EUROPEAN COMMISSION

Brussels, 26.06.2020
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**PUBLIC VERSION**

**To the notifying party**

**Subject:** **Case M.9759 – Nexi/Intesa Sanpaolo (Merchant Acquiring business) Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]**

Dear Sir or Madam,

(1) On 19.05.2020, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Nexi S.p.A. ("Nexi", Italy) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of Intesa Sanpaolo S.p.A.'s ("ISP", Italy) merchant acquiring business ("ISP Acquiring") (the "Transaction").[3] Nexi is referred to as the "Notifying Party" and, together with ISP Acquiring, they are referred to as the "Parties".

## 1. THE PARTIES

(2) **Nexi** is the holding company of a group primarily active in Italy in payment services. Nexi is active in the card payment systems sector in Italy and provides a full range of services for merchants, such as merchant acquiring services, processing services and supplies of point of sale ("POS") terminals and related services via its subsidiary Nexi Payment S.p.A. ("Nexi Payments"). Other Nexi subsidiaries also provide services such as ATM management and digital corporate banking services. Nexi is controlled by Mercury UK Holdco Limited ("Mercury Holdco"), which holds 52.45% of its share capital. Mercury UK Holdco is in turn indirectly jointly controlled by funds managed

1 OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

2 OJ L 1, 3.1.1994, p. 3 (the "EEA Agreement").

3 Publication in the Official Journal of the European Union No C180, *29.05.2020,* p. 17.

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by Advent International Corporation ("Advent International") and funds managed by Bain Capital Investors, L.L.C. ("Bain Capital"), both private equity investment firms.

(3) ISP is an Italian banking group that is listed on the Italian stock exchange and is not controlled by any person or persons within the meaning of the EU Merger Regulation. **ISP Acquiring** is the in-house merchant acquiring business of ISP. ISP Acquiring provides merchant acquiring services primarily in Italy and exclusively to ISP customers. More specifically, ISP Acquiring supplies merchant acquiring services internally to ISP's banking customers. Such services are often bundled with other banking and financial services provided to the bank's customers, which are the merchants at the retail level of the value chain. ISP Acquiring provides merchants with POS and web-enabled merchant acquiring services, as well as various types of POS terminal solutions.

## 2. THE OPERATION

(4) On 19 December 2019, Nexi and ISP entered into a Contribution Agreement pursuant to which Nexi would acquire ISP Acquiring and designate either Nexi Payments or Mercury Holdco as the purchaser of the whole of ISP Acquiring. As a result of such designation, occurred on 17 February 2020, and following the completion of the Transaction, Nexi, through Nexi Payments, will acquire sole control over ISP Acquiring. The Transaction is therefore a concentration within the meaning of Article 3(1)(b) of the EU Merger Regulation.

(5) Following the closing of the Transaction, ISP separately agreed with Mercury Holdco to reinvest part of the proceeds that it will receive from the sale of ISP Acquiring in the purchasing a 9.9% non-controlling shareholding into Nexi in an ancillary transaction.[4] The latter is merely a portfolio investment and will not confer any governance rights to ISP.

(6) Pursuant to the Contribution Agreement and following the completion of the Transaction, the Parties will enter into a merchant digital acceptance business

4 This minority shareholding will not create risks of coordinated behaviour in any of the markets relevant to the present Decision since, following the cession of its merchant acquiring division (ISP Acquiring) to Nexi, ISP will no longer be active in any of these markets (wholesale or retail merchant acquiring, the provision of POS terminals or acquiring processing services). In particular, this minority shareholding has no impact on the assessment of potential coordinated effects carried out by the Commission in Section 4.5.3 of this Decision. In addition, the Notifying Party confirmed in its response to the Commission's RFI 11, dated 24 June 2020, that this shareholding will not provide ISP with information rights different from the ones guaranteed to any other Nexi's minority shareholder. The Notifying Party explains that, being a listed company, under Italian law, Nexi is subject to disclosure obligations *vis-à-vis* its shareholders and the market on a non-discriminatory basis. As such, it appears that, through the acquisition of this minority shareholding, ISP will not gain access to any privileged information rights into Nexi's activities. To this respect, the Commission also notes that in the course of a call with a competitor of the Parties on 17 March 2020, the competitor of the Parties stated that: "*With regard to the remuneration part of the Transaction, according to which ISP could acquire 10% of shares in Nexi, [Competitor] considers that the stake obtained by ISP does not allows direct intervention of ISP in the governance of Nexi and that therefore ISP will not be able to exercise significant influence on the Nexi's activities*."

agreement (the "MDAB Agreement") and into an ancillary service agreement ("ASA").[5]

(7) According to the MDAB Agreement, ISP will promote Nexi's merchant acquiring products and services to ISP's **[**BUSINESS SECRET – STRATEGIC DECISIONS**]** merchants. The overall duration of the relationship between ISP and Nexi is [BUSINESS SECRET REGARDING DURATION OF THE RELATIONSHIP] years, [BUSINESS SECRET – STRATEGIC DECISIONS]. The provisions of the MDAB Agreement reflect the fact that the ISP Acquiring business, being purchased by Nexi, obtains all its merchant customers from referrals by ISP's banking business, which has a commercial direct relationship with these merchants and provides them with a range of banking and other financial services. While Nexi will take over merchant acquiring services, these merchants will preserve their current commercial relationship with ISP for the provision of all the other banking services.

(8) Pursuant to the ASA, ISP will provide Nexi with certain services in order to allow the latter to manage the merchant acquiring business transferred to it.

## 3. EU DIMENSION

(9) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (2018: Nexi[6]: EUR **[**BUSINESS SECRET – FINANCIAL INFORMATION**]**, ISP Acquiring EUR **[**BUSINESS SECRET – FINANCIAL INFORMATION**]**).[7] Each of them has an EU-wide turnover in excess of EUR 250 million (2018: Nexi: EUR **[**BUSINESS SECRET – FINANCIAL INFORMATION**]**, ISP Acquiring: EUR **[**BUSINESS SECRET – FINANCIAL INFORMATION**]**), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

## 4. COMPETITIVE ASSESSMENT

### 4.1. Introduction and the Parties' activities

(10) The Transaction combines ISP's in-house merchant acquiring services with Nexi, a payment services provider active in Italy. In 2016, Nexi previously acquired ISP's acquiring processing services, and the present Transaction is additive to that deal.[8] The Transaction results in a horizontal overlap in merchant acquiring services. In addition, the Transaction will result in the creation of vertical links with respect to some related

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5 In relation to the MDAB and the ASA, the Commission notes that pursuant to Article 6(1)b, second subparagraph of the Merger Regulation, a decision declaring a concentration compatible with the internal market is deemed to cover restrictions directly and necessary to the implementation of the concentration, so called "ancillary restraints". As a matter of principle, it is incumbent on the notifying parties to determine whether and to what extent agreements accompanying a concentration may qualify as ancillary restraints within the meaning of that provision. Restraints that are not covered by a decision pursuant to Article 6(1)b of the Merger Regulation may fall within the scope of application of antitrust rules. In this respect, the Commission Notice on restrictions directly related and necessary to concentrations, OJ C 56, 5.03.2005, p.24, provides further guidance.

6 Nexi's turnover includes the turnover of its parent companies, Advent International and Bain Capital.

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

8 See Case M.9073 – *Advent International / Bain Capital / Setefi Services / Intesa Sanpaolo Card.*

activities within card payment systems. This section will therefore provide a brief description of card payment systems and the affected activities.

(11) Card payment systems available to the public allow a cardholder to use a payment card, such as a debit or a credit card, to pay for products and services purchased at stores (physical or on-line) without using cash. Through these systems, the merchants are connected with financial institutions, namely the bank issuing the card (issuer bank) and the bank endorsing the cash-less payment to the benefit of the merchant (acquirer bank), to execute the entire transaction from the moment of payment at the point of sale ("POS") until the merchant's account is credited.[9]

(12) Figure 1 provides an overview of the actors and main steps in a typical card payment transaction.

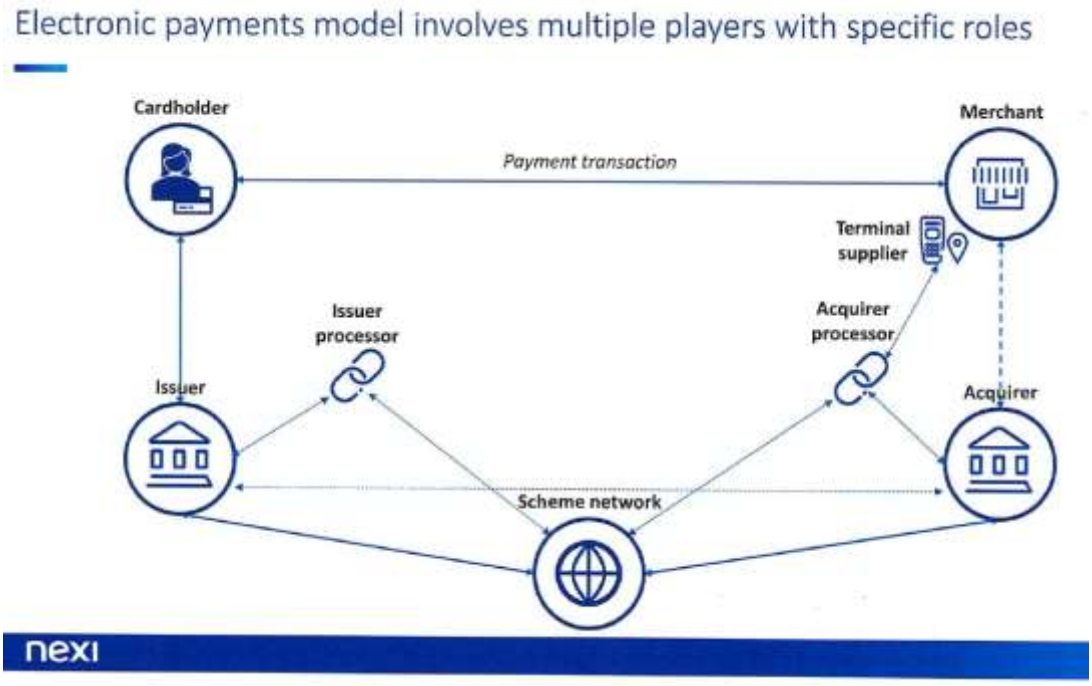



**Figure 1: Overview of electronic payment transaction**
*Source: Notifying Party*

(13) A card payment transaction begins when the cardholder uses a payment card to pay for the purchase of goods or services from a merchant. The merchant will seek authorisation for the transaction from its merchant acquirer. The authorisation request is transmitted from the merchant's POS terminal (card reader) in which the customer entered their card. Subsequently, the authorisation request is sent to the acquirer processor, which will identify the scheme network to which the payment card belongs and transmits the request to the issuer processor. The issuer processor will perform checks, such as whether the card is valid and whether the card holder's account contains sufficient funds. The result of the authorization request is sent back to the POS terminal; if the transaction is authorised, the merchant can be sure of payment.

