008	2009	2010	2011	2012	
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: [X]

\*[X]  
 Note: 'N/A' has been inserted where full data was not available to make the calculation.

TABLE 2 Metlac's position in terms of price of FCG (Food) products supplied to customers

Customer	Product	% of total purchases	Other suppliers	Comment	Price difference between Metlac and 2 <sup>nd</sup> lowest (%) <sup>*</sup>						
					2007	2008	2009	2010	2011	2012	
[X]†	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: [X]

\* [X]

† [X]

Note: 'N/A' has been inserted where full data was not available to make the calculation.

TABLE 3 Metlac's position in terms of price of FCG (C&C) products supplied to customers

Customer	Product	% of total purchases	Other suppliers	Comment	Price difference between Metlac and 2 <sup>nd</sup> lowest (%)*						
					2007	2008	2009	2010	2011	2012	
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]
	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]	[X]

Source: [X].

\* [X]

Note: 'N/A' has been inserted where full data was not available to make the calculation.

30. Table 1 shows the position of Metlac in terms of prices for the [REDACTED] B&B customers for which we have information ([REDACTED]) for seven specific products. For six of the seven products which Metlac supplied, AkzoNobel was also a supplier to the same customer at some point in time. We calculated the percentage price advantage (in relation to the second lowest-priced provider) that Metlac had when it was the lowest-priced supplier. It shows that out of [REDACTED] instances (ie year-customer pairs) for which we could run this comparison:
- (a) Metlac was the lowest-priced provider in [REDACTED] instances with a price advantage ranging between 1 and 25 per cent (in nine instances the price advantage was larger than 10 per cent);
  - (b) on [REDACTED] occasion it was the lowest-priced provider alongside PPG; and
  - (c) in [REDACTED] instances it was not the lowest-priced provider (in [REDACTED] instances AkzoNobel was the lowest-priced supplier).
31. It is also informative to assess the position of Metlac for the most recent year for each product for which we have this information. For B&B (B2E) Metlac was the lowest-priced provider for all products in the most recent year (in [REDACTED] Metlac's price advantage was over 10 per cent).
32. Table 2 shows the position of Metlac in terms of prices for the [REDACTED] FCG (Food) customers for which we have information ([REDACTED]) for eight types of products. For [REDACTED] products which Metlac supplied, AkzoNobel was also a supplier to the same customer at some point in time. Out of [REDACTED] instances for which we could run this comparison, Metlac was the lowest-priced supplier in [REDACTED][REDACTED] instances. Metlac's price advantage ranged between 1 and 23 per cent (in [REDACTED] instances the price advantage was over 10 per cent). For [REDACTED] product Metlac competed with [REDACTED] for five years and had prices higher than [REDACTED] by about 24 to 35 per cent each year.
33. For the most recent year for which we have data, Metlac was the lowest-priced supplier for [REDACTED] products examined (in [REDACTED] instances Metlac's price advantage was over 10 per cent).
34. We noted that when smaller suppliers were also present (out of eight products), Metlac was the lowest-priced supplier less frequently ([REDACTED] out of [REDACTED] instances) than when only the three major suppliers competed ([REDACTED] out of [REDACTED] instances).
35. Table 3 shows the position of Metlac in terms of prices for the [REDACTED] FCG (C&C) customers for which we have information ([REDACTED]) for [REDACTED] types of products. For [REDACTED] products which Metlac supplied, AkzoNobel was also a supplier to the same customer at some point in time. Out of [REDACTED] instances for which we could run this comparison, Metlac was the lowest-priced supplier in [REDACTED] instances. Metlac's price advantage ranged between 1 and 24 per cent (in [REDACTED] instances the price advantage was over 10 per cent).
36. For the most recent year for which we have data Metlac was the lowest-priced supplier for [REDACTED] products examined (in [REDACTED] instances Metlac's price advantage was over 10 per cent).
37. When smaller suppliers were present, Metlac was the lowest-priced supplier in [REDACTED] out of [REDACTED] instances while it was the lowest-priced supplier in [REDACTED] out of [REDACTED] instances when only the three major suppliers competed.

38. We also received some price information from [redacted] in relation to seven products supplied by Metlac and AkzoNobel in 2012. Six out of seven are Food coatings (two external and four internal) and one is a C&C external. For all products Metlac's prices were lower than AkzoNobel's. Metlac's price advantage ranged between 1 and 29 per cent for the Food coatings and was over 30 per cent for the C&C external coating.
39. Overall, the evidence presented above shows that while Metlac was not always able to offer the lowest prices across the entire period to the customers it supplied, in the large majority of instances for which we have data it was the lowest-priced supplier. In particular, the data and analysis suggested that Metlac had a price advantage especially for B&B and FCG (C&C). For FCG (Food), Metlac showed a strong price advantage overall but less so for the most recent year for which we have data. We noted, however, that when smaller suppliers were also competing, Metlac was the lowest-priced supplier less frequently than when only the three major competitors (AkzoNobel, PPG, Valspar) were present.
40. In its response to our provisional findings<sup>15</sup> AkzoNobel submitted that differences in prices might be due to different level of performances in the coatings supplied by various suppliers (even though they were meant for the same end-use) and, therefore, a straight price comparison could be meaningless. To address the issue raised by AkzoNobel, we asked the relevant customers ([redacted]) for which we have information from the BKartA to comment on any technical differences between the coatings supplied by various suppliers:<sup>16</sup>
- [redacted] told us that most of Metlac's products had a higher solid content than the other qualified competitors which could translate in cost savings of [0–10] per cent. In relation to [redacted].
  - As regards Overvarnish and Rim Varnish, [redacted] told us that the weight per thousand cans and the service levels could be different and when Metlac was qualified its products were top runners on both these measures. Similar technical differences may affect white basecoat coatings, but it is not clear how Metlac ranks compared with other qualified competitors.
  - For three out of the four products (white coating, vinyl varnish and polyester varnish) for which [redacted] submitted price information to the BKartA, [redacted]. For the remaining product (*Internal varnish epoxyphenolic*), [redacted].
  - [redacted] responded that technical differences affected the cost of coatings and were therefore taken into consideration in selecting the supplier. However, [redacted] did not provide specific information in relation to the products listed in the table.
  - In its hearing with us, we asked [redacted] whether there were aggregation or other reasons why the Metlac products listed in its submission to the BKartA were not in fact the lowest. [redacted] told us:

No because those prices are current prices. ... we have a database of all of our quotes and market prices and of course, when the prices

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<sup>15</sup> [www.competition-commission.org.uk/our-work/akzo-nobel-metlac](http://www.competition-commission.org.uk/our-work/akzo-nobel-metlac).

<sup>16</sup> We asked the following question: 'You provided information to the BKartA in response to Question H.5. of its Market Questionnaire describing how the prices of your five most important packaging coatings purchased by your company have developed in recent years. For each of these products, please indicate any possible technical difference in terms of quality/performance (can surface per kg of coating, speed at which coatings can be applied, etc.) or level of service that would impact on a price comparison between the different suppliers.'

change it tends to be a percentage up or down on the current price. So, we always have the current price. So, we are not comparing an old Metlac price with a new Akzo price, that would be unfair and making the whole thing opaque. We are comparing current prices. I mean, perhaps we have painted a picture that is a little wrong. It is not like individual transactions. As we said earlier, we do not change very readily, so we are buying from the same guy for nine months, twelve months, two years, ten years, those particular things. It is not like one month we buy that lacquer and then buy a different lacquer the following month, we do not do that. We do not change lacquers. It is too risky.

... Do we unashamedly use a Metlac price occasionally to improve the big three pricing? Yes, of course. Of course, that is our job but I would ask you to look at the growth in Metlac. We have not just done that. We have increased the amount of business we have given Metlac and would continue to do so if it was not for this whole Akzo Metlac thing being up in the air.

... I think we should show you the premium that we are facing today for BPA non-intent products. We have a slide on that. That is a pretty serious issue for us and generally what we have found when we have had a Metlac BPA free or BPA non-intent solution, it has always been 90 times out of 100 the cheapest.

... Where there is competition, we do better. Where we have Metlac, we do better. The golden rule.

#### **D. Price comparison on a sample of products selected by AkzoNobel and Metlac**

41. To explore Metlac's pricing further, we asked both parties to select a sample of two to three specific coatings (including the corresponding code as it appears in their customer transaction database) in various segments among their portfolio of products. We then passed on the list of products each party selected to the other party and we asked them to identify their own products that are 'functionally equivalent' to those of the other merging party.
42. We also asked Valspar and PPG to identify their functionally equivalent products to those selected by AkzoNobel and Metlac and for each of them to provide volumes and values in the EEA for the period 2007 to 2011. Valspar submitted information for 11 products and PPG for 17 products.
43. Valspar and PPG pointed out that in a number of cases the product description reported by AkzoNobel in its product list might include several different coatings.<sup>17</sup> This did not allow Valspar or PPG to uniquely identify the 'functionally equivalent' product and, in addition, might limit the validity of the price comparison because of product mix issues. For this reason, we also present the results of the price analysis based only on the product sample selected by Metlac which is not, or it is to a lesser extent, affected by a similar problem.
44. We also acknowledge that even 'functionally equivalent' coatings may differ because of some technical characteristics. We have tried to address this issue by asking suppliers to indicate any potential difference between their products and those of their

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<sup>17</sup> [X]

competitors. However, the responses we received do not fully clarify whether, and the extent to which, the products supplied by the various suppliers differ. In light of this, we have considered cautiously the results of the analysis.