(14) The setup described above can be subject to some variations across countries. A variety of players are active in the card payment process, such as banks, payment

9 See also Case M.7873 – *Worldline/Equens/Paysquare* for another presentation of card payment systems.

service providers ("PSPs"), and scheme networks. In most cases, an actor is involved in multiple stages of the process. In the case at hand, the Parties' activities only overlap horizontally in merchant acquiring, as this is the only activity in the card payment process that ISP Merchant acquiring carries out. Merchant acquiring can be defined as follows:

(a) **Merchant acquiring:** a set of services that enable merchants to accept payment cards at POS terminals. Merchant acquirers sign contracts with merchants (who are thus the customers of merchant acquirers), maintain the merchant-customer relationship and ensure that merchants receive the funds following the card payment transactions. ISP Acquiring provides merchant acquiring services directly to merchants who are ISP customers.[10] Nexi also provides merchant acquiring services directly to merchants. Internally, Nexi refers to this distribution channel as the *Direct* model. Moreover, under its so-called *Referral* model, Nexi provides merchant acquiring services directly to merchants that have been recruited by banks in exchange for a percentage of the merchant fee set by Nexi.[11] Finally, under the so-called *Licensing* model, Nexi provides merchant acquiring services to banks, which will in turn provide these to merchants, possibly in conjunction with other financial services. In this model, Nexi negotiates and has a contractual relationship with banks. The banks in turn have a commercial relationship with merchants and set the commercial terms, including the price.[12] In the rest of this decision, this last type of activities will be referred to as "wholesale merchant acquiring", and the *Direct* and *Referral* models as "retail merchant acquiring". The present decision will discuss whether wholesale merchant acquiring and retail merchant acquiring jointly constitute a single product market or should be considered as separate product markets.

(15) In addition, other activities within the payment process are affected non-horizontally:

(a) **Acquiring processing services:** the merchant-oriented side of technically processing a transaction. This includes the network routing of payments towards the issuer processor and POS authorisation. Merchant acquirers can either provide acquiring processing in-house, or outsource it to third party processors. Today, ISP Acquiring sources acquiring processing services from Nexi on an exclusive basis. Conversely, Nexi's acquiring processing services are provided almost exclusively to ISP Merchant Acquiring, for the majority of its other acquiring processing needs, Nexi outsources these activities to third parties.[13]

(b) **POS terminal and related services:** the provision of POS terminals (card readers) to merchants, either on a rental or purchase basis, as well as related services such as maintenance. Today, ISP Merchant Acquiring sources its POS terminals and related services exclusively from Nexi.[14]

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10 Form CO, paragraph 6.

11 Form CO, paragraph 80.

12 Form CO, paragraph 96.

13 Form CO, paragraph 264.

14 Form CO, paragraph 249.

(16) Finally, Nexi is also involved in other activities related to card payment systems which are not affected by the Transaction, such as issuing processing services, card issuing ATM management and digital corporate banking services.[15]

## 4.2. Market definitions

(17) While the Commission has previously defined a separate product market for merchant acquiring services (see Section 4.2.2.1), so far, it has not assessed the existence of separate markets for retail merchant acquiring (to merchants) and wholesale merchant acquiring (to banks). The Notifying Party submits that retail merchant acquiring and wholesale merchant acquiring constitute two distinct product markets.[16] The Notifying Party's reasoning and the Commission's assessment in that respect will be further developed in Section 4.2.1, which will focus on wholesale merchant acquiring.

(18) The main focus of the case is merchant acquiring, which comprises a set of services that allow merchants to accept card-based payments. A description of merchant acquiring and its role in the broader card payment system is provided in Section 4.1.

### *4.2.1. Wholesale merchant acquiring*

(19) Nexi considers itself to be active in the provision of merchant acquiring services at wholesale level to banks. It explains that prior to 2015, Italian banks were either vertically integrated in the provision of merchant acquiring services, or they sourced merchant acquiring services only from ICBPI, a body that included as shareholders several Italian cooperative banks (generally regional banks). ICBPI was at that time the only organisation providing such services in Italy. In 2015, ICBPI was acquired by Advent International and Bain Capital,[17] and subsequently rebranded to Nexi in 2017. Under the terms of the deal, Nexi obtained **[**BUSINESS SECRET – SALES STRATEGY**]** contracts lasting **[**BUSINESS SECRET – SALES STRATEGY**]** years with a number of banks for the provision of merchant acquiring services. Since this date, the market for wholesale merchant acquiring in Italy emerged and grew.

(20) According to Nexi, wholesale merchant acquiring can be described as the activity by which a merchant acquirer enters into contractual relationships with partner banks to provide them with merchant acquiring services and POS terminals. The wholesale merchant acquirer negotiates and has a contractual relation with the partner banks, which in turn have a commercial relationship with merchants and set the commercial terms and economic conditions for acquiring services. In particular, the partner banks retain control over the pricing of merchant acquiring services they provide to their customers. As mentioned in paragraph (14), Nexi internally designates its wholesale activity as the *Licensing* model.

15 Form CO, paragraph 75.

16 Form CO, paragraph 79.

17 See Case M.7711, *Advent International/Bain Capital/ICBPI*, decision of 16 September 2015.

4.2.1.1.Product market definition

*Commission's precedents*

(21) The Commission has not yet considered separate markets for retail merchant acquiring (to merchants) and wholesale merchant acquiring (to banks).

*The Notifying Party's view*

(22) The Notifying Party submits that there is a distinct wholesale market for the provision of merchant acquiring services to banks (by PSPs), separate from the retail provision of merchant acquiring services to merchants.[18]

(23) To support this statement, the Notifying Party submits that retail merchant acquiring and wholesale merchant acquiring are separate levels of the value chain, where wholesale customers (banks) have full freedom to set the final price and conditions to their own retail customers (merchants) without any intervention of the provider of wholesale merchant acquiring services in the commercial relationship between the bank and the merchant.[19] The Notifying Party also explains that ISP does not and could not compete at wholesale level,[20] and that combining wholesale and retail volumes would lead to the double counting of the volumes that were sold at wholesale level to banks and then resold, at retail level, by those same banks, to their customers.[21] The Notifying Party also claims that since banks are sophisticated players, the customer base and the competitive dynamics in place at wholesale level are different from the ones at retail level.[22] Moreover, the Notifying Party submits that on a per-customer basis, wholesale transaction volumes are significantly larger than retail volumes. The average bank sources about EUR **[**BUSINESS SECRET – MARKET POSITION – KNOW-HOW**]** million per annum in merchant acquiring transaction value from Nexi, while the average merchant sources around EUR **[**BUSINESS SECRET – MARKET POSITION – KNOW-HOW**]** per annum.[23] In terms of pricing, the Notifying Party explains that prices for wholesale services are significantly lower than retail prices for comparable merchant books, indicating a price difference of around [20-30]%.[24] Finally, the Notifying Party submits that the number of wholesale and retail customers differs substantially: Nexi has **[**BUSINESS SECRET – NUMBER OF CUSTOMERS**]** wholesale customers and about **[**BUSINESS SECRET – NUMBER OF CUSTOMERS**]** times as many retail customers.[25]

18 Form CO, paragraph 100.
19 Form CO, paragraph 101.
20 Form CO, paragraph 102.
21 Form CO, paragraph 103.
22 Form CO, paragraph 104.
23 Form CO, paragraph 231.
24 Form CO, paragraph 231.
25 Form CO, paragraph 231.

*The Commission's assessment*

(24) The Commission's market investigation gave sufficient evidence to conclude that, in the Italian context, the definition of a separate product market for wholesale merchant acquiring is appropriate.

(25) The majority of merchant acquirers indicated that wholesale merchant acquiring is either a genuine separate market or an alternative channel of distribution for the wholesaler where the customer bank retains freedom in terms of pricing. When asked directly whether the distinction between wholesale and retail merchant acquiring is relevant in Italy, a large majority indicated that the distinction is relevant.[26] With regard to contract features between wholesale merchant acquirers and their customers, the large majority indicates that the contracts do not stipulate an exclusive relationship and provide for pricing freedom at retail level for the bank.[27]

(26) Finally, it is noteworthy that there are merchant acquiring players in Italy that are active in merchant acquiring exclusively on a wholesale level, such as SIA.[28]

(27) In light of the above and for the purposes of the assessment of the Transaction, the Commission considers that wholesale merchant acquiring constitutes a separate product market.

4.2.1.2.Geographic market definition

*Commission's precedents*

(28) The Commission has not yet considered separate markets for retail merchant acquiring (to merchants) and wholesale merchant acquiring (to banks). As mentioned below in paragraph (46), the Commission has considered in the past that the market for merchant acquiring is likely national in scope, except for merchant acquiring services for payments made through web-enabled interfaces (e-commerce) which were considered to be at least EEA-wide. The precise scope of the geographic market definition was ultimately left open.

*The Notifying Party's view*

(29) The Notifying Party submits that the relevant geographic market for wholesale merchant acquiring is EEA-wide, and considers that the same arguments that have been put forward in its claim that the relevant geographic market for retail merchant acquiring is EEA-wide also apply to wholesale merchant acquiring.[29]

*The Commission's assessment*

(30) As will be described in more detail for retail merchant acquiring in Section 4.2.2.2, wholesale merchant acquiring also shows a trend towards an EEA-wide market.