45. We collected price information on 26 products:
- 3 coatings in B2E;
  - 8 coatings in C&C (4 for C&C external and 4 for C&C internal);
  - 6 coatings in Food (3 for Food external and 3 for Food internal);
  - 2 coating in Food ends external; and
  - 7 coatings in GL (3 for GL external and 4 for GL internal).
46. Based on Metlac's and AkzoNobel's transaction database and the information we received from Valspar and PPG, we calculated the weighted (by volume) average prices in the EEA over the period 2007 to 2011 (Table 6 at the end of this appendix reports the annual average prices for all selected products). Table 4 below shows that Metlac's price was the lowest for 15 out of 26 products (58 per cent); AkzoNobel had the lowest price for 8 products (31 per cent); PPG's and Valspar's products were the cheapest in, respectively, two cases (8 per cent) and one case (4 per cent). Metlac was the cheapest for [redacted] B2E coatings, [redacted] C&C external, [redacted] C&C internal, [redacted] Food external, [redacted] Food internal, [redacted] Food ends, [redacted] GL external and [redacted] GL internal.
47. In cases where Metlac was the cheapest supplier, the next best price was [redacted] per cent more expensive. The gap with the next best price was smaller when AkzoNobel or PPG were the cheapest (respectively, [redacted] per cent and [redacted] per cent). [redacted]<sup>18</sup> We obtain similar results if we focus on Metlac's selected products. Metlac is cheaper in more instances than AkzoNobel and PPG ([redacted] products) although the difference between Metlac's and the next best price is smaller ([redacted] per cent).

TABLE 4 Price comparison: average price over the period 2007 to 2011

	<i>All selected products</i>		<i>Products selected by Metlac</i>	
	<i>Number of products lowest price</i>	<i>Next best price (in cases where cheapest) %</i>	<i>Number of products lowest price</i>	<i>Next best price (in cases where cheapest) %</i>
AkzoNobel	8	[redacted]	2	[redacted]
Metlac	15	[redacted]	8	[redacted]
PPG	2	[redacted]	2	[redacted]
Valspar	1	[redacted]	0	[redacted]

Source: CC's calculation on data provided by AkzoNobel, Metlac, Valspar and PPG.

48. We note that some of selected products were not sold in all years and, therefore, the average price over the period 2007 to 2011 (at least in the EEA) may be influenced by time-varying factors common across suppliers (eg variation in raw material prices).<sup>19</sup> For this reason, we also compared prices focusing solely on 2011 estimates. The results are similar to those obtained looking at the average across the last five years.

<sup>18</sup> We note that in some other cases the difference between the cheapest and the next best price is relatively high (greater than [redacted] per cent) which may raise concerns in relation to the actual comparability of the products selected by the parties.

<sup>19</sup> AkzoNobel's economic advisers raised a similar point in its response to our post-provisional findings economic working paper, stating that prices charged for a given B2E product will vary over time.

49. Table 5 below shows that Metlac’s price was the lowest for 16 out of 26 products (62 per cent), followed by AkzoNobel for seven products (27 per cent), Valspar for two products (8 per cent) and PPG for only one product (4 per cent). At segment level, Metlac was the cheapest for [redacted] B2E coatings, [redacted] C&C external, [redacted] of C&C internal, [redacted] for Food external, [redacted] Food internal, [redacted] for Food ends, [redacted] GL external and [redacted] GL internal.
50. In cases where Metlac’s price was the lowest, the next best price was [redacted] per cent more expensive. This figure was [redacted] per cent, [redacted] per cent and [redacted] per cent when, respectively, AkzoNobel, PPG (for two products) and Valspar (for one product) were the cheapest. As before, Metlac’s prices appear to be lower than AkzoNobel’s and PPG’s in more instances (9 out of 12 products) if we consider only the products selected by Metlac, though the price difference with the next best price is more limited.

TABLE 5 Price comparison: average price in 2011

	<i>All selected products</i>		<i>Products selected by Metlac</i>	
	<i>Number of products lowest price</i>	<i>Next best price (in cases where cheapest) %</i>	<i>Number of products lowest price</i>	<i>Next best price (in cases where cheapest) %</i>
AkzoNobel	7	[redacted]	1	[redacted]
Metlac	16	[redacted]	9	[redacted]
PPG	1	[redacted]	1	[redacted]
Valspar	2	[redacted]	1	[redacted]

Source: CC’s calculation on data provided by AkzoNobel, Metlac, Valspar and PPG.

51. Overall, the outcome of our analysis (which is set out in more detail in Table 6 below) is broadly consistent with the pricing evidence we received from customers described above in sections A and B and our analysis of the data in section C above. Although not in all cases, Metlac tends to charge lower prices than its major competitors (AkzoNobel, PPG and Valspar). We acknowledge, however, that there are a number of potential issues in the price exercise we conducted because of the difficulties in comparing like-for-like products (see also paragraph 8.157), and we therefore considered the results very cautiously.

TABLE 6 Price comparison: annual average prices weighted by volume (EEA), 2007 to 2011

Segment	Int vs ext	Product description	Supplier	Weighted average of codes' prices				
				2007	2008	2009	2010	2011
B&B	Ext	Beverage External 2 Piece Water Aluminium	AkzoNobel	[X]	[X]	[X]	[X]	[X]
B&B	Ext	Beverage External 2 Piece Water Aluminium <sup>20</sup>	Metlac	[X]	[X]	[X]	[X]	[X]
B&B	Ext	Beverage External 2 Piece Water Aluminium	Valspar	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External matt OPV varnish for DWI	AkzoNobel	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External matt OPV varnish for DWI	Metlac	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External matt OPV varnish for DWI	PPG	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External OPV varnish for DWI	AkzoNobel	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External OPV varnish for DWI	Metlac	[X]	[X]	[X]	[X]	[X]
B&B	Ext	External OPV varnish for DWI	PPG	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Closures Ext Alu ROPP	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Closures Ext Alu ROPP	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Closures External Alu ROPP, Closures Ext Crowns	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Closures External Alu ROPP, Closures Ext Crowns	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester varnish for external closure	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester varnish for external closure	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester varnish for external closure	PPG	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester varnish for external closure	Valspar	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester white enamel for external closures (steel, aluminium)	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester white enamel for external closures (steel, aluminium)	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester white enamel for external closures (steel, aluminium)	PPG	[X]	[X]	[X]	[X]	[X]
C&C	Ext	Polyester white enamel for external closures (steel, aluminium)	Valspar	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Int Alu ROPP, Closures Int Crowns	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Int Alu ROPP, Closures Int Crowns	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Int Alu ROPP, Closures Int Crowns	Valspar	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Internal Aluminium ROPP	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Internal Aluminium ROPP	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Int	Closures Internal Aluminium ROPP	Valspar	[X]	[X]	[X]	[X]	[X]
C&C	Int	Epoxy gold size for internal closures	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Int	Epoxy gold size for internal closures	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Int	Epoxy gold size for internal closures	PPG	[X]	[X]	[X]	[X]	[X]
C&C	Int	Epoxy gold size for internal closures	Valspar	[X]	[X]	[X]	[X]	[X]
C&C	Int	Organosol BPA-NI for internal closures	AkzoNobel	[X]	[X]	[X]	[X]	[X]
C&C	Int	Organosol BPA-NI for internal closures	Metlac	[X]	[X]	[X]	[X]	[X]
C&C	Int	Organosol BPA-NI for internal closures	Valspar	[X]	[X]	[X]	[X]	[X]

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Metlac told us that the figures in the row relate to 'External matt tactile OPV varnish for DWI' which is just one among various product types that fall within the product description "Beverage External 2 Piece Water Aluminium".

Weighted average of codes' prices

Segment	Int vs ext	Product description	Supplier	2007	2008	2009	2010	2011
Food	Ext	Food External 3PC Steel, Food External Ends Steel	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Ext	Food External 3PC Steel, Food External Ends Steel	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Ext	Gold epoxy lacquer for external 3 Pc (steel)	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Ext	Gold epoxy lacquer for external 3 Pc (steel)	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Ext	Gold epoxy lacquer for external 3 Pc (steel)	PPG	[X]	[X]	[X]	[X]	[X]
Food	Ext	Gold epoxy lacquer for external 3 Pc (steel)	Valspar	[X]	[X]	[X]	[X]	[X]
Food	Ext	White polyester enamel for external 3 Pc	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Ext	White polyester enamel for external 3 Pc	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Ext	White polyester enamel for external 3 Pc	PPG	[X]	[X]	[X]	[X]	[X]
Food	Ext	White polyester enamel for external 3 Pc	Valspar	[X]	[X]	[X]	[X]	[X]
Food	Int	Food internal Ends Steel FAEOE	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Int	Food internal Ends Steel FAEOE	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Int	Food internal Ends Steel FAEOE	PPG	[X]	[X]	[X]	[X]	[X]
Food	Int	Gold epoxy lacquer for internal 3 Pc (steel)	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Int	Gold epoxy lacquer for internal 3 Pc (steel)	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Int	Gold epoxy lacquer for internal 3 Pc (steel)	PPG	[X]	[X]	[X]	[X]	[X]
Food	Int	Gold epoxy lacquer for internal 3 Pc (steel)	Valspar	[X]	[X]	[X]	[X]	[X]
Food	Int	White epoxy enamel for internal 3 Pc	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food	Int	White epoxy enamel for internal 3 Pc	Metlac	[X]	[X]	[X]	[X]	[X]
Food	Int	White epoxy enamel for internal 3 Pc	PPG	[X]	[X]	[X]	[X]	[X]
Food	Int	White epoxy enamel for internal 3 Pc	Valspar	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Epoxy fond ouverture facile (steel)	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Epoxy fond ouverture facile (steel)	Metlac	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Epoxy fond ouverture facile (steel)	PPG	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Food External Ends Steel FAEOE	AkzoNobel	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Food External Ends Steel FAEOE	Metlac	[X]	[X]	[X]	[X]	[X]
Food external EOE	Ext	Food External Ends Steel FAEOE	PPG	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Aerosol—Steel	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Aerosol—Steel	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Aerosol—Steel	PPG	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Aerosol—Steel	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Non processed foods	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Ext	General Line External Non processed foods	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Ext	Polyester white enamel for external GL	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Ext	Polyester white enamel for external GL	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Ext	Polyester white enamel for external GL	PPG	[X]	[X]	[X]	[X]	[X]
GL	Int	Epoxy lacquer for internal aerosol can	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Int	Epoxy lacquer for internal aerosol can	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Int	Epoxy lacquer for internal aerosol can	PPG	[X]	[X]	[X]	[X]	[X]

Segment	Int vs ext	Product description	Supplier	Weighted average of codes' prices				
				2007	2008	2009	2010	2011
GL	Int	General Line Internal Collapsible Tubes	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Collapsible Tubes	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Collapsible Tubes	PPG	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Non-processed foods General Line Internal Promotional General Line Other	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Non-processed foods General Line Internal Promotional General Line Other	Metlac	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Non-processed foods General Line Internal Promotional General Line Other	PPG	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Promotional	AkzoNobel	[X]	[X]	[X]	[X]	[X]
GL	Int	General Line Internal Promotional	Metlac	[X]	[X]	[X]	[X]	[X]

Source: CC's calculation on data provided by AkzoNobel, Metlac, Valspar and PPG.

Note: This data was based on product codes supplied to us by AkzoNobel and Metlac. [X]

## Growth and capacity

1. In recent years, Metlac has grown from a small company to a medium-sized firm with a growing presence outside its home market, Italy. Metlac submitted that between 2003 and 2011 it almost doubled its output (from [15–20] kt to [25–35] kt). Metlac expects to further expand its production to [ ] kt in 2012. Metlac increased its sales outside Italy from [21–30] per cent of sales in 2003 to around [51–60] per cent in 2011, with a forecasted growth to [ ] per cent by the end of 2012.<sup>1</sup>
2. Metlac won business from AkzoNobel, PPG and Valspar and now serves some of the largest customers in the market ([ ]) outside Italy. Metlac also supplied smaller customers outside Italy and provided us with a list of such customers. These customers were based in 11 countries in the EEA, with a large number being in Greece, Bulgaria and Spain. In the UK Metlac supplied three customers in 2011 (Ball with GL coatings; Crown with a range of products including C&C, Food and GL products; and Rexam with B2E) and it has been recently approached by other customers to negotiate coating supplies to their UK plants ([ ]).
3. Metlac's past growth is explored in comparison with market growth and growth of other suppliers below. This appendix also discusses Metlac's forecasts of future growth and its available capacity to meet the potential increase in demand.

### Suppliers' growth in the period 2009 to 2011

4. We estimated that the metal packaging coatings sector in the EEA grew by 18.56 kt (11 per cent) in the period 2009 to 2011. The B&B market experienced growth of 9.9 kt (12 per cent) while FCG sales have increased by 8.7 kt (9 per cent).
5. AkzoNobel and Metlac's<sup>2</sup> growth across the whole sector was the strongest, with increases of [ ] kt ([31–40] per cent) and [ ] kt ([21–30] per cent) respectively. PPG's sales have [ ] over the three years while Valspar has lost [ ] kt [0–10] per cent). Of the smaller players, Actega has increased its sales by [ ] kt ([11–20] per cent), Grace by [ ] kt ([11–20] per cent), Schekolin by [ ] kt ([0–10] per cent), and the remaining suppliers altogether have lost [ ] kt ([11–20] per cent). Table 1 shows the sales variation (expressed in volume and percentage) of the major suppliers over the period 2009 to 2011.<sup>3</sup>

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<sup>1</sup> Metlac initial submission, paragraph 52.

<sup>2</sup> [ ]

<sup>3</sup> We noted that part of suppliers' growth may not reflect organic growth as it is likely the result of mergers and acquisitions that occurred in recent years, for example: AkzoNobel acquired Lindgens (2010), Valspar acquired DIC (2010) and Salchi acquired Rembrandtin (2010).

TABLE 1 Sales growth in the EEA, 2009 to 2011

	Volume kt	%
AkzoNobel	[X]	[31–40]
Metlac	[X]	[21–30]
Combined	[X]	[21–30]
Valspar	[X]	[0 – -10]
PPG	[X]	[0 – -10]
Grace	[X]	[11–20]
Actega	[X]	[11–20]
Schekolin	[X]	[0–10]
Others	[X]	[-10 – -20]
Total	18.56	11

Source: Suppliers' data and CC calculations.

6. Table 2 below shows that in the B&B market AkzoNobel and Metlac's sales grew by [X] kt and [X] kt respectively in the past three years, whereas Valspar's sales shrunk by [X] kt in the past three years and PPG's level of sales have [X]. In the FCG market, AkzoNobel's sales grew by [X] kt, Metlac's by [X] kt, Valspar's by [X] kt and PPG's sales have [X]. Of the smaller players, Actega increased by [X] kt, Grace by [X] kt, Schekolin by [X] kt and the remaining suppliers altogether lost [X] kt.

TABLE 2 Sales growth by market in the EEA, 2009 to 2011

	B&B		FCG	
	Volume kt	%	Volume kt	%
AkzoNobel	[X]	[41–50]	[X]	[0–10]
Metlac	[X]	[11–20]	[X]	[21–30]
Combined	[X]	[41–50]	[X]	[11–20]
Valspar	[X]	[-10 – -20]	[X]	[11–20]
PPG	[X]	[0]	[X]	[0 – -10]
Grace	[X]	[-]	[X]	[11–20]
Actega	[X]	[-]	[X]	[11–20]
Schekolin	[X]	[-]	[X]	[0–10]
Others	[X]	[-31 – -40]	[X]	[-11 – -20]
Total	9.89	12	8.67	9

Source: Suppliers' data and CC calculations.

7. We now examine these growth figures in the context of changes in market shares (see Appendix I for market share information).
8. Between 2009 and 2011, in FCG Metlac gained [0–10] percentage points (from [X] to [X] per cent) whereas AkzoNobel's share [X] (from [X] to [X] per cent). Valspar increased its share by [X] percentage points while PPG's share [X]. Grace and Actega increased their shares, [X].
9. In B&B Metlac's share [X], while AkzoNobel's share moved from [31–40] per cent in 2009 to [41–50] per cent in 2011. Metlac's increase in sales by [11–20] per cent only translates to a small growth in market share because Metlac is not present in BE and B2I. The significant increment in AkzoNobel's share is mainly driven by its growth in the B2I segment, where its share rose by almost [X] percentage points (from [X] per cent in 2009 to [X] per cent in 2011). Valspar saw its share reduced by [X] percentage points. Similarly, PPG's share has shrunk [X] (by [X] percentage points).

10. Table 3 below shows suppliers' growth in B2E. In B2E AkzoNobel, Metlac and Valspar all grew significantly, while PPG lost. The evidence we collected from customers ([REDACTED])<sup>4</sup> suggested that Valspar's growth in B2E in recent years was mainly driven by increased sales to [REDACTED].<sup>5</sup> In both cases Valspar's growth came at the expense of suppliers other than Metlac.<sup>6</sup> Similarly, AkzoNobel's sales grew mainly with [REDACTED], and Metlac was not qualified with [REDACTED] until very recently.

TABLE 3 Sales growth in B2E in the EEA, 2009 to 2011

	B2E	
	Volume kt	%
AkzoNobel	[REDACTED]	[51–60]
Metlac	[REDACTED]	[11–20]
Combined	[REDACTED]	[31–40]
Valspar	[REDACTED]	[21–30]
PPG	[REDACTED]	[-11 – -20]
Grace	[REDACTED]	[-]
Actega	[REDACTED]	[-]
Schekolin	[REDACTED]	[-]
Others	[REDACTED]	[-31 – -40]
Total	1.50	9

Source: Suppliers' data and CC calculations.

11. In the FCG market (see Table 4), Metlac grew consistently in all segments in which it operated (Food, C&C and GL) whereas the growth of the other suppliers varied across segments. AkzoNobel grew in [REDACTED] and in [REDACTED] but it lost volumes in [REDACTED]. Valspar increased its sales in [REDACTED] but shrunk in [REDACTED]. PPG has mainly experienced growth in [REDACTED] but has shrunk in [REDACTED]. Grace's growth has been primarily in [REDACTED]. Actega grew in [REDACTED] and [REDACTED] but it lost volumes in [REDACTED], and Schekolin's sales increased in [REDACTED] but they shrunk in [REDACTED].<sup>7,8</sup>

<sup>4</sup> [REDACTED]

<sup>5</sup> As noted in the footnote to paragraph 13 below, winning a single contract in the B2E segment may result in significant growth for a supplier, due to the level of customer concentration.

<sup>6</sup> Also, part of the growth experienced by Valspar may be due to the recent acquisition of DIC.

<sup>7</sup> We did not receive volume data from Salchi and Diostyl (see Appendix I). In terms of value, Salchi has grown by [REDACTED] per cent, with an increase of €[REDACTED] from 2009 to 2011 (approximately €[REDACTED] in Food, and €[REDACTED] in C&C and GL). Diostyl has grown by €[REDACTED] ([REDACTED] per cent), of which €[REDACTED] in Food and €[REDACTED] in GL.

<sup>8</sup> AkzoNobel submitted an analysis that compared suppliers' growth whereby it concluded that Metlac's growth was unexceptional, and Metlac grew approximately in line with the market. We note that AkzoNobel's analysis is based on its estimates on the past sales of its major competitors, and that these estimates largely differed from the actual sales. In FCG, AkzoNobel estimates that Metlac grew by [REDACTED] kt between 2009 and 2011 ([REDACTED] per cent), while Metlac's sales actually increased by [REDACTED] kt ([REDACTED] per cent). In B2E, AkzoNobel's estimates indicated that Metlac increased its sales by [REDACTED] kt between 2009 and 2011 ([REDACTED] per cent), but Metlac's own figures showed that its sales actually increased by [REDACTED] kt.

TABLE 4 Sales growth in FCG segments in the EEA, 2009 to 2011

	Food		C&C		GL	
	Volume kt	%	Volume kt	%	Volume kt	%
AkzoNobel	[X]	[0-10]	[X]	[-10-0]	[X]	[31-40]
Metlac	[X]	[11-20]	[X]	[21-30]	[X]	[41-50]
Combined	[X]	[11-20]	[X]	[0-10]	[X]	[31-40]
Valspar	[X]	[41-50]	[X]	[11-20]	[X]	[-30 - -20]
PPG	[X]	[11-20]	[X]	[-20 - -10]	[X]	[-10-0]
Grace	[X]	[21-30]	[X]	[-20 - -10]	[X]	[181-190]
Actega	[X]	[-10-0]	[X]	[21-30]	[X]	[0-10]
Schekolin	[X]	[11-20]	[X]	[-20 - -10]	[X]	-
Others	[X]	[-60 - -51]	[X]	[-20 - -10]	[X]	[0-10]
Total	[X]	[0-10]	[X]	[0-10]	[X]	[11-20]

Source: Suppliers' data and CC calculations.