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26 Responses to questions 7 and 9 of *Q2 – Questionnaire to merchant acquirers.*

27 Responses to question 8 of *Q2 – Questionnaire to merchant acquirers.*

28 Responses to question 3 of *Q2 – Questionnaire to merchant acquirers.*

29 Form CO, paragraph 121.

(31) Much like the majority of retail merchant acquiring customers, the majority of wholesale merchant acquiring customers indicated in the Commission's market investigation that there are no significant barriers to acquiring these services from outside Italy.[30]

(32) For wholesale merchant acquiring in Italy, the barrier that domestic scheme networks can pose to international acquiring appear less relevant. Many banks that source merchant acquiring services on the retail market indicate that they retain merchant acquiring of the Italian domestic PagoBancomat scheme in-house[31] and Nexi does not offer wholesale merchant acquiring for the PagoBancomat scheme.[32]

(33) Ultimately, the question whether the appropriate geographic market definition is EEA-wide or national can be left open, as the Commission finds that the Transaction does not cause competitive concerns for either geographic market definition.

### *4.2.2. Merchant acquiring at retail level*

#### 4.2.2.1. Product market definition

*Commission's precedents*

(34) The Commission has previously defined a separate product market for merchant acquiring services.[33] While in a number of previous cases, the Commission included the provision of POS terminals within the market for merchant acquiring,[34] in more recent cases,[35] the Commission has considered separate product markets for the provision of merchant acquiring services and the provision of POS terminals and related services.

(35) In previous decisions,[36] the Commission considered that the merchant acquiring market could be further subdivided on the basis of the following criteria: (i) types of payment card schemes (international/domestic), (ii) payment card brands (e.g. Visa, Mastercard), (iii) type of payment card (debit/credit), and (iv) based on whether the service relates to a physical payment via a POS terminal or a web-based payment (e-commerce). In all previous cases, the Commission left the precise scope of the product market definition open. The Commission has not yet considered separate markets for large merchants and small or medium merchants ("SMEs").

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30 Response to question 2 of *Q2 – Questionnaire to merchant acquirers.*

31 Responses to question 13 of *Q2 – Questionnaire to merchant acquirers.*

32 Form CO, paragraph 225.

33 See for example Cases M.7873 – *Worldline/Equens/Paysquare*, M.7241 - *Advent International/Bain Capital Investors/Nets Holding*, M.7711 - *Advent International/Bain Capital/ICBPI*, M.6956 - *Telefonica/Caixabank/Banco Santander* and M.5241 - *American Express/Fortis/Alpha Card*.

34 See Cases M.5241 – *American Express/Fortis/Alpha Card*, M.7241 – *Advent International/Bain Capital Investors/Nets Holding* and M.7711 – *Advent International/Bain Capital/ICBPI.*

35 See Cases M.7873 – *Worldline/Equens/Paysquare*, M.9357 – *FIS/WorldPay* and M.9387 – *Allied Irish Banks/First Data Corporation/Semeral*.

36 See for example Cases M.7873 – *Worldline/Equens/Paysquare*, M.7241 - *Advent International/Bain Capital Investors/Nets Holding*, M.7711 - *Advent International/Bain Capital/ICBPI*, M.6956 - *Telefonica/Caixabank/Banco Santander* and M.5241 - *American Express/Fortis/Alpha Card*.

*The Notifying Party's view*

(36) In relation to the retail level of merchant acquiring services, the Notifying Party submits that merchant acquiring and the provision of POS terminals and related services jointly constitute a single relevant market.[37] The Notifying Party's reasoning in that respect will be further developed in Section 4.2.3.

(37) The Notifying Party further submits that the other possible subdivision previously considered by the Commission are not appropriate for the reasons set out below:

(a) A **segmentation by type of payment card (credit / debit)** or **segmentation by card brand** would no longer relevant in light of evolution in the market. The Notifying Party submits that, from a supply side perspective, merchant acquirers typically provide services for both credit and debit cards and most card brands and that the POS terminals provided by merchant acquirers accept most cards. In addition, the Notifying Party considers that the service offered is the same in both cases. From a demand side perspective, the Notifying Party indicates that merchants typically want to be able to accept as many different card types as possible.[38]

(b) A **segmentation by card scheme (domestic / international)** would be inappropriate in light of the substitutability between the two schemes. The Notifying Party submits that, from a supply-side perspective, most merchant acquirers can handle both types of card schemes, and POS terminals support both as well. From a demand-side perspective, the Notifying Party argues that most merchants request acquiring services for both card schemes. Finally, the Notifying Party indicates that, while historically domestic cards were debit-based and international cards credit-based, today that characterisation no longer applies because many debit cards in Italy run either solely on an international card scheme (such as Maestro or V-Pay) or are co-badged with an international debit card scheme.[39]

(c) A **segmentation by payment type (physical POS transactions / e-commerce transactions)** would not be relevant due to evolution of the market. The Notifying Party submits that the boundary between physical POS terminal transactions and web-based transactions is expected to blur in the short term due to the growth in e-commerce transactions. From a demand-side perspective, the Notifying Party submits that this blurring boundary is evidenced by the rising popularity of so-called "omni-channel" models, by which the merchant acquirer serves as a one-stop-shop for all the merchant's sales channels, both physical sales and online.[40]

(38) Similarly to the potential sub-segments proposed in the Commission's past decision practice for POS terminals (see below in paragraphs (60) onwards), the Notifying Party, **[**BUSINESS SECRET – INTERNAL PROCESSES**]**, has put forward potential separate sub-segments for retail merchant acquiring services based on the size of the customers. More precisely, the Notifying Party has provided separate market shares

37 Form CO, paragraph 100.

38 Form CO, paragraph 89.

39 Form CO, paragraph 90.

40 Form CO, paragraph 91.

for merchant acquiring services provided to SMEs and merchant acquiring services provided to large merchants. The Notifying Party classifies merchants with less than EUR **[**BUSINESS SECRET – INTERNAL PROCESSES**]** million per year in electronic transactions as SMEs, and the rest as large merchants. The Notifying Party submits that a sub-division of the merchant acquiring market by customer size is not appropriate as customers are heterogeneous and differ on multiple dimensions, of which size is only one.[41]

*The Commission's assessment*

(39) The Commission's market investigation was inconclusive on whether the sub-segmentations considered in previous Commission decisions, namely (i) types of payment card schemes (international/domestic), (ii) payment card brands (e.g. Visa, Mastercard), (iii) type of payment card (debit/credit), and (iv) based on whether the service relates to a physical payment via a POS terminal or a web-based payment (e-commerce), are relevant.

(40) For all sub-segmentations listed, a slight majority of customers indicated that merchant acquiring services are no different for any of the proposed sub-segmentations. However, a majority of competitors did indicate differences, specifically naming differences in pricing, as well as additional risks concerning e-commerce transactions (e.g. fraud).[42]

(41) Concerning a differentiation between large customers and SMEs, the Commission's market investigation gave some indications pointing in the direction of separate merchant acquiring product markets:

(a) Large merchants tend to source POS terminals separately from merchant acquiring services more often than SMEs;[43]

(b) A larger proportion of large merchants consider that they have special needs that only a limited number of merchant acquirers can meet, such as reconciliation, authorization, settlement, dispute management and support for large transaction volumes;[44]

(c) Large merchants tend to operate a significant number of POS terminals, and require reactive support in their retail outlets throughout the country;[45]

(d) A larger proportion of large merchants considered that merchant acquirers based outside of Italy credibly supply merchant acquiring services to businesses in Italy and larger merchant more often indicated to switch to a non-Italian merchant acquiring provider in case of a price increase.[46]

41 Form CO, paragraph 81.

42 Responses to question 8 of *Q1 – Questionnaire to merchants* and question 17 of *Q2 – Questionnaire to merchant acquirers.*

43 Responses to question 9 of *Q1 – Questionnaire to merchants.*

44 Responses to question 10 of *Q1 – Questionnaire to merchants.*

45 Responses to question 41 of *Q1 – Questionnaire to merchants.*

46 Responses to questions 15 and 17 of *Q1 – Questionnaire to merchants.*

(42) Additionally, the Notifying Party submits that large customers, more so than SMEs, typically source their merchant acquiring services through tenders. While the Commission considers this plausible, it was not able to conclusively confirm this in the market investigation.

(43) However, the distinction between large merchants and SMEs remains blurred and to a certain extent arbitrary. The above-mentioned differences and tendencies do not allow the Commission to draw a clear line between large merchants and SMEs. For example, the definition used by the Notifying Party (EUR [BUSINESS SECRET – INTERNAL PROCESSES] million annual card transaction value) leads to a situation where some multinational companies are defined as SMEs due to their limited card payment volumes with the Parties in Italy. Moreover, the majority of both large merchants and SMEs indicated not to have particular needs that distinguish them from other merchants.[47] Additionally, some customers defined as SMEs may exhibit sourcing behaviours associated with large merchants, namely the use of tender processes and separation between merchant acquiring services separate from POS terminals, and vice versa.

(44) For the purpose of the assessment of this Transaction, the Commission therefore considers that retail merchant acquiring for large merchants and SMEs form a combined product market that is heterogeneous in nature and is characterised by differentiated customer segments.

(45) The questions of whether the appropriate product market definition is merchant acquiring as a whole or whether separate product markets exist for any of the remaining segmentations listed in paragraph (35), which were considered in previous decisions, can be left open, as the Commission finds that no competitive concerns arise for any of the possible product market definitions.

4.2.2.2.Geographic market definition

*Commission's precedents*

(46) In past decisions, the Commission has considered the market for merchant acquiring to be likely national in scope, except for merchant acquiring services for payments made through web-enabled interfaces (e-commerce) which were considered to be at least EEA-wide.[48] The precise scope of the geographic market definition was ultimately left open.

*The Notifying Party's view*

(47) The Notifying Party claims that the relevant geographic market for merchant acquiring is EEA-wide, because of recent consolidation movements within the merchant

47 Responses to question 10 of *Q1 – Questionnaire to merchants.*

48 See Cases M.9387, *Allied Irish Banks/First Data Corporation/Semeral*, M.9357, *FIS/Worldpay*, and M.7873, *Worldline/Equens/Paysquare*. This follows from the Commission's previous decisions in e.g., M.6956, *Telefonica/Caixabank/Banco Santander*, and M.5241, *American Express/Fortis/Alpha Card*. See also M.7241, *Advent International/Bain Capital Investors/Nets Holding*, para. 30, where the Commission considered that the market for merchant acquiring services for all plausible market segmentations, except web-enabled transactions, is most likely national in scope, whereas the market for merchant acquiring services for payments made through web-enabled interfaces would be at least EEA-wide.

acquiring sector at EEA level,[49] and increased competition from non-Italian, as well as multinational merchant acquirers at the level of merchant acquiring in Italy.[50] In addition, the Notifying Party submits that merchants and banks tend more and more often to procure merchant acquiring services at EEA level.[51] With respect to this last argument, the Notifying Party however acknowledges that, while it is particularly true of large merchants, with retail stores in several countries, the argument only applies to SMEs and smaller merchants to the extent that they migrate towards alternative payment solutions (such as ApplePay, Samsung Pay and Google Pay) and on-line payment solutions.

(48) The Notifying Party also explains that regulatory developments within the SEPA zone, and in particular the so-called "passporting" rules provided under the second Payment Service Directive ("PSD2")[52] now allow banks from other European countries to enter the Italian market provided they comply with certain regulatory requirements and apply for the relevant licenses in Italy.[53] In this regard however, the Notifying Party acknowledges the subsistence of domestic card schemes in several countries within the SEPA zone (including Italy, with the PagoBancomat scheme) that require compliance with slightly different procedures.

*The Commission's assessment*

(49) As previously acknowledged by the Commission[54] and submitted by the Notifying Party, there is a trend towards harmonisation between Member States, opening up national merchant acquiring markets to competitors from elsewhere in the EEA.

(50) The Commission's market investigation supported the existence of this trend. Only a minority of merchants consider that it would be challenging to procure merchant acquiring services from merchant acquirers based outside of Italy, and approximately half the customers indicated that they consider offers from non-Italian merchant acquirers when sourcing merchant acquiring services.[55] Furthermore, a majority of customers indicated they would switch to a non-Italian provider in case of a small but significant and non-transitory increase in price ("SSNIP").[56]

(51) Despite this trend, there are still several factors that point in the direction of a national market for merchant acquiring services.

(52) In response to the market investigation, a large majority of merchants based in Italy indicated that they currently still source at national level.[57] This is in line with the

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49 Form CO, paragraphs 122 – 123.

50 Form CO, paragraphs 124 – 139.

51 Form CO, paragraphs 140 – 143.

52 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC.

53 Form CO, paragraphs 144 – 152.

54 See, for example, case M.7873 - Worldline/Equens/Paysquare, paragraph 99.

55 Responses to questions 12 and 13 of *Q1 – Questionnaire to merchants.*

56 Responses to question 17 of *Q1 – Questionnaire to merchants.*

57 Responses to questions 12 of *Q1 – Questionnaire to merchants.*

Notifying Party's estimates according to which only [10-20]% of the Italian merchant acquiring market is supplied by international players.[58]

(53) Additionally, the geographic footprints of merchant acquirers active in the EEA differ significantly between the different countries. Only a limited share of players offer their services truly throughout the entire EEA, whereas other players focus only on one or several countries. The Parties clearly are among this latter group: Nexi is exclusively active in Italy, and ISP Acquiring performs less than [0-5]% of its acquiring activities outside of Italy.[59]

(54) Also, the market investigation found national specificities which point in the direction of a national market. The domestic scheme networks are a key example of this. For the countries which have a domestic scheme network, including Italy, cards under the domestic scheme network, or under a domestic scheme network co-badged with an international scheme network, are still widely used. According to the Notifying Party's estimates, PagoBancomat represents approximately [30-40]% of all card payments in Italy.[60] In the market investigation, only very few non-Italian merchant acquirers indicated that they were able to provide merchant acquiring services for the Italian domestic PagoBancomat scheme.[61]

(55) Despite the fact that PagoBancomat cards are often co-badged with an international network scheme,[62] the domestic scheme remains relevant. Many merchants and merchant acquirers indicate that fees are lower for the domestic scheme.[63] A large customer indicated that about half of its card payments are PagoBancomat payments, and that it considers it essential for its business to be able to accept PagoBancomat payments.[64]

(56) Finally, merchant acquiring services are often procured in conjunction with POS terminals; in the Commission's market investigation, the large majority of customers indicated they do so.[65] For POS terminals, a majority of merchants and merchant acquirers indicated that it is important for the supplier to have a local presence, for example to provide local technical support.[66]

(57) In light of the above considerations, the Commission considers that the relevant geographic scope of the provision of merchant acquiring services at retail level is likely to be limited to Italy. Ultimately, the question of whether the appropriate geographic market definition is EEA-wide or national can be left open, as the Commission finds that the Transaction does not cause competitive concerns for either geographic market definition.

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58 Form CO, Table 14.

59 Form CO, footnote 4.

60 Form CO, Table 14 and 18. Shares by value of transactions in 2019.

61 Responses to question 13 of *Q2 – Questionnaire to merchant acquirers.*

62 Form CO, paragraph 90.

63 Responses to question 8 of *Q1 – Questionnaire to merchants* and question 17 of *Q2 – Questionnaire to merchant acquirers.*

64 Non-confidential minutes of call with a customer, dated 18 March 2020.

65 Responses to question 9 of *Q1 – Questionnaire to merchants.*

66 Responses to question 43 of *Q1 – Questionnaire to merchants* and question 58 of *Q2 – Questionnaire to merchant acquirers.*

*4.2.3. Provision of POS terminals and related services*

(58) A POS terminal (or "POS") is the electronic device used to process card payments at the merchant's location. It is a necessary element for physical card based transactions. POS terminals are either sold or leased to merchants. POS terminals are supplied either together with the merchant acquiring services or on a standalone basis.

(59) There are different types of POS terminals: traditional POS terminals and mobile POS (or "mPOS") card readers. Traditional POS terminals connect to the merchant acquirer's system through the merchant's fixed telephone line, through broadband (via fixed cable or WiFi) or through the mobile telephone network. mPOS card readers connect to the merchant's mobile device (smartphone or tablet) via Bluetooth and an app on that mobile device then connects to the merchant acquirer. POS terminals are used by merchants of different sizes.

4.2.3.1. Product market definition

*Commission's precedents*

(60) As mentioned above in paragraph (34), while in a number of previous cases, the Commission included the provision of POS terminals within the market for merchant acquiring, in more recent cases the Commission has considered separate product markets for the provision of merchant acquiring services and the provision of POS terminals and related services.

(61) In *FIS/Worldpay*, the Notifying Party (Fidelity National Information Services, Inc.) also suggested a potential sub-segmentation by type of POS device or based on the size of the POS terminal customers; however, none of the respondents to the Commission's market investigation took a clear position as to whether a possible relevant market for the supply of POS terminals should be sub-segmented further by type of POS device or based on the size of the POS terminal customers.[67] This potential sub-segmentation was not looked into in the competitive assessment carried out by the Commission in subsequent cases relating to POS terminals.[68]

*The Notifying Party's view*

(62) As explained above in paragraph (36), the Notifying Party submits that merchant acquiring and the provision of POS terminals and related services jointly constitute a single relevant market. To this effect, the Notifying Party explains that [BUSINESS SECRET – SALES STRATEGY], and from a demand perspective the largest number of customers are SMEs who do not distinguish between these two services and systematically procure both as part of one and the same package, as they are mostly unaware of the different steps of the card payment value chain, and find it more convenient to source POS terminals and merchant acquiring services together.[69]

(63) While acknowledging the fact that some large merchants source POS terminals separately from their merchant acquiring services, the Notifying Party considers that this is only a reflection of the economic arbitrage these customers are making between sourcing these products and services separately or procuring them through a bundled

67 See Case M.9357, *FIS/Worldpay*.

68 See Case M.9387, *Allied Irish Banks/First Data Corporation/Semeral*.

69 Form CO, paragraphs 111 and 112.

offer, and as such it should not be regarded as an indication of the existence of two separate markets. Moreover, the Notifying Party considers that only a minority of large merchants do so, and that at any rate, the distinction between large merchants and SMEs is not clear-cut to this respect, because while it is mostly large merchants who source POS terminals separately from their merchant acquiring services, some SMEs may also do so.[70]

(64) Finally, the Notifying Party submits that a segmentation of the market for the provision of POS terminals and related services by type of POS terminals would not be appropriate, because traditional POS providers also exercise a meaningful constraint on alternative players, who provide mPOS card readers.[71]

*The Commission's assessment*

(65) The Commission's market investigation was not fully conclusive on whether the provision of POS terminals and related services forms a separate product market from merchant acquiring. The majority of merchants indicated that they procure POS terminals and merchant acquiring services together. This holds true for large merchants as well, although a larger proportion of large merchants sources POS terminals separately than for SMEs. When asked whether or not the same person in the organisation is responsible for the procurement of merchant acquiring services and POS terminals, both models were similarly common.[72]

(66) With regard to a further sub-segmentation of a potential market for the provision of POS terminals, the vast majority of merchants and merchant acquirers indicated that POS terminals are interoperable with any scheme network.[73] The majority of merchants and merchant acquirers did indicate that differences in the provision of different types of POS terminals exist. For example, different purchase / rental prices were mentioned, as well as different capabilities and services of the devices. For smartPOS terminals for example, digital services such as applications need to be offered to unlock functionalities of the device.[74]

(67) Ultimately, the questions of whether POS terminals form a separate product market from merchant acquiring services and whether further sub-segmentation, by the type of POS terminal[75] is appropriate can be left open, as the Commission finds that the Transaction does not lead to competitive concerns under any product market definition set out above.

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70 Form CO, paragraphs 113 and 114.