12. It is worth noting that Metlac's growth rate is systematically higher than the market in all segments in which it operated. Table 5 compares Metlac's growth with the market/segment average growth.

TABLE 5 Sales growth—comparison between Metlac and the market average by markets and segments in the EEA, 2009 to 2011

	per cent	
	Metlac	Total
B&B	[11-20]	12
B2E	[11-20]	9
FCG	[21-30]	9
Food	[11-20]	10
C&C	[21-30]	4
GL	[21-50]	11
Total	[21-30]	11

Source: Suppliers' data and CC calculations.

13. As shown in Table 6 below, Metlac's growth in this period mainly occurred within the EEA but outside Italy. Of [X] kt increase in sales from 2007 to 2011, [X] kt comes from sales in EEA countries other than Italy, where the sales have been stable over the entire period.<sup>9</sup>

<sup>9</sup> AkzoNobel submitted that the vast majority of Metlac's growth could be attributed to an FCG contract with [X] and, particularly, the B2E contract with [X]. We noted that in B2E, four customers account for almost all the demand: it is therefore not surprising that winning a contract may result in significant growth for a supplier. In FCG Metlac's growth is spread across more than 80 customers. A significant proportion of the growth can be attributed to an increase in sales to [X] and [X], but like in B2E, this is not surprising given that, although the market is less concentrated than B2E, [X] and [X] account for [31-40] per cent of the market. In this regard we also noted that three customers ([X]) accounted for around [X] per cent of AkzoNobel's sales in FCG in 2011 (in the EEA).

TABLE 6 Metlac sales by region, 2007 to 2011

	<i>kt</i>				
	2007	2008	2009	2010	2011
EEA	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
EEA (excluding Italy)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Italy	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Non-EEA	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Total	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: Metlac.

- 
14. The information above showed that Metlac grew significantly in the last few years across all main segments, suggesting that Metlac competed vigorously in the both B&B and FCG.
  15. We noted that other suppliers, including AkzoNobel, Valspar and PPG, grew as much as (or more than) Metlac in some segments (over the three-year period we considered), notably AkzoNobel and Valspar in B2E. In our view, this is consistent with the finding that the three major suppliers did not instigate vigorous price competition in the way Metlac did (see Section 8 of the report). We do not argue that AkzoNobel, Valspar and PPG do not compete on prices and/or along other dimensions (eg quality, service, etc) at all, but rather that Metlac has stimulated competition to a greater extent than its major competitors. Consistently, we noted that in B2E, while switching has occurred explaining (together with the demand growth) the increase in sales experienced by Valspar and AkzoNobel in recent years, it did not come at the expense of Metlac, which supports the view that, when present, Metlac tends to submit competitive offers that do not (or rarely) result in loss of business.
  16. We also noted particularly in relation to the B&B market, where a larger proportion of demand is tendered in the form of multi-year contracts, growth over a three-year period may not fully reflect the competitive dynamics in the market. As shown in the switching information in Appendix H, there have been significant switches in B2E which are not all reflected in Table 3. In comparison, there were significant switches in 2009 in B2I, which are reflected in the B&B growth information above.
  17. We do not have information over a longer period for all suppliers but we were provided with sales of the parties over the last five years. The next section compares segment level sales of AkzoNobel and Metlac over the period 2007 to 2011.
  18. AkzoNobel has been active in Europe for a number of years in most segments of the metal coatings market.<sup>10</sup> Table 7 shows its metal coatings sales for the last five years across segments in the EEA.

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<sup>10</sup> [REDACTED]

TABLE 7 EEA sales volumes by AkzoNobel

kt

Year	B2I	B2E	BE	C&C	Food	GL	Total
2007	[REDACTED]						
2008	[REDACTED]						
2009	[REDACTED]						
2010	[REDACTED]						
2011	[REDACTED]						

Source: AkzoNobel.

Note: [REDACTED]

19. It can be seen from Table 7 that AkzoNobel sales volumes in the EEA [REDACTED]. For example, AkzoNobel's sales in the B2I segment [REDACTED]. In B2E, AkzoNobel [REDACTED]. In Food and GL, AkzoNobel's sales [REDACTED], while in C&C its volumes have [REDACTED]. It should be noted that the figures do not vary materially when Italy is excluded from the data.
20. Metlac differs from AkzoNobel in its scope and organization. From its strong Italian sales base it started to expand in Europe a number of years ago. Table 8 shows its sales of various metal coatings in the EEA.

TABLE 8 EEA sales by Metlac

kt

Year	B2E	C&C	Food	GL	Total
<i>EEA (incl Italy)</i>					
<i>sales by Metlac</i>					
2007	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2011	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
<i>EEA (excl Italy)</i>					
<i>sales by Metlac</i>					
2007	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2008	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2009	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2010	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
2011	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Source: Metlac.

21. Metlac is not active in the B2I or BE segments, so the B&B sales set out in Table 8 exclusively refer to B2E products. It can be seen from Table 8(a) that Metlac's sales volumes in the EEA [REDACTED].
22. To date, competition in the FCG segment between AkzoNobel and Metlac has been confined to countries other than Italy, [REDACTED].<sup>11</sup> In comparing the two companies' performance in recent years, we therefore looked at the relative growth of Metlac's sales outside Italy (Table 8(b)), as well as its growth across the EEA (Table 8(a)). We noted that virtually all of the increase in sales achieved by Metlac in FCG over this period was in sales outside Italy. Metlac's sales outside Italy increased in all FCG segments. AkzoNobel's sales volumes [REDACTED] ([REDACTED]), and [REDACTED].

<sup>11</sup> [REDACTED]

23. In the beverage market, Metlac increased its sales of B2E throughout the EEA with [X] kt out of [X] kt of B2E in 2011 coming from outside Italy and AkzoNobel's sales volumes showed a small [X].
24. Figure 1 illustrates this difference in growth for the two companies in the main categories of the metal packaging coatings markets.

FIGURE 1

### EEA sales by segment (kt)

[X]

Source: Suppliers' data and CC calculations.

25. The strong growth of AkzoNobel in the B&B market can be largely attributed to strong growth in the B2I segment where Metlac is not active. Figure 2 compares the growth of AkzoNobel and Metlac in the B2E segment, the only B&B segment where Metlac is active.

FIGURE 2

### EEA sales in the B2E segment (kt)

[X]

Source: Suppliers' data and CC calculations.

26. Metlac grew consistently across all main segments when we consider a five-year period whereas AkzoNobel grew in some segments ([X]) but it lost sales in others ([X]).

### UK growth

27. We also considered growth patterns in supply of metal packaging coatings in the UK in recent years. Metlac entered the B2E segment in the UK in 2008 and since then its sales have grown by [X] kt (from [X] kt in 2008 to [X] kt in 2011), which is reflected in market share growth. [X] Metlac entered the FCG market in the UK one year later (in 2009) and its sales have grown year-on-year though they are still rather limited. Metlac submitted to us that the smaller suppliers had shown a pattern of exiting the FCG market in the UK over the same period. We addressed this comment in our report (see paragraphs 9.93 to 9.98). [X]

### Future growth

28. In this section we discuss Metlac's prospects of continuing to grow in the medium to longer term.
29. Metlac submitted that [X].

30. Metlac told us that it intended to continue a strategy of aggressive growth and expected its productive output to [REDACTED].<sup>12</sup>
31. Metlac also told us that [REDACTED].
32. Some third parties indicated that they were willing to grow their spend with Metlac, with [REDACTED] stating that it wished to move the portion of its business supplied by [REDACTED] to Metlac; [REDACTED] indicated that it would like to qualify Metlac [REDACTED] and then consider moving volumes to Metlac; [REDACTED] indicated that if the merger did not occur it would be looking to develop Metlac's [REDACTED] (and has been in discussions with Metlac [REDACTED] regarding what Metlac would need to do to supply [REDACTED] at volume); [REDACTED] was working to qualify Metlac to supply [REDACTED]. In addition, a number of companies indicated that they were testing BPA-NI products with Metlac along with other suppliers, and some of them told us that they considered Metlac to be well placed compared with its competitors should the industry move towards to a widespread use of BPA-NI coatings. Generally third parties have indicated that Metlac has growth potential.
33. We also noted that Metlac's UK revenues to November 2012 were already €[REDACTED] million, and were expected to reach €[REDACTED] million for 2012 (full year)—an annual increase of 50 per cent. They were forecast almost to double (reaching €[REDACTED] million) in 2013. A significant amount of the business won by Metlac in the UK in the last year was won from AkzoNobel, such as the supply of internal and external varnishes, including UV varnishes (FCG products) to [REDACTED] at its [REDACTED] and [REDACTED] plants. Metlac began selling in the UK in 2008 and since then its sales have continuously increased from [REDACTED] kt in 2008 to [REDACTED] kt in 2011.
34. [REDACTED] Table 9 reports the forecasts for worldwide sales, in percentage terms, provided by Metlac [REDACTED]. Metlac did not provide growth forecasts disaggregated by region but our understanding from Metlac is that some of this growth is expected to come from countries outside of the EEA.

TABLE 9 **Metlac growth forecast in value for worldwide sales of metal packaging coatings over the period 2012 to 2016**

Year	Revenue growth forecasts		
	Total	B&B	FCG
2011/12	[REDACTED]	[REDACTED]	[REDACTED]
2012/13	[REDACTED]	[REDACTED]	[REDACTED]
2013/14	[REDACTED]	[REDACTED]	[REDACTED]
2014/15	[REDACTED]	[REDACTED]	[REDACTED]
2015/16	[REDACTED]	[REDACTED]	[REDACTED]
Average annual growth	[REDACTED]	[REDACTED]	[REDACTED]

Source: Metlac.

35. [REDACTED]
36. Metlac was expecting an annual average growth of [REDACTED] per cent, mostly driven by [REDACTED].
37. In its [REDACTED].

<sup>12</sup> [REDACTED]

38. [REDACTED] Figure 3 compares Metlac’s growth forecasts (in value) with AkzoNobel’s growth projections for Metlac [REDACTED].

FIGURE 3

**Metlac’s growth estimates in value with AkzoNobel’s growth projections for Metlac over the period 2012 to 2016**

[REDACTED]

Source: Suppliers’ data and CC calculations.