71 Form CO, paragraph 109.

72 Responses to questions 9 and 38 of *Q1 – Questionnaire to merchants.*

73 Responses to question 39 of *Q1 – Questionnaire to merchants* and question 53 of *Q2 – Questionnaire to merchant acquirers.*

74 Responses to question 40 of *Q1 – Questionnaire to merchants* and question 54 of *Q2 – Questionnaire to merchant acquirers.*

75 A sub-segmentation by customer size, as suggested in case M.9357 – FIS/Worldpay by the Notifying Party (Fidelity Information Services, Inc.) is not considered appropriate, in line with the findings for merchant acquiring (paragraph (40) to (44))

4.2.3.2.Geographic market definition

*Commission's precedents*

(68) In its decisional practice, the Commission considered that the market for the supply of POS to merchants is likely national in scope but eventually left the question open.[76]

*The Notifying Party's view*

(69) The Notifying Party submits that the relevant geographic market for the provision of POS terminals and related services is EEA-wide, and considers that the same arguments that have been put forward in its claim that the relevant geographic market for retail merchant acquiring is EEA-wide also apply to the provision of POS terminals and related services.[77] As an illustration of the increased presence of multinational and alternative foreign players in the Italian market, the Notifying Party focuses on the example of SumUp, who provided **[**BUSINESS SECRET – NEXI'S ESTIMATE**]** POS in Italy in 2017, **[**BUSINESS SECRET – NEXI'S ESTIMATE**]** in 2018 and **[**BUSINESS SECRET – NEXI'S ESTIMATE**]** in 2019, being in 2019 part of the top [5-10] providers of POS terminals in Italy.[78] The Notifying Party suggests that this example evidences the fact that it is not essential to have a local presence or local service staff to provide POS terminals and related services to merchants in Italy.

(70) Moreover, the Notifying Party submits that the existence of a domestic scheme (PagoBancomat) is not an obstacle to the provision of POS terminals and related services to customers in Italy by non-Italian players, since such players could either adopt the same payment protocol as the one used by PagoBancomat or request that PagoBancomat certifies their proprietary protocol. The Notifying Party however acknowledges that this latter option could take up to **[**BUSINESS SECRET – NEXI'S ESTIMATE**]** months.[79]

*The Commission's assessment*

(71) The Commission's market investigation gave indications that the market for the provision of POS terminals could be national in scope. The majority of merchants and merchant acquirers indicated that a local presence in Italy is necessary to supply POS terminals in Italy. Reasons mentioned include local technical assistance and maintenance, as well as language and cultural aspects.[80] Despite these results, the majority of respondents also indicated not to perceive any barriers to supplying POS terminals on EEA-wide level.[81]

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76 See Cases M.9387, *Allied Irish Banks/First Data Corporation/Semeral*, M.9357, *FIS/Worldpay*, and M.7873, *Worldline/Equens/Paysquare*.

77 Form CO, paragraph 157.

78 Form CO, paragraph 157 and 158.

79 Form CO, paragraph 159.

80 Responses to question 43 of *Q1 – Questionnaire to merchants* and question 58 of *Q2 – Questionnaire to merchant acquirers.*

81 Responses to question 43 of *Q1 – Questionnaire to merchants* and question 60 of *Q2 – Questionnaire to merchant acquirers.*

(72) Ultimately, the question whether the appropriate geographic market definition is EEA-wide or national can be left open, as the Commission considers that the Transaction does not cause competitive concerns for either geographic market definition.

### *4.2.4. Payment card processing – acquiring processing*

#### 4.2.4.1. Product market definition

*Commission's precedents*

(73) The Commission previously considered a distinct market for card processing and within that market, it has discussed the existence of separate relevant markets for acquiring processing services and issuing processing services. The exact market definition was ultimately left open.[82] Within acquiring processing, the Commission has identified a possible further sub-segmentation based on (i) the payment card scheme (domestic v. international) and (ii) the platform, distinguishing between physical POS terminals and through web-enabled interfaces (e-commerce). The exact market definition was ultimately left open.[83]

*The Notifying Party's view*

(74) The Notifying Party considers that a distinction in processing between POS and web-enabled transactions does not appear appropriate neither at EEA level, nor in Italy, since the activity of processing POS and web-enabled transaction are the same, and the fees for the processing of POS terminals and web-enabled transactions are substantially similar.[84] The Notifying Party nonetheless considers that the exact scope of the product market can be left open.[85]

*The Commission's assessment*

(75) The market investigation did not provide any indications suggesting that the Commission should depart from its past decisional practice.

(76) In any event, the Commission considers that, for the purpose of the present case, the question of whether acquiring processing forms a single relevant product market or whether it would be appropriate to segment it further according to the payment card scheme or the platform can be left open, since the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market regardless of the product market definition.

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82 See Cases M.9452, *Global Payments/TSYS*, M.7873, *Worldline/Equens/Paysquare*, and M.7241, *Advent International/Bain Capital Investors/Nets Holding*

83 See Cases M.9452, *Global Payments/TSYS*, M.8073, *Advent International/Bain Capital/Setefi Services/Intesa Sanpaolo Card*, and M.7241, *Advent International/Bain Capital Investors/Nets Holding*.

84 Form CO, paragraph 119.

85 Form CO, paragraph 120.

4.2.4.2.Geographic market definition

*Commission's precedents*

(77) In its decisional practice, the Commission has previously left open whether the provision of payment card processing services, in general, and of acquiring processing services, in particular, is national or EEA-wide in scope.[86]

*The Notifying Party's view*

(78) The Notifying Party submits that the relevant geographic market for payment card processing, in general, and acquiring processing, in particular, is at least EEA-wide, and considers that the same arguments that have been put forward in its claim that the relevant geographic market for retail merchant acquiring is EEA-wide also apply to acquiring processing.[87] The Notifying Party explains that additional reasons for the geographic market for acquiring processing to be considered EEA-wide are the increased presence of multinational and alternative players in Italy and the absence of requirement to be an Italian company, or to have a local presence or staff in Italy to perform acquiring processing activities on the Italian market. In support of this, the Notifying Party explains that Nexi [BUSINESS SECRET – SUPPLY SOURCES].[88]

(79) In addition, the Notifying Party submits that the "passporting" rules provided under the PSD2 allow processors to provide processing services in Member States other than their home country.[89]

(80) Finally, the Notifying Party claims that the existence of domestic schemes is not an obstacle to the performance of acquiring processing activities by non-Italian players in Italy, because even where domestic schemes require different procedures or certifications, processors may partner with local banks to provide the required services. As an illustration, the Notifying Party explains that [BUSINESS SECRETS – COMMERCIAL STRATEGY] has partnered with [BUSINESS SECRETS – COMMERCIAL STRATEGY] to provide processing services in Italy.[90]

*The Commission's assessment*

(81) The market investigation did not provide any indications suggesting that the Commission should depart from its past decisional practice.

(82) In any event, the Commission considers that, for the purpose of the present case, the question of whether the relevant geographic market for acquiring processing is EEA-wide or national can be left open, since the Commission finds that the Transaction does not raise serious doubts as to its compatibility with the internal market regardless of the geographic market definition.

86 See Cases M.9452, *Global Payments/TSYS*, M.7873, *Worldline/Equens/Paysquare*, and M.7241, *Advent International/Bain Capital Investors/Nets Holding*.

87 Form CO, paragraph 162.

88 Form CO, paragraph 162.

89 Form CO, paragraph 162.

90 Form CO, paragraph 162.

### 4.3. Framework of the competitive assessment

(83) Under Articles 2(2) and 2(3) of the Merger Regulation, the Commission must assess whether a proposed concentration would significantly impede effective competition in the internal market or in a substantial part of it, in particular through the creation or strengthening of a dominant position.

(84) A merger can entail horizontal effects. In this respect, the Commission Guidelines on the assessment of horizontal mergers under the Merger Regulation ("the Horizontal Merger Guidelines")[91] distinguish between two main ways in which mergers between actual or potential competitors on the same relevant market may significantly impede effective competition, namely (a) by eliminating important competitive constraints on one or more firms, which consequently would have increased market power, without resorting to coordinated behaviour (non-coordinated effects); and (b) by changing the nature of competition in such a way that firms that previously were not coordinating their behaviour are now significantly more likely to coordinate and raise prices or otherwise harm effective competition. A merger may also make coordination easier, more stable or more effective for firms which were coordinating prior to the merger (coordinated effects).[92]

(85) In addition, a merger can also entail vertical effects when it involves companies operating at different levels of the same supply chain. Pursuant to the Commission Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings (the "Non-Horizontal Merger Guidelines"),[93] vertical mergers do not entail the loss of direct competition between merging firms in the same relevant market and provide scope for efficiencies. However, there are circumstances in which vertical mergers may significantly impede effective competition. This is in particular the case if they give rise to foreclosure.[94] The Non-Horizontal Merger Guidelines distinguish between two forms of foreclosure: input foreclosure, where the merger is likely to raise costs of downstream rivals by restricting their access to an important input, and customer foreclosure, where the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base.[95]

### 4.4. Overview of affected markets

(86) Nexi and ISP Acquiring are both active in the provision of merchant acquiring services at retail level to merchants, as well as in the provision of POS terminals and related services. In addition, Nexi is active in the provision of merchant acquiring services at wholesale level to banks, as well as in the provision of acquiring processing services.

(87) As a result, the Transaction gives rise to two horizontally affected markets with respect to :

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91 Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings, OJ C 31, 5.2.2004 p.5.

92 Horizontal Merger Guidelines, paragraph 22.

93 OJ C 265, 18.10.2008, p. 6.

94 Non-Horizontal Merger Guidelines, para 18.

95 Non-Horizontal Merger Guidelines, para 30.

- the provision of merchant acquiring services at retail level to merchants (section 4.5.1),
- the provision of POS terminals and related services (section 4.5.2).

(88) In addition, the Transaction gives rise to three vertical relationships, namely:

- Wholesale merchant acquiring (upstream) with retail merchant acquiring (downstream) (Section 4.6.1)
- Provision of POS terminals and related services (upstream) with retail merchant acquiring (downstream) (Section 4.6.2)
- Acquiring processing (upstream) with retail merchant acquiring (downstream) (Section 4.6.3)

## 4.5. Competitive assessment of the horizontal overlaps

(89) As regards the Transaction, the Commission considers it appropriate to focus its assessment of horizontal effects on non-coordinated effects. In addition to it, a short coordinated effects assessment is however carried out in Section 4.5.3.