39. Compared with Metlac’s forecasts, [REDACTED].
40. We assessed the reliability of the growth estimates submitted by the parties against Metlac’s past growth. Table 10 shows the total revenues of Metlac in the period 2007 to 2011 and the annual growth rate.

TABLE 10 **Metlac’s worldwide sales in value over the period 2007–2011**

Year	per cent		
	Total	B&B	FCG
2008/07	[REDACTED]	[REDACTED]	[REDACTED]
2009/08	[REDACTED]	[REDACTED]	[REDACTED]
2010/09	[REDACTED]	[REDACTED]	[REDACTED]
2011/10	[REDACTED]	[REDACTED]	[REDACTED]

Source: [Metlac initial submission](#), Table 3.

41. This corresponded to an average annual growth rate of 10.8 per cent on the entire sector [REDACTED] (see Table 9).
42. Despite the indications of customers’ willingness to expand purchases from Metlac, [REDACTED] and therefore we cannot be confident of Metlac’s forecasts. Nonetheless we consider that the level of growth forecast by AkzoNobel is probably conservative [REDACTED]. While it is difficult accurately to forecast Metlac’s growth absent the merger, the evidence on the recent business awarded to it by some customers and the increasing number of products for which Metlac obtained qualification make us confident that Metlac would likely continue to increase its sales to EEA customers, including customers with presence in the UK.

**Capacity**

43. As part of our assessment of Metlac’s ability to expand further in the future, we considered the level of its spare capacity. We also considered the capacity of other suppliers in the industry. Table 11 summarizes relevant information provided by AkzoNobel, Metlac, PPG, Valspar and Grace on spare capacity in their plants.

TABLE 11 Free capacity for large suppliers at the EEA level, 2011

AkzoNobel	[REDACTED]
Metlac	Calculations include seven product groups, providing free capacity figures in the range of [REDACTED] per cent. However, see paragraph 45 below for caveats on these figures.
PPG	Estimates for five plants: average: [REDACTED] per cent; range: [REDACTED] per cent.
Valspar	Estimates for [REDACTED]; average: [REDACTED] per cent; range: [REDACTED] per cent.
Grace	Estimates for two plants: [REDACTED] per cent for both plants.

Source: Responses to the CC market questionnaire.

- 
44. The information presented in Table 11 suggests that the industry has substantial spare capacity. [REDACTED] We estimated there to be between 20 and 30 per cent free capacity in the market.
45. According to the figures presented in Table 11, Metlac had significant spare capacity. However, Metlac told us that the manner in which spare capacity was measured in the industry (production capacity is measured on the basis that each production vessel operates at its full capacity (ie is full), operates continuously (ie 24 hours a day, subject only to regular cleaning and/or maintenance), and that all batches are made to optimum quality in the shortest time only) is much higher than practical capacity because it is impracticable and/or uneconomic to switch vessels between different product families. Therefore, a plant could utilize 100 per cent of its theoretical capacity only if demand exactly matched the production capacity for each product family. This does not happen in practice, as demand fluctuates both in absolute terms and also in terms of product mix. It stated that it could not therefore estimate actual 'realizable' capacity, as production volumes realizable depended on how closely the mix of customer demand matched the manufacturer's theoretical capacity over a given period.
46. AkzoNobel submitted that Metlac did not calculate its spare capacity on the same basis as AkzoNobel and the basis on which Metlac had calculated its spare capacity has resulted in Metlac overstating its own capacity. Furthermore, AkzoNobel made submissions regarding capacity constraints at Metlac's plant including those restrictions in place due to the requirements of the Seveso Directive and its identification as a site of significant risk of accident. Metlac submitted that this characterization was misleading on the basis it believed that:

the expression 'site at risk of significant accident' is in fact a translation of a categorisation under the Seveso Directive. It is based purely on the volume of solvent used at the plant, which is used to determine the level of fire and safety equipment that the site requires by law. Metlac's plant is constructed to the highest safety standards, exceeding the requirements of the Seveso Directive. Its site is fitted with fire safety equipment. Its control centre is fire-proof and explosion-proof. It has also installed an independent backup power supply and back-up IT servers. Its buildings are also constructed to withstand earthquake. AkzoNobel has also submitted that Metlac would have difficulty obtaining planning permission for an additional parking zone. Metlac has never experienced such difficulties. It has in fact recently extended its parking area. Moreover, Metlac owns additional land that could be converted to parking in the future if needed. Since its site is located in an out-of-town industrial area, it is also very unlikely that Metlac would experience difficulties of the type suggested.

47. Metlac said that, as an example, it had the necessary authorizations to produce up to [REDACTED] kt in total. Subject only to a satisfactory fire and safety inspection, and some further minor investments in storage and blending tanks, Metlac estimated that within two to three months its existing site could produce at least [REDACTED] kt. All of these figures were well below its theoretical capacity of [REDACTED] kt.
48. In response, AkzoNobel submitted that:
- If Metlac intended to increase capacity, the amount of materials on site would increase, which must be reported to the authorities as a change to the site level risk and those authorities must then certify that satisfactory safety levels and all organizational, technical and operational preventative measures had been taken to protect workers, the local population and the environment.
  - This was not evidence that Metlac had not experienced difficulties in obtaining permission. The permission for such a development was made significantly harder due to the level of scrutiny placed on Bosco Marengo by the local authorities of Alessandria. The difficulties experienced in obtaining planning permission for parking would be multiplied significantly when requesting permission to develop new manufacturing facilities, which would also require detailed review under the Seveso Directive.
49. [REDACTED]<sup>13</sup> Whilst AkzoNobel and Metlac disagreed on whether Metlac was capacity constrained we did not see evidence of significant capacity constraints at Metlac's site and thus we considered it likely that Metlac would be able to meet additional demand should it keep growing at the rate experienced in recent years.

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<sup>13</sup> See the Acquisition Request, paragraph 4: [REDACTED].

### Margins in metal packaging coatings

1. This appendix reports the profit margin figures submitted by AkzoNobel, Metlac, Actega, Grace, Valspar and PPG. It provides a preliminary indication of suppliers' margins in B&B, Food, C&C and GL. We do not draw any comparison between suppliers as we acknowledge that there may be differences in the way profit margins have been calculated.

[REDACTED]

2. [REDACTED]<sup>1,2</sup>

3. [REDACTED]

[REDACTED]

4. [REDACTED]

[REDACTED]

5. [REDACTED]

6. [REDACTED]<sup>3</sup>

7. [REDACTED]

8. [REDACTED]

[REDACTED]

9. [REDACTED]

[REDACTED]

10. [REDACTED]

11. [REDACTED]

[REDACTED]

12. [REDACTED]

[REDACTED]

13. [REDACTED]<sup>4</sup>

[REDACTED]

<sup>1</sup> [REDACTED]  
<sup>2</sup> [REDACTED]  
<sup>3</sup> [REDACTED]  
<sup>4</sup> [REDACTED]

14. [REDACTED]

[REDACTED]

[REDACTED]

15. [REDACTED]

16. [REDACTED]

[REDACTED]

17. [REDACTED]

18. [REDACTED]

19. [REDACTED]

### **Conclusion**

20. In our view, the evidence provided by suppliers of metal packaging coatings showed that the margins in the industry were not low.

### Relevant customer benefits

1. In this appendix we set out the submissions made by AkzoNobel addressing the likelihood of synergies arising from the acquisition. There were two main sources:
  - (a) the acquisition model produced by AkzoNobel as part of its decision to acquire the Metlac shares; and
  - (b) submissions following our provisional findings and further clarification in response to our remedies working paper.
2. AkzoNobel told us that it:
 

has identified considerable synergies which will arise from combining the Metlac business with ANPG. Customers will share in those benefits. Any remedy under which the Metlac business would continue to be operated separately from ANPG would prevent AkzoNobel and its customers (and ultimately consumers) from achieving those benefits.

### Acquisition model

3. AkzoNobel evaluated the value of Metlac in August 2011 as part of the internal decision as to whether or not it should exercise the option to acquire the Bocchio family's shares. The model estimated the value of the business to AkzoNobel and to a third party. The difference was due to synergies which AkzoNobel had identified. The acquisition price was estimated to be between these two values. As set out in the Acquisition Request, the total synergy value estimated for the model was €[§] million over the third party enterprise value (this is the net present value of all forecast synergies).
4. AkzoNobel told us that it:
 

anticipated that the majority of these synergies will result in an improved offering for customers, either through lower prices or enhanced product offerings. The Acquisition Request makes clear that AkzoNobel expects to lose significant business (in the 'sensitivity case') as suppliers seek to rebalance their spend post-merger. This potential loss in business dictates that the synergies from the transaction (in particular efficiencies in variable costs) will be passed on to customers to a very large extent.
5. The synergies identified in the model (relating to Metlac's entire business) were as follows:
  - (a) procurement cost synergies based on [§] per cent raw material purchase price savings;
  - (b) Sales, Administration and Research (SAR) cost savings of at least [§] per cent for commercial and research and development (R&D) activities as well as a [§] per cent cost saving for General & Administrative expenses; and
  - (c) reducing the current Metlac operational working capital (OWC) (ie the cost of its inventory and receivables less payables as a proportion of its revenue) which is

estimated at [§] per cent, significantly higher than the current ANPG OWC at [§] per cent.