### *4.5.1. Merchant acquiring at retail level*

(90) Both Parties are active in the provision of merchant acquiring services at retail level to merchants. At EEA level, the Parties' combined market shares for all the plausible sub-segments identified above in paragraphs (35) and (38) are relatively low, and in absolute terms remain below 5% for all sub-segments. The Notifying Party has provided the Commission with market shares estimates for all the plausible sub-segments identified above in paragraphs (35) and (38) in Italy.[96] Table 1 below provides the detail of the Parties' and their competitor's market shares for a hypothetical market for retail merchant acquiring in Italy (without any further sub-segmentation). Table 2 below summarises the Parties' market shares for each of the potential sub-segments identified above in paragraphs (35) and (38) in Italy. The complete data on the Parties' and their competitors' market shares for all plausible sub-segments discussed above in paragraphs (35) and (38) in Italy can be found in Table 3 to Table 12 below.[97]

96 At EEA level, the Parties' combined market shares are small, ranging from [0-5]% to [0-5]%, depending on the potential sub-segment considered.

97 For the potential segments of transactions performed on debit cards, transactions performed on credit cards, transaction performed using Visa cards, transactions performed using MasterCard cards, transactions for large merchants and transactions for SMEs, the Notifying Party argues that it was not possible to find reliable data on their competitor's sales.

**Table 1: The Parties' and their competitors' market share estimates for retail merchant acquiring in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 (expected total) | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [30-40]% | [...] | [30-40]% | [...] | [30-40]% |
| **UniCredit** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **ICCREA** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banca Sella** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banco BPM** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **BNP Paribas** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **UBI** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **BPER** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Chase Paymentech Europe** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Global Payments** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Poste Italiane** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **WorldPay** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Adyen B.V.** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Allied Irish Banks** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **SIX Payment Services** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Other foreign acquirers** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **OTHERS (banks)** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **TOTAL** | [...] | **100%** | [...] | **100%** | [...] | **100%** |

Source: Parties' sales and market size estimates.

(91) As reflected in Table 1, the Transaction would bring together the two leading players in the Italian market for merchant acquiring services, forming a combined entity with a [30-40]% market share in a rather fragmented market, where the second biggest competitor post-Transaction ([BUSINESS SECRET – NAME OF COMPETITOR]) would only have a [5-10]% market share in Italy.

**Table 2: Overview of the Parties' joint share estimates in Italy for all plausible market sub-divisions within retail merchant acquiring (in 2019, by total value of transactions)**

| | Italian market overall | Physical POS / e-commerce | | International / domestic | | Debit / Credit | | Visa / Mastercard | | Large merchants / SMEs | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Physical POS | e-commerce | International | Domestic | Debit | Credit | Visa | Mastercard | Large merchants | SMEs |
| **NEXI** | [10-20]% | [10-20]% | [5-10]% | [10-20]% | [5-10]% | [5-10]% | [10-20]% | [10-20]% | [10-20]% | [10-20]% | [5-10]% |
| **ISP ACQUIRING** | [20-30]% | [20-30]% | [10-20]% | [20-30]% | [20-30]% | [20-30]% | [20-30]% | [20-30]% | [20-30]% | [50-60]% | [10-20]% |
| **COMBINED** | [30-40]% | [40-50]% | [10-20]% | [30-40]% | [30-40]% | [30-40]% | [30-40]% | [30-40]% | [30-40]% | [60-70]% | [20-30]% |

Source: Parties' sales and market size estimates.

(92) As can be seen from Table 2 above, as well as Tables 3 to 12 below, the Parties' combined market shares are roughly the same across all the subdivisions that potentially constitute separate product markets, except for e-commerce merchant acquiring where the Parties' combined market share is lower, at [10-20]%. The Commission notes that segment shares for the provision of merchant acquiring services to large and SME customers show a greater variation to the overall market shares for retail merchant acquiring services. In the large merchant segment, the Parties' combined supply share is [60-70]%, and [20-30]% in the segment for SMEs.

(93) However, it should be noted that the Notifying Party's methodology for the calculation of the total segment size for SMEs *versus* large merchants is subject to caution since (i) to allocate their transaction value between SMEs and large merchants, the Notifying Party uses an in-house definition of SMEs as opposed of large merchant (retail businesses with less than EUR [BUSINESS SECRET – INTERNAL PROCESSES] million in electronic transactions as opposed to retail businesses with more than EUR [BUSINESS SECRET – INTERNAL PROCESSES] million in electronic transactions). This definition is different from the EEA definition of an SME[98] used in the Eurostat data that the Notifying Party used to determine the proportion of the turnover of SMEs in Italy as opposed to large companies; (ii) the Parties allocated the total value of transactions in Italy between SMEs and large merchants according to turnover data provided by Eurostat (see point (i) above), and not based on transaction value data; (iii) the Parties allocated the total value of transactions in Italy between SMEs and large merchants according to Eurostat data regarding the turnover of all companies in Italy (SMEs as opposed to non-SME entities), and not only retail companies (retail SMEs as opposed to large merchants). Despite these shortcomings, the Commission considers that the figures provided by the Notifying Party with respect to the segmentation of the provision of merchant acquiring services according to the size of customers are sufficiently clear-cut to be considered in themselves as indications of a stronger position of the combined entity in the segment of the provision of merchant acquiring services to non-SME merchants as compared to SME merchants, even if a margin of error were to be taken into account. However, as will be seen in the assessment carried out in paragraphs 109 to 114 below, relying on evidence gathered in the course of the market investigation other than the market shares estimates

98 Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (Text with EEA relevance) (notified under document number C(2003) 1422).

provided by the Notifying Party, the Commission finds that the Transaction would not raise any doubt as to its compatibility with the internal market in relation to the market for merchant acquiring services, even if a potential differentiation within this market was made according to the size of the merchants.

**Table 3: The Parties' and their competitors' market share estimates for retail merchant acquiring restricted to physical POS transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 (expected total) | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [30-40]% | [...] | [40-50]% | [...] | [40-50]% |
| **UniCredit** | N.A. | N.A. | [...] | [5-10]% | [...] | [10-20]% |
| **ICCREA** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banco BPM** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banca Sella** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **BNP Paribas** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **UBI** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **BPER** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Poste Italiane** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **SIX Payment Services** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Other foreign acquirers** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **OTHERS (banks)** | N.A. | N.A. | [...] | [20-30]% | [...] | [10-20]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 4: The Parties' and their competitors' market share estimates for retail merchant acquiring restricted to e-commerce transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 (expected total) | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [5-10]% | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **COMBINED** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **Chase Paymentech Europe** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **Global Payments** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **WorldPay** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banca Sella** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Adyen B.V.** | N.A. | N.A. | [...] | [0-5]% | [...] | [5-10]% |
| **Allied Irish Banks** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Bank of America Merrill Lynch** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **UniCredit** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **JP Morgan** | N.A. | N.A. | - | - | [...] | [0-5]% |
| **Elavon** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Banco Bilbao** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Stripe Payments Europe, Limited** | N.A. | N.A. | - | - | [...] | [0-5]% |
| **BNP Paribas** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Poste Italiane** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Other foreign acquirers** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **OTHERS** | N.A. | N.A. | [...] | [5-10]% | [...] | [0-5]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 5: The Parties' and their competitors' market share estimates for retail merchant acquiring restricted to international card schemes in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 (expected total) | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [40-50]% | [...] | [30-40]% | [...] | [30-40]% |
| **UniCredit** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banca Sella** | N.A. | N.A. | [...] | [0-5]% | [...] | [5-10]% |
| **ICCREA** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **BNP Paribas** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Banco BPM** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Chase Paymentech Europe** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **UBI** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Global Payments** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **BPER** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Poste Italiane** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **WorldPay** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Adyen B.V.** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Allied Irish Banks** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **SIX Payment Services** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Bank of America Merrill Lynch** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **JP Morgan** | N.A. | N.A. | - | - | [...] | [0-5]% |
| **Elavon** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **Other foreign acquirers** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **OTHERS** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 6: The Parties' and their competitors' market share estimates for retail merchant acquiring restricted to domestic card schemes in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 (expected total) | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [30-40]% | [...] | [30-40]% | [...] | [30-40]% |
| **UniCredit** | N.A. | N.A. | [...] | [10-20]% | [...] | [10-20]% |
| **ICCREA** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banco BPM** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **Banca Sella** | N.A. | N.A. | [...] | [5-10]% | [...] | [5-10]% |
| **UBI** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **BPER** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **BNP Paribas** | N.A. | N.A. | [...] | [0-5]% | [...] | [0-5]% |
| **OTHERS** | N.A. | N.A. | [...] | [20-30]% | [...] | [20-30]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 7: The Parties' market share estimates for retail merchant acquiring restricted to debit card transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [30-40]% | [...] | [30-40]% | [...] | [30-40]% |
| **OTHERS** | [...] | [60-70]% | [...] | [60-70]% | [...] | [60-70]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 8: The Parties' market share estimates for retail merchant acquiring restricted to credit card transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [30-40]% | [...] | [30-40]% | [...] | [30-40]% |
| **OTHERS** | [...] | [60-70]% | [...] | [60-70]% | [...] | [60-70]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 9: The Parties' market share estimates for retail merchant acquiring restricted to Visa transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [40-50]% | [...] | [30-40]% | [...] | [30-40]% |
| **OTHERS** | [...] | [60-70]% | [...] | [60-70]% | [...] | [60-70]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 10: The Parties' market share estimates for retail merchant acquiring restricted to MasterCard transactions in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) | VALUE OF TRANSACTIONS (€M) | MARKET SHARES (%) |
| **NEXI** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **COMBINED** | [...] | [40-50]% | [...] | [30-40]% | [...] | [30-40]% |
| **OTHERS** | [...] | [60-70]% | [...] | [60-70]% | [...] | [60-70]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 11: The Parties' supply share estimates for retail merchant acquiring restricted to large merchants in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) |
| **NEXI** | [...] | [20-30]% | [...] | [20-30]% | [...] | [10-20]% |
| **ISP ACQUIRING** | [...] | [40-50]% | [...] | [40-50]% | [...] | [50-60]% |
| **COMBINED** | [...] | [70-80]% | [...] | [60-70]% | [...] | [60-70]% |
| **OTHERS** | [...] | [30-40]% | [...] | [30-40]% | [...] | [30-40]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 12: The Parties' supply share estimates for retail merchant acquiring restricted to SMEs in Italy (by total value of transactions)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) | VALUE OF TRANSACTIONS (€M) | SUPPLY SHARES (%) |
| **NEXI** | [...] | [5-10]% | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **COMBINED** | [...] | [20-30]% | [...] | [20-30]% | [...] | [20-30]% |
| **OTHERS** | [...] | [70-80]% | [...] | [70-80]% | [...] | [70-80]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