6. AkzoNobel told us that it envisaged that these synergies and cost savings would enable it to pass on some of the benefits of the merger to customers in the form of lower prices.
7. Of the total value of synergies of €[§] million, €[§] million occur in the explicit forecast period (ten years); the remainder are due to the terminal value put on future cash flows. All figures are discounted figures to reflect the present value of the cash flows. The largest proportion of the synergies figure (€[§] million of the €[§] million in the forecast period) arises from AkzoNobel's planned changes to working capital which would release cash in the initial years that would otherwise be tied up in working capital.
8. Net cost synergies (ie excluding the working capital changes) were less than €[§] after tax in the first four years of the forecast period and slightly over €[§] in year five. Within these figures are forecast lost sales (with reduced costs of these sales), and reduced costs of the sales retained.
9. The model assumes that certain large customers ([§]) would continue to receive a [§] per cent rebate which they currently receive from AkzoNobel. AkzoNobel stated that other customers would similarly benefit from efficiencies generated, and that that was in line with economic theory. However, we note that this latter rebate to other customers was not included in the model and not taken into account in estimating the value of the business.
10. AkzoNobel told us that we had misunderstood how cost reductions were passed through to customers and how this was reflected in its synergy model. We recognize that the model reflects a rebate to the largest customers and that the gross margin improvement is calculated following this price reduction. However, as we discuss in paragraphs 11.67 and 11.68, AkzoNobel has competing incentives: it may consider that it needs to offer rebates to customers to stop them leaving following the acquisition but it will also have an incentive to raise prices following the removal of Metlac as a constraint on its prices.
11. In our response hearing with AkzoNobel, [§]. We have received evidence from [§] that should the merger proceed, it would seek to rebalance its coatings spend, given the proportion it currently purchased from AkzoNobel and Metlac. [§]
12. The model we have described was created before any competition inquiry had started. It may therefore form an unmediated starting point for our consideration of RCBs. We describe our consideration of RCBs in the following sections.

### **Submissions following the hearing**

13. As noted in paragraph 28 of our remedies guidelines, we require the parties to provide convincing evidence of RCBs. In the response hearing, we therefore requested that AkzoNobel provide us with evidence of any RCBs it was proposing as its response to our Remedies Notice did not include any submission on RCBs. AkzoNobel provided us with a framework submission on 22 October 2012 and a fuller description on 28 October 2012. We consider these below, including Metlac's comments where relevant.
14. AkzoNobel put forward that the synergies (or efficiencies—AkzoNobel uses both terms) were as follows:

- (a) improvements in the purchasing of raw materials, including savings from the use of resins manufactured in-house;
  - (b) improvements in Metlac's working capital position;
  - (c) enhanced manufacturing efficiencies;
  - (d) ability to deliver Metlac's products to customers around EEA and the world; and
  - (e) developing an improved product platform, including through enhanced and integrated research and development.
15. AkzoNobel stated that it did not have access to the type of information which normally formed part of the financial and corporate due diligence process and which would be of fundamental importance in any detailed discussion of synergies resulting from the proposed transaction. We are mindful of this limitation and have taken this into account when assessing the quality of AkzoNobel's submissions. Nevertheless, as we note below (for example, in relation to producing resin in-house), we believe that AkzoNobel should be in a position to provide convincing evidence on the potential synergies it envisages.

### ***Savings in Metlac's cost of raw materials***

16. AkzoNobel informed us that raw materials accounted for approximately [X] per cent of the production costs for metal packaging coatings. It told us that any reduction in this key variable cost was therefore an important efficiency saving, which could readily be passed on to customers.
17. AkzoNobel said that Metlac's purchasing strategy was dictated by its small size and relatively weak purchasing position as regarded key raw materials suppliers and that this was not an efficient means of sourcing raw materials. AkzoNobel further noted that the only way in which Metlac could improve its purchasing position was by pooling its purchasing power with other purchasers of the same raw materials (ie either through the proposed merger or through joint purchasing arrangements).
18. AkzoNobel told us that until 2009 Metlac purchased raw materials from a number of suppliers on advantageous commercial terms negotiated by AkzoNobel/ICI. This had now ceased. In AkzoNobel's view, this allowed Metlac to benefit from prices that only a large global player could obtain. AkzoNobel drew our attention to the scale of purchases it made from these large suppliers (over €[X] from the ten key suppliers common to Metlac and AkzoNobel).
19. AkzoNobel told us that, based on its recent experience of acquisitions in the coatings sector, it anticipated that the transaction would result in savings of at least [X] per cent on the purchase price of raw materials. It provided us with its analysis of its recent acquisitions of Lindgens Metal Decorating Coatings and of Schramm Holding AG. Following these acquisitions, AkzoNobel estimated that it had reduced the cost of purchasing raw materials for those companies by [X] per cent and [X] per cent respectively.
20. AkzoNobel stated that these savings were the result of ANPG's purchasing power, pan-European footprint and existing well-established relationships with raw materials suppliers, as well as favourable pricing clauses and/or rebates that would benefit the Metlac portfolio.

21. AkzoNobel claimed that it expected to pass approximately [redacted] per cent of any savings through to customers (although as noted in paragraph 9 above, in AkzoNobel's acquisition model [redacted]).
22. Metlac accepted that it was possible that AkzoNobel, as a large global operation consuming high volumes, was able to negotiate competitive input prices, particularly in relation to inputs used in more than one of its business areas (eg certain pigments). However, Metlac told us that:
  - (a) It was unlikely that the acquisition of Metlac would have a material impact on the prices AkzoNobel was already able to negotiate from suppliers.
  - (b) Metlac was itself already able to benefit from low input costs in ways that AkzoNobel might not. Specifically, Metlac was able to procure supplies on a flexible basis, taking advantage of discounted offers, and switching between suppliers.
  - (c) Metlac's production facilities were modern and highly efficient. This allowed Metlac to purchase certain inputs in bulk quantities, whereas other manufacturers—including AkzoNobel—could not. [redacted]
  - (d) Certain input materials were tailor-made by suppliers based on the specific requirements formulated by coating producers. These inputs might be more sophisticated than traditional ones and were used to ensure higher properties of certain types of specialty coatings, which were not produced in large quantities.
23. This appears to be the one area of potential synergies for which AkzoNobel does not have Metlac information which would allow it to estimate cost savings accurately. We therefore asked for information on the typical and recent costs of the ten raw materials on which the main parties spent the most in 2011 used at Bosco Marengo and Vilafranca. The result of a comparison of these was not conclusive as most of the products are not generic. The only product for which we could make a direct comparison (ie the same product from the same supplier)<sup>1</sup> indicated that Metlac paid about [redacted] per cent less. We also compared average prices for the same products (€/kg a year), sold from different suppliers to AkzoNobel and Metlac, and for the two examples which we could compare Metlac's were cheaper.
24. AkzoNobel acknowledged that Metlac may have been able to keep the cost of some of its raw materials similar to the level it enjoyed when 'benefitting from the AkzoNobel umbrella', but that these opportunities were not always available. However, we have no evidence that AkzoNobel achieves lower costs for raw materials and we have seen some indications that Metlac acquires some of these materials more cheaply. AkzoNobel also commented that 'as Metlac buys on tender it may provide to the CC examples of individual low tender prices which are not reflective of the average prices it pays for raw materials. By constantly switching suppliers, there may also be variations or inconsistencies in the quality of raw materials used by Metlac'.
25. Our finding that Metlac may be buying some of its raw materials more cheaply than AkzoNobel is consistent with other evidence we received from AkzoNobel: for example, AkzoNobel suggesting that Metlac may be buying raw materials in bulk to achieve low prices, and also its submission at an early stage of the inquiry that [redacted].

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<sup>1</sup> AkzoNobel had concerns over the reliability of this comparison. The example we note was of an identical product (with the same product code) from the same supplier, for a very similar quantity, dispatched from the same site a few weeks apart.

26. The evidence we have seen on the costs of raw materials is not conclusive as we have not compared all of the raw materials purchased by Metlac and AkzoNobel. However, there is some evidence that Metlac may in fact be paying less for some of its raw material purchases than AkzoNobel.
27. AkzoNobel queried whether this sample comparison was reliable and noted that: 'The conclusion from the CC's analysis of selected raw material costs—that Metlac effectively possess equivalent or better purchasing power on the market than AkzoNobel is inherently implausible.' It submitted that a significantly higher number of materials should have been compared over a longer period of time.
28. We note that we do not compare the strength of the buyer power of AkzoNobel and Metlac. However, we have seen no evidence indicating that AkzoNobel's purchasing power would lead to significant cost savings even if Metlac were to cease to operate its bulk purchasing strategy. In addition, as we have described in paragraphs 11.67 and 11.68, we have seen no evidence that any savings (should they materialize) would in practice be passed on to customers. We therefore do not consider that this would constitute an RCB.

### ***Savings from use of in-house resin***

29. As part of its submissions on its lower costs of raw materials, AkzoNobel told us that it also expected significant savings to arise through bringing resin manufacturing in-house through the elimination of some double marginalization. In addition, AkzoNobel believed that doing so would lead to improvements in the quality of the resins produced by ANPG which would lead to additional customer benefits by introducing these high-grade resins into Metlac's existing product portfolio.
30. These cost savings are separate from the raw material costs discussed in the previous section (28 October submission 'these additional efficiencies are in addition to the [redacted] per cent raw material savings'), and so do not appear in the acquisition model that AkzoNobel used to evaluate the exercise of the option. AkzoNobel estimated that it could save approximately [redacted] per cent on the production of epoxy resins.
31. As with the raw material cost savings, AkzoNobel would expect [redacted] per cent of this to be passed on to customers.
32. AkzoNobel told us that it had a choice of whether or not to produce resin in-house or source from third parties, and since it chose to produce some resin in-house for economic or logistical reasons, this was evidence that there were financial or logistical reasons for producing resin in-house rather than sourcing them from third parties.
33. Metlac told us that while it recognized that the use of in-house resin could result in cost savings in relation to some products, this was not always the case. As far as it was aware, all manufacturers of metal packaging coatings bought in resins where it was economic to do so. More specifically, [redacted]. In addition, Metlac told us that AkzoNobel's resin reactors would not be adaptable to new BPA-NI technologies.
34. AkzoNobel's submission following the response hearing did not provide any supporting evidence. If AkzoNobel had expected to derive these savings from the transaction, we would have expected them to have been included in its model. In addition, we would expect AkzoNobel to be able to provide convincing evidence on this, as it will have evidence on the costs of buying resin and of making the equivalent resin in-house. We must therefore weigh an assertion from AkzoNobel against a counter-assertion from Metlac.

35. AkzoNobel also submitted that manufacturing resins in-house allowed coatings manufacturers to enhance the quality and performance of coatings and that this would benefit Metlac customers. However, we received evidence from several customers (see, for example, paragraphs 8.145 and 8.146 and Appendix G) who praised the quality of Metlac products and we received no evidence that the quality of Metlac's products would improve as a result of synergies from AkzoNobel's in-house resin production.
36. Our guidance notes that we require convincing evidence to form a view on RCBs, and we do not have that. There is therefore no evidence that these potential savings constitute an RCB.

### ***Improvements in Metlac's working capital position***

37. AkzoNobel told us that because Metlac was required to buy its raw materials in bulk (to achieve comparable prices to AkzoNobel), Metlac's working capital position and inventory management was poor. It told us that large amounts of raw materials were ordered and stored at Bosco Marengo, often for significant periods of time.
38. AkzoNobel quoted from the Bosco Marengo site visit report dated August 2010 which AkzoNobel had commissioned prior to exercising its option. This report indicated that storage was a problem at the site and Metlac struggled to store all raw materials appropriately. AkzoNobel noted that Metlac's views presented through lawyers to the CC with respect to the automated warehouse during the course of the inquiry were at odds with those given to AkzoNobel in this site visit report, namely that the warehouse software needed to be replaced, that the warehouse was full with stock and a lot of maintenance was needed now to keep it running.
39. We have also seen this report. However, we have weighed this evidence against the other evidence we received and the questioning of both Metlac and AkzoNobel.
40. Metlac described its ability to buy in bulk as a reflection of its production facilities being modern and highly efficient and that this should be considered in light of the low price it paid for key raw materials.
41. AkzoNobel disagreed with this presentation: it believed that the need for an automated warehouse was because Metlac's purchasing of raw materials was inefficient—Metlac purchased large amounts of stock because it had to, in order to obtain prices it otherwise could not achieve.
42. AkzoNobel told us that Metlac's current OWC was estimated at [redacted] per cent, which was significantly higher than the current ANPG business, which had an OWC of just [redacted] per cent ([redacted] per cent in the EMEA). AkzoNobel said that it expected to be able to achieve an [redacted] per cent reduction in Metlac's OWC within three years and that savings associated with this reduction would benefit customers, through improved pricing or trade terms.
43. In addition, AkzoNobel said that this saving should be seen as a variable cost saving, as it was in effect a reduced financing cost (ie the cost of having capital tied up in OWC should be considered as equivalent to a decrease in the price of raw materials).
44. In the acquisition model, this is by far the largest source of synergy, representing over [redacted] per cent of the cash-flow synergies in the first ten years (see paragraph 7). We agree that Metlac has high stock levels and that these are higher than AkzoNobel typically holds. However, this appears to be a strategic decision by Metlac (perhaps

to retain flexibility, perhaps to reduce the cost of inputs) and it is not clear that reducing stock levels is something that could only be achieved through this merger (ie is a merger-specific cost saving).

45. However, we do not agree with AkzoNobel's view that this should be seen as a variable cost saving. It appears to be a one-off release of capital in the first few years and is likely to be seen as a reduction in the purchase price. After this capital has been released (ie returned to AkzoNobel), the business would then continue with unchanged (or possibly higher) variable costs.

46. In response to this, AkzoNobel submitted that:

this reasoning would only be true if Metlac's inventory was truly fixed and based on a one-off decision that would not (or only very rarely) be reversed. However, Mr Bocchio can decide to lower Metlac's inventory at any time it purchases raw materials by varying the purchasing batch size. For every order it makes, Metlac faces the following trade-off: (i) it can either pay higher prices for smaller purchasing batches, but have lower interest payments as the capital bound in inventory is reduced; or (ii) it can pay lower prices by purchasing larger batches, but have higher interest payments as the capital bound in inventory is increased.

47. We accept that there is indeed this trade-off. However, we do not believe that the synergy proposed by AkzoNobel is necessarily merger specific: the level of OWC held by Metlac is a commercial decision that it could reverse on its own.

48. In addition, even if reducing its OWC led to an increase in Metlac's cost of purchasing raw materials such that the overall effect were to increase the costs faced by Metlac, we have no evidence that any savings would in practice be passed on to customers. We therefore do not consider that this would constitute an RCB.

### ***Enhanced manufacturing efficiencies***

49. AkzoNobel identified potential manufacturing cost synergies. These were not included in the acquisition model as AkzoNobel told us that it needed to ensure that the relevant planning consents were in place. However, AkzoNobel has developed its analysis of these production savings, assuming that planning consent for additional capacity could easily be obtained.

50. AkzoNobel told us that it operated a 'focused factory' model for its EEA production network, specializing in producing specific products at its sites, and that doing so led to operating efficiencies and also enhanced the quality of its products.

51. [REDACTED]

52. AkzoNobel said that it anticipated a reduction in SAR costs of at least [REDACTED] per cent for [REDACTED], in addition to SAR cost savings of some [REDACTED] per cent in [REDACTED]. As some of these represented variable cost reductions, AkzoNobel told us that ANPG had the incentive to pass part of these savings through to customers.

53. Metlac told us that it was sceptical that its plant could be made more efficient as a result of a rationalization by the enlarged AkzoNobel business, given the plant's current construction and the investment Metlac had made in state-of-the-art equipment. In any event, Metlac told us that reconfiguring Metlac's plant in the way suggested would itself require capital investment (which would need to be recouped) and that doing so would also require new customer approvals—since customers

inspected, audited and approved the facilities manufacturing the products they purchased. This was confirmed in our hearings with [X], which said that Metlac was 'a very efficient company', and [X] which told us that Metlac 'always had a manufacturing cost advantage because they are very, very efficient'.

54. The SAR savings are set out in the acquisition model but represent less than €[X] a year (pre-tax) and, as these are not broken down in the model, it is not clear whether any of these are likely to be variable costs which could be passed on to customers.
55. We have no supporting evidence for AkzoNobel's other submissions on the cost savings and so we cannot therefore determine whether these are likely to occur (and if they do, what the offsetting costs of implementing them are), nor whether the costs are merger specific or whether AkzoNobel could achieve these without the acquisition of Metlac, for example [X]. In addition, there is some doubt as to whether any savings (should they materialize) would in practice be passed on to customers. We therefore do not consider that this would constitute an RCB.
56. These possible savings therefore do not constitute RCBs.

### ***Ability to deliver Metlac products globally, with high levels of technical support***

57. AkzoNobel told us that currently all of Metlac's production, sales and technical support for metal packaging coatings was based at the Bosco Marengo facility and that technical support was a critical aspect of the offering for metal packaging coatings.
58. AkzoNobel also told us that Metlac's limited geographic reach gave rise to a serious problem in the extent to which Metlac was used as a credible supplier of metal packaging coatings to customers significantly removed from its base of operations in Italy. AkzoNobel referred to the evidence of Caldicot to us that it would not use Metlac as it did not have any presence in the UK and globally, and would be unable to provide the necessary levels of technical support.
59. AkzoNobel said that as a direct result of the merger, products in the Metlac range would be able to be supplied by ANPG to customers across Europe (including in the UK), making use of ANPG's extensive global network and technical support infrastructure. Moreover, AkzoNobel told us that Metlac products would become available for customers such as Caldicot and other smaller FCG manufacturers, as they were supplemented by ANPG's highly-regarded support teams.
60. AkzoNobel said that the transaction therefore brought a greater choice of goods for customers in the UK which to date had not considered Metlac as a credible supplier, and that such a development was unlikely in the absence of the merger. In particular, AkzoNobel believed that Metlac was particularly unlikely to establish sales offices or technical support locations in the UK, given the limited sales that it made to customers based there. By contrast, ANPG had an extensive UK-based sales and technical support infrastructure, which could, within a very short time frame, be put to use in ensuring distribution of Metlac's products.
61. We accept that AkzoNobel has a wider network than Metlac in terms of sales technical support but it is clear that Metlac does sell its products to both large and small customers outside Italy including into the UK and that these sales appear to be growing. For example, Metlac has provided us with a list of small customers that it currently supplies outside Italy and AkzoNobel documents describe Metlac as well placed to support the Italian, Middle East and African markets and refer to its strong

position in Turkey, India, Pakistan and the Middle East as well as Italy as part of the rationale for the transaction. It is not clear that only the acquisition by AkzoNobel of Metlac would allow this growth to continue.

62. There may be some short-term commercial benefit from giving Metlac access to a wider network of sales and technical support but we were not in a position to quantify this benefit (and AkzoNobel has not attempted to quantify it). In addition, we have seen no evidence that such a benefit would be passed on to customers. It therefore does not constitute an RCB.

### ***Improved product platform through enhanced R&D***

63. [X]

64. AkzoNobel said that the combination of Metlac and ANPG would deliver merger-specific research and development benefits. In particular, AkzoNobel noted that as Metlac and ANPG coatings shared a common heritage (the ICI technology), a merger of the two would allow further development of the parties' products to take place at a much faster rate than would be the case with any other combination, or (given its limited resources) by Metlac remaining as a separate company.

65. Metlac challenged the extent to which Metlac products were based on ICI legacy products and told us that Metlac licensed certain products to ICI and that the products that it did license from ICI had also been significantly developed and improved by Metlac's research and development team.

66. AkzoNobel drew our attention to its recent acquisitions of the Swedish inks and the packaging coatings supplier Lindgens, and its comments in the response hearing in which it described its inclusive approach to such acquisitions. AkzoNobel told us that its current integration process of the Lindgens product range into the ANPG group involved:

(a) the retention of Lindgens products that were good quality and in demand by customers;

(b) improvements to Lindgens products; and

(c) using the combined knowledge, technology and resources of Lindgens and ANPG to develop entirely new product lines and launch them on an EEA-wide basis.

67. AkzoNobel said that the integration of Metlac would lead to the following benefits to customers:

(a) providing Metlac customers with access to a sizeable analytical laboratory which would ensure quality, consistency and performance features of the coatings;

(b) regulatory support would give Metlac's customers access to ANPG's well-regarded technical support in regulatory compliance;

(c) critical mass in research, development and innovation to increase efficiency and flexibility; and

(d) combined product platform.