*The Notifying Party's view*

(94) The Notifying Party argues that the Parties are not close competitors, especially not in the large merchant segment. To this end, the Notifying Party provides an analysis of the complete set of tenders for large merchants both Parties have competed for in the years 2018-2019. This analysis shows that, in the past two years, out of [BUSINESS SECRET – STRATEGIC DECISIONS] tenders either of the Parties participated, the Parties [BUSINESS SECRET – STRATEGIC DECISIONS AND SUCCESS RATES]. The Notifying Party indicates that Unicredit participated in more tenders won by Nexi than ISP Acquiring did, and in more tenders won by ISP Acquiring than Nexi did. The Notifying Party also points out that Unicredit and Adyen participated in as many tenders lost by Nexi as ISP Acquiring did, and that Unicredit participated in as many tenders lost by ISP Acquiring as Nexi did. Moreover, the Notifying Party emphasises that, out of the 5 tenders where the Parties have recorded Adyen's presence, Adyen won all of the tenders, thus suggesting the effectiveness of the competition constraint posed by Adyen, at least on the hypothetical sub-segment of retail merchant acquiring for large merchants.[99]

[99] Form CO, paragraphs 194 – 198.

(95) In addition, the Notifying Party considers that a material share of ISP Acquiring's volumes is represented by clients that Nexi would not be in a position to credibly supply. In particular, because [BUSINESS SECRET - SALES POLICIES, KNOW-HOW, MARKETING PLANS]. The Notifying Party indicates that customers under any of these four categories would account for about [10-20]% of ISP Acquiring volumes.[100]

(96) The Notifying Party also submits that large merchants (who account for [50-60]% of volumes for Nexi and [50-60]% for ISP) are sophisticated buyers who have strong countervailing buying power and can switch easily.[101] The Notifying Party explains that [90-100]% of the contracts of both Parties for large merchants are **[**BUSINESS SECRET – SALES STARTEGY**]** years in duration, [90-100]% of these contracts have **[**BUSINESS SECRET – SALES STARTEGY**]**, and [80-90]% of Nexi contracts, on the one hand, and [60-70]% of ISP Acquiring's contracts, on the other hand, have **[**BUSINESS SECRET – SALES STARTEGY**]**. The Notifying Party further submits that **[**BUSINESS SECRET – CUSTOMERS' BEHAVIOUR**]**.[102] In addition, the Notifying Party claims that a number of their large merchant customers, representing [40-50]% of Nexi's yearly transaction volumes in 2018-2019 and [20-30]% of ISP Acquiring yearly transaction volumes in 2018-2019 **[**BUSINESS SECRET – SALES STRATEGY**]**.[103]

(97) Finally, the Notifying Party claims that the barriers to entry and expansion in the market are low, so that the Parties are facing competition from new entrants and alternative players such as SumUp, iZettle, Hobex and myPOS in addition to established strong players such as Banco BPM, UniCredit and Poste Italiane.[104] Above all, the Notifying Party considers the market for retail merchant acquiring to be an EEA-wide market (see above paragraph (47)), in which the combined market share would amount only to [0-5]%.

*The Commission's assessment*

(98) **At EEA level**, the Parties' combined market shares for all the plausible sub-segments of merchant acquiring identified above in paragraphs (35) and (38) are unproblematic because these remain below 5% for all sub-segments.

(99) **At national level in Italy,** it should first be mentioned that responses from competing merchant acquirers to the Commission's market investigation provided indications that the market shares estimates provided by the Notifying Party might have been over-estimated. A number of major competing merchant acquirers active at retail level have provided figures for the volumes of transactions that they process which are higher than the Notifying Party's estimates provided in the Form CO, while only a few other indicated lower volumes of transactions than provided by the Notifying Party in the Form CO.[105] However, while this would seem to be indicative that the Parties' market share might in fact be lower than indicated in the Form CO, the

100 Form CO, paragraphs 199 – 200.

101 Form CO, paragraphs 201 – 207.

102 Form CO, paragraphs 208 – 209 and 212 – 217.

103 Form CO, paragraphs 210 – 211.

104 Form CO, paragraphs 218 – 222.

105 Responses to question 11 of *Q2 – Questionnaire to merchant acquirers.*

Commission was not able to fully reconstruct the market for overall merchant acquiring at retail level.

(100) First, **as regards a potential overall market for retail merchant acquiring in Italy**, while evidencing that Nexi and ISP Acquiring are perceived by their merchant customers as being the leading two merchant acquirers in Italy,[106] market participants also considered other suppliers to constitute credible alternatives. When asked to rank merchant acquirers according to their competitive strength in Italy, customers place Nexi first, followed by ISP acquiring second, UniCredit (whose market share on the Italian merchant acquiring market overall is [5-10]%, similar to Nexi's) third, Banca Sella fourth and BNP Paribas fifth; with ISP Acquiring's UniCredit's and Banca Sella's average rating being very close to each other.[107] It may also be noted that, while large merchants rated the above-mentioned competitors of the Parties in the same order, SMEs considered ICCREA to be the number five merchant acquirer in Italy instead of BNP Paribas. In this context, the Commission notes that contrary to the Notifying Party's views, neither customers nor competitors currently consider Fin-Tech players to be credible players in the Italian market. Overall, the vast majority of merchants nevertheless considered that, post-Transaction, a sufficient number of credible alternative suppliers for merchant acquiring services will remain active on the Italian market.[108] Likewise, a majority of competitors took the view that, post-Transaction, a sufficient number of credible alternative suppliers for merchant acquiring services will remain active on the Italian market.[109]

(101) Second, however, the overall results of the market investigation did not sufficiently clearly indicate that Nexi and ISP Acquiring are close competitors. As mentioned above in paragraph (100), when asked to rank merchant acquirers according to their competitive strength in Italy, customers place Nexi first, followed by ISP acquiring second in terms of average grades. However, when asked to identify competitors that compete closely with each of Nexi and ISP Acquiring in the market for merchant acquiring at retail level, only a minority of merchants considered ISP Acquiring to be Nexi's closest competitor. The same proportion of respondents considered Unicredit to be Nexi's closest competitor.[110] In a similar way, only a minority of merchants considered Nexi as ISP Acquiring's closest competitor, and a very similar proportion responded that ISP Acquiring's closest competitor is Unicredit.[111] Market respondents also frequently mentioned, among the Parties' closest competitions, players such as Wordline, Banca Sella and SIA.[112] Against this background, the Commission considers that the market investigation does not support the conclusion that he Parties are each other's closest competitor, they nevertheless compete closely with each other within a group that includes other players, like Unicredit and Banca Sella.

(102) In this context, the Commission notes that the tender data provided by the Parties in support of their claim that Nexi and ISP Acquiring are not close competitors (see

106 Responses to question 25 of *Q1 – Questionnaire to merchants.*

107 Responses to question 25 of *Q1 – Questionnaire to merchants.*

108 Responses to question 33 of *Q1 – Questionnaire to merchants.*

109 Responses to question 43 of *Q2 – Questionnaire to merchants acquirers.*

110 Responses to question 26 of *Q1 – Questionnaire to merchants.*

111 Responses to question 26 of *Q1 – Questionnaire to merchants.*

112 Responses to question 26 of *Q1 – Questionnaire to merchants.*

paragraph (94) above) appear to have only limited significance based on the results of the Commission's market investigation, given that only a minority of customers (and mostly large customers) organize the renewing of their contracts for merchant acquiring services through tenders,.[113] The market investigation however revealed that the majority of the customers go through the process of renewing their contracts for merchant acquiring services via bilateral discussions with two or more potential providers, while only a minority of them renewed their contracts through other means, such as tenders, bilateral negotiations carried out with their current merchant acquirer only, or the roll-over of their existing contracts.[114] Therefore, as only a minority of customers use tenders to renew their contracts, tender data appear of a low evidential value.

(103) Third, even though switching merchant acquirers entails some burden for merchants, a vast majority of customers of the Parties made clear that they could and would switch to another supplier in case of a price increase,[115] and a significant proportion of respondents had indeed switched supplier in the course of the last three years.[116]

(104) Fourth, as mentioned above in section 4.2.2.2, while currently the evidence is not sufficient to conclude on an EEA-wide market for retail merchant acquiring, the market is developing in that direction and there is a growing competitive pressure from non-Italian players. While competitors do not yet perceive non-Italian merchant acquirers to exercise significant competitive pressure in Italy,[117] the vast majority of customers would consider switching to non-Italian merchant acquirers in case of a price increase in Italy,[118] and considers non-Italian merchant acquirers as credible alternatives for the supply of their needs in terms of merchant acquiring services.[119] While this appears to be even more the case for large merchants, these elements are also shared by a majority of SME merchants.[120]

(105) Fifth, the vast majority of customers and even the majority of competitors who responded to the market investigation indicated that they do not expect any negative impact from the Transaction, especially with respect to the evolution of prices, the quality of the services they receive, the choice of service, as well as innovation.[121] Some even indicated that they expect price decreases, choice and quality increases and more innovation.[122]

(106) In this context, the Commission notes that a minority of respondents, expected a negative impact of the Transaction on the different parameters of competition, including price. One competitor further detailed its respective concerns in a follow-up

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113 Responses to question 5 of *Q1 – Questionnaire to merchants.*

114 Responses to question 5 of *Q1 – Questionnaire to merchants.*

115 Responses to question 20 of *Q1 – Questionnaire to merchants.*

116 Responses to question 22 of *Q1 – Questionnaire to merchants.*

117 Responses to question 21 of *Q2 – Questionnaire to merchants acquirers.*

118 Responses to question 17 of *Q1 – Questionnaire to merchants.*

119 Responses to question 15 of *Q1 – Questionnaire to merchants.*

120 Responses to question 15 of *Q1 – Questionnaire to merchants.*

121 Responses to question 34 of *Q1 – Questionnaire to merchants* and responses to question 64 of *Q2 – Questionnaire to merchant acquirers.*

122 Responses to question 34 of *Q1 – Questionnaire to merchants* and responses to question 64 of *Q2 – Questionnaire to merchant acquirers.*

submission of 8 June 2020. While most of the concerns exposed by this competitor related to non-horizontal aspects of the Transaction, it also expressed the view that Nexi, through the Transaction, might strengthen its position in card issuing (a market that is not affected and as a result not discussed in details in the rest of the decision). Since transactions where the merchant's merchant acquiring provider is also the issuer of the card (so-called "on-us" transactions) bear a smaller part of the scheme cost, this competitor explains that by increasing its presence both in issuing and in merchant acquiring, Nexi would benefit from a better cost structure compared to its competitors, allowing it to undercut its competitors' prices and allow it to marginalize its competitors.[123]

(107) With respect to this submission, the Commission first notes Nexi's arguments in relation to the merged entity's cost-advantages following the Transaction. In particular, Nexi argues such a scenario would imply a pro-competitive efficiency, that on-us savings are very small, and that, in any event, they could only be made when the acquiring and issuing processing platforms are connected, [BUSINESS SECRET].[124] Second, the Commission considers that, the scenario presented by the competitor would lead to a price decrease for customers of the Parties in the short term (which can be viewed as pro-competitive). Third, it appears questionable whether it would enable the Parties to raise the prices in the mid-to long term. In particular, all the arguments presented above regarding the competitive pressure posed by non-Italian merchant acquirers, and the Parties' customers' ability to switch to non-Italian merchant acquirers in case of a price increase or, more generally, should the conditions of supply offered by the Parties be worsened, (see in particular paragraph (104) above) suggest that barriers to entry into the Italian market are not significant. These arguments apply equally to the theory of harm presented by the competitor of the Parties, and would prevent the merged entity from engaging successfully into such a strategy consisting in raising its prices after having eliminated or weakened competition through price decreases. Therefore, the Commission considers the theory of harm put forward in the submission of 8 June not to be founded.

(108) The Commission moreover, considers that the arguments set out in paragraphs (99) to (107) above also apply to the potential sub-segmentation of merchant acquiring based on (i) the payment card scheme (merchant acquiring for domestic or international card schemes); (ii) the payment card brand (merchant acquiring for VISA or Mastercard card schemes); (iii) the payment card type (merchant acquiring for credit or debit cards); and (iv) the payment platform (merchant acquiring through physical POS terminals or online), which all address the same categories of merchants, and for which the Parties' individual and combined market shares are similar to the ones at retail level overall.

(109) **As regards a potential differentiation within the market for merchant acquiring according to the size of the merchant**, the Notifying Parties' estimates provide that the Parties' combined supply share for SMEs would be moderate post-Transaction ([20-30]%), while their combined supply share for large merchants would be more significant ([60-70]%) that their combined market share at an overall retail level. These estimates would appear indicative of closeness of competition between Nexi and ISP Acquiring with respect to the supply of larger merchants.

123 Submission by *[Competitor of the Parties]* dated 8 June 2020 - ID 654.

124 Submission by the Notifying Party dated 11 June 2020.

(110) Albeit significant, the Commission considers that the Parties' combined supply share for large merchants does not by itself raise serious doubts as to the compatibility of the Transaction with the internal market. The market investigation indeed provided evidence that most of the customer-specific factors that would likely render a potential price increase from the Parties unsuccessful are even stronger when large merchants only are considered.

(111) First, an even greater proportion of large merchants (than for merchants overall) mentioned that they engage in bilateral negotiations with multiple suppliers or tenders in order to renew their contracts for merchant acquiring,[125] which seems indicative of an even greater ability to switch away from their current supplier, and even more important resources dedicated to screening the market to get the best deal possible.

(112) Second, even more than all customers considered together, large customers appear to have a particularly strong ability to switch away to non-Italian merchant acquirers. Most noticeably, a vast majority of large merchants explained that they would consider switching to a non-Italian merchant acquirer in case of a price increase in Italy.[126] Moreover, large customers tend to source POS terminals and merchant acquiring separately more often than SMEs do.[127] As a result, they could rely on a local provider of POS terminals, where customer support and proximity to the retail outlets is more important, while selecting a different supplier, which could be a foreign player for the supply of merchant acquiring services. To this respect, switching to a non-Italian merchant acquirer for the provision of their merchant acquiring service would be comparatively easier for large merchants than for SMEs, who tend to bundle more frequently their purchases of POS terminals and related services with the procurement of merchant acquiring services.

(113) Third, even within Italy, large merchants appear to have an even greater ability (than for merchants overall) to switch away from their current supplier in case of a price increase,[128] and a large majority of them considers that they have either equal or stronger bargaining power that the Parties when negotiating the supply of merchant acquiring services.[129]

(114) Finally, as for merchants overall, the vast majority of large merchants considered that, post-Transaction, a sufficient number of credible alternative suppliers for merchant acquiring services will remain active on the Italian market,[130] and did not expect any impact from the Transaction, especially with respect to the evolution of prices, the quality of the services they receive, the choice of service as well as innovation.[131]

125 Responses to question 5 of *Q1 – Questionnaire to merchants.*

126 Responses to question 17 of *Q1 – Questionnaire to merchants.*

127 Responses to question 9 of *Q1 – Questionnaire to merchants.*

128 Responses to question 22 of *Q1 – Questionnaire to merchants.*

129 Responses to question 27 of *Q1 – Questionnaire to merchants.*

130 Responses to question 33 of *Q1 – Questionnaire to merchants.*

131 Responses to question 34 of *Q1 – Questionnaire to merchants.*

(115) In light of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the market for the provision of merchant acquiring services, regardless of whether the relevant geographic market is considered national or EEA-wide or if the product market is retail merchant acquiring overall or sub-segmented based on (i) the payment card scheme (merchant acquiring for domestic or international card schemes); (ii) the payment card brand (merchant acquiring for VISA or Mastercard card schemes); (iii) the payment card type (merchant acquiring for credit or debit cards) and (iv) the payment platform (merchant acquiring through physical POS terminals or online).

*4.5.2. Provision of POS terminals and related services*

(116) The Transaction gives rise to another horizontally affected possible market with respect to the supply of POS terminals and related services. Both Nexi and ISP Acquiring provide some of their customers with POS terminals. At EEA level, the Parties' combined market shares are modest, and remain below 5%. In 2017, the Parties' combined market share in the Italian market was [20-30]%, **[**BUSINESS SECRET – EVOLUTION OF MARKET SHARES**]** [10-20]% in 2018 and [10-20]% in 2019. Moreover, while the potential sub-segment of traditional POS terminals was not affected in neither 2017, 2018 nor 2019, the Parties' combined market shares in the potential sub-segment for mPOS was [20-30]% in 2019.

(117) The Notifying Party has provided the Commission with market shares estimates for the provision of POS terminals and related services in Italy.[132] Table 13 to Table 15 below summarises the Parties' market shares for each of the potential sub-segment considered. It should be noted that since ISP Acquiring currently obtains POS terminals only from Nexi, to avoid double-counting, data for ISP Acquiring refer to the terminals it supplies to its merchants (all of which are sourced from Nexi), while for Nexi the data excludes POS terminals supplied to ISP Acquiring.

[132] At EEA level, the Parties' combined market shares are only [0-5]% for 2017, 2018 as well as 2019.

**Table 13: The Parties' market share estimates for Italy for the provision of POS terminals and related services (by number of POS terminals)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES |
| **NEXI** | [...] | [10-20]% | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | [10-20]% | [...] | [10-20]% | [...] | [10-20]% |
| **COMBINED** | [...] | [20-30]% | [...] | [10-20]% | [...] | [10-20]% |
| **Unicredit** | [...] | [5-10]% | [...] | [5-10]% | [...] | [5-10]% |
| **ICCREA** | [...] | [5-10]% | [...] | [5-10]% | [...] | [0-5]% |
| **Banca Sella** | [...] | [0-5]% | [...] | [0-5]% | [...] | [0-5]% |
| **Poste Italiane** | [...] | [0-5]% | [...] | [0-5]% | [...] | [0-5]% |
| **BNP Paribas** | [...] | [0-5]% | [...] | [0-5]% | [...] | [0-5]% |
| **Sum-up** | [...] | [0-5]% | [...] | [0-5]% | [...] | [0-5]% |
| **OTHERS** | [...] | [60-70]% | [...] | [60-70]% | [...] | [60-70]% |
| **TOTAL** | **[...]** | **100%** | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 14: The Parties' market share estimates for Italy for the provision of traditional POS terminals and related services (by number of POS terminals)**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES |
| **NEXI** | | | [...] | [5-10]% | [...] | [5-10]% |
| **ISP ACQUIRING** | [...] | Not provided | [...] | [5-10]% | [...] | [10-20]% |
| **COMBINED** | [...] | Not provided | [...] | [10-20]% | [...] | [10-20]% |
| **OTHERS** | | | [...] | [80-90]% | [...] | [80-90]% |
| **TOTAL** | **[...]** | | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

**Table 15: The Parties' market share estimates for Italy for the provision of mobile POS terminals and related services (by number of POS terminals)[133]**

| | 2017 | | 2018 | | 2019 | |
|---|---|---|---|---|---|---|
| | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES | NUMBER OF POS TERMINALS ('000) | MARKET SHARES |
| **NEXI** | | | [...] | [5-10]% | [...] | [0-5]% |
| **ISP ACQUIRING** | [...] | Not provided | [...] | [30-40]% | [...] | [20-30]% |
| **COMBINED** | [...] | Not provided | [...] | [40-50]% | [...] | [20-30]% |
| **OTHERS** | | | [...] | [50-60]% | [...] | [70-80]% |
| **TOTAL** | | | **[...]** | **100%** | **[...]** | **100%** |

Source: Parties' sales and market size estimates.

*The Notifying Party's view*

(118) This market not being affected in 2018 and 2019, but only based on 2017 figures, the Notifying Party did not treat it as an affected market in the Form CO