68. We consider each of these in the following paragraphs. We believe that these potential benefits are closely linked and are all associated with the quality of research and development and the product offering currently provided by Metlac and the likelihood of it being improved (and of that improvement being passed on to customers) if AkzoNobel were to acquire Metlac.
69. Metlac told us that its R&D function was efficient, and although employing just [X] people (albeit representing a relatively high proportion of its overall workforce), it had enabled Metlac to match and even exceed the product development efforts of its competitors at a lower cost. In Metlac's view, there was very limited scope to improve the efficiency of its R&D and/or commercial operations. Rather, it believed that there was every prospect that AkzoNobel would increase the number of employees and managers on site, and that further 'head office' costs would result from integrating Metlac's plant into the wider AkzoNobel network. Metlac was also concerned that the 'unique innovative culture' of Metlac's business would be hampered by a combination with AkzoNobel.
70. We have also received evidence from customers that Metlac's products are high quality and it is stronger in some regards than AkzoNobel. For example, as we noted in our provisional findings, one customer ([X]) told us that: 'I would say that in 2010 we gave an award during one supplier meeting to Metlac for the best innovation and dynamic, so we currently do rate Metlac's laboratory output.' Crown expressed 'a fantastic amount of respect for [Metlac's] technological capacity, and their ability to develop new products'. In turn, Rexam saw Metlac 'as being very innovative in this marketplace' and mentioned that post-merger 'this price driver, this innovation driver, [X] is no longer going to be there'.
71. Metlac's strength in innovation and research and development are also mentioned in some internal AkzoNobel documents. [X]
72. We consider each of the separate elements of AkzoNobel's proposed benefits in turn.

#### *Access to AkzoNobel's laboratory*

73. During the course of our inquiry, we saw evidence that Metlac already has a high quality research and development facility. We saw no evidence that the quality, performance features or consistency of the products offered by Metlac would be improved by having access to AkzoNobel's laboratory.

#### *Regulatory support*

74. We have seen no evidence that Metlac has shortcomings as regards regulatory compliance or that AkzoNobel would be able to improve this.

#### *Critical mass in research and development*

75. Although it is conceivable that combining the two businesses might create some savings in research and development or in the product offering, we have no supporting evidence for AkzoNobel's submission. Conversely, as we note above, we have seen evidence that Metlac already has a high-quality research and development facility and a number of customers expressed confidence in Metlac's research and development, particularly in BPA-NI product development (see Appendix G).

### *Improvements to the product platform*

76. It is clearly true that following the acquisition current AkzoNobel customers would have access to Metlac products and current Metlac customers would have access to AkzoNobel products. However, it is not clear that these customers could not access these products absent the merger (for example, a Metlac customer could source AkzoNobel products from AkzoNobel).
77. AkzoNobel said that there were UK customers (it specifically mentioned Caldicot due to Caldicot's comments in its hearing with the CC) who would not consider using Metlac currently, but would have access to Metlac products following the acquisition. We do not know whether there are customers in this position who would like to purchase Metlac products: we have no reason to believe that if customers were interested in Metlac products they could not acquire them from Metlac. In addition, given Metlac's growth in the UK, we believe that this will become increasingly likely in the future.

### **Our conclusion on RCBs**

78. In conclusion, we have seen no evidence that the merger would lead to improved product platforms, better-quality research and development or products for customers or more efficient/flexible product provision. In fact, we believe that there is a risk that these would be harmed by the acquisition.
79. We therefore do not believe that any of these would constitute an RCB.

## Glossary

<b>Act</b>	Enterprise Act 2002.
<b>AkzoNobel</b>	Akzo Nobel N.V.
<b>ANCI</b>	Akzo Nobel Coatings International B.V.
<b>ANPG</b>	Akzo Nobel Packaging Coatings business unit.
<b>B2E</b>	Exterior coatings for beverage <b>two-piece cans</b> .
<b>B2I</b>	Interior coatings for beverage <b>two-piece cans</b> .
<b>B&amp;B</b>	Metal packaging coatings for beer and beverage cans. Beer and beverage cans are largely <b>two-piece cans</b> with pull tab openings, containing a range of drinks including beer, cider, carbonated drinks, energy drinks, fruit juices and water. Three-piece beverage cans are still used, mostly in parts of Asia.
<b>Basecoat</b>	Basecoats are the first layer applied to a metal sheet/can, followed by inks and finally varnish, which may be <b>overvarnish</b> and/or rim varnish. Steel cans all require a basecoat followed by a layer of ink but do not require <b>overvarnish</b> . In the case of aluminium cans, a basecoat is not always used but <b>overvarnish</b> is required. Basecoats are used to provide a clear or white surface on to which to apply the inks, which are used to decorate the can according to the brand owner's design.
<b>BE</b>	Metal packaging coatings for beverage can ends.
<b>BKartA</b>	Bundeskartellamt.
<b>Bocchio family</b>	Mr Pier Ugo Bocchio and his two sons, Davide and Diego.
<b>BPA</b>	Bisphenol-A. BPA is a chemical agent which is present in epoxy resin used in many metallized coatings. BPA is produced by condensing two parts phenol with one part acetone. BPA is a weak hormone (oestrogen) and environmental endocrine disruptor.
<b>BPA free</b>	A substance in which no <b>BPA</b> is detectable.
<b>BPA-NI</b>	Bisphenol-A non-intent. A term used to describe coatings where no BPA has intentionally been included in the ingredients used to make the coating. BPA-NI rather than <b>BPA free</b> is the term generally used in the industry as other substances come into contact with the coating which could contaminate it, making it impossible for coatings manufacturers to guarantee that the coating is <b>BPA free</b> .
<b>C&amp;C</b>	Metal packaging coatings for caps and closures. Caps and closures are lids for glass jars, which include crown caps for bottles, twist-off caps and roll-on caps and roll-on pilfer-proof bottle caps.
<b>CC</b>	Competition Commission.

<b>DRD</b>	Draw and redraw. A method of shaping cans whereby the can is drawn through a die to form a small cup, then redrawn through additional dies to produce the desired dimensions.
<b>DWI</b>	Drawn and wall ironing. A method of shaping cans whereby the can is redrawn through smaller diameter rings in order to thin the walls while increasing the height.
<b>EBITDA</b>	Earnings before interest, taxation, depreciation and amortization.
<b>Epoxy resin</b>	A family of thermosetting resins known for their excellent mechanical and electrical properties, dimensional stability, resistance to high temperatures and numerous chemicals, and for their strong adhesion to glass, metal, fibres, and numerous other materials. The most common epoxy resins are made by reacting epichlorohydrin with a polyhydroxy compound, such as <b>BPA</b> , in the presence of a catalyst. Usually the major makers of resins and other chemicals for epoxy systems do not supply the finished compounds. The compounding is done by specialized companies and by some large epoxy users. The epoxy resins per se are not finished products, but are reactive chemicals to be combined with other chemicals to yield systems capable of conversion to a pre-determined thermoset structure. Source: Van Nostrand's Scientific Encyclopedia, 8 <sup>th</sup> Edition, Douglas Considine, 1995.
<b>FCG</b>	Metal packaging coatings for <b>Food</b> , <b>C&amp;C</b> and <b>GL</b> .
<b>FE</b>	Metal packaging coatings for food can ends.
<b>Food</b>	Metal packaging coatings for food cans. Food cans are largely three-piece steel cans for foods such as soups, vegetables and pet food. <b>Two-piece cans</b> are predominantly used for fish and increasingly for pet food.
<b>FQA</b>	<b>Metlac Holding</b> 2007 Formation and <b>Quotaholders</b> Agreement.
<b>GL</b>	Metal packaging coatings for general line. General line is cans and tubes for a broad range of products such as aerosols, cosmetics, chemicals, paints and dry-food products (eg biscuits).
<b>ICI</b>	Imperial Chemical Industries plc.
<b>Metlac</b>	Metlac S.p.A.
<b>Metlac Holding</b>	Metlac Holding S.r.l.
<b>Monobloc</b>	A process for forming two-piece aluminium containers such as aerosol and bottle cans that starts with an aluminium ingot and forms the metal package through stamping and drawing. The coating is applied after drawing the body, but before shaping the bottle neck and the flange on the top.
<b>NPV</b>	Net present value.
<b>OFT</b>	Office of Fair Trading.

<b>Overvarnish</b>	Outer layer of external can coating, usually applied over base coating and ink. Steel cans all require a <b>basecoat</b> followed by a layer of ink but do not require an overvarnish. In the case of aluminium cans, a <b>basecoat</b> is not always used but an overvarnish is required.
<b>OWC</b>	Operational working capital.
<b>Pack test</b>	First step in the can coating qualification process. The new coating is applied to a small number of cans, which are then filled with their intended contents and stored for a period of time before being opened and examined for migration of the coating into the food and for corrosion of the can. The length of time for which the cans are stored depends on the shelf-life required of the product by the brand owner. Beverage cans generally only need a shelf-life of six months or less, whilst cans of corrosive food, eg tuna or sauerkraut, may need a shelf-life of several years. External coatings and those that will not come into contact with food may require shorter and/or less rigorous pack testing.
<b>Quotaholder</b>	The <b>FQA</b> refers to 'quotaholders' which is the title given to the owners of an S.r.l. company but does not differ in any material respect from 'shareholders'.
<b>R&amp;D</b>	Research and development. AkzoNobel also refers to research, development and innovation.
<b>RCBs</b>	Relevant customer benefits.
<b>Rim varnish</b>	Rim varnish prevents the cans from rubbing together and scratching the design.
<b>Scaling up</b>	Second step in the metal packaging coatings qualification process. It involves the metal packaging coatings manufacturer testing that the coating performs as expected when used in all its plants. This is a particular issue for internal coatings that are applied using a spray technology.
<b>SAR</b>	Sales, Administration and Research.
<b>SHA</b>	<b>Metlac</b> 2007 Shareholders Agreement.
<b>SKU</b>	Stock-keeping unit.
<b>SLC</b>	Substantial lessening of competition.
<b>Substrate</b>	The base material used to make metal packaging.
<b>Three-piece can</b>	The majority of food cans are manufactured as three separate pieces, a cylinder, a bottom and a top. The body of the can is welded together, while the ends are seamed into the cans using a sealant compound which ensures the integrity of the can. Three-piece cans are made out of steel as aluminium is not suitable for the welding process used to form the can.

**Toll manufacturing**

Toll manufacturing is an arrangement whereby a company with specialized equipment processes raw materials or semi-finished goods for another company ([www.businessdictionary.com](http://www.businessdictionary.com)).

**Two-piece can**

Two-piece cans are manufactured from aluminium or tinplated steel using a **DWI** or **DRD** process. These cans are manufactured as a single cup with a separate lid that is used to seal the can once it has been filled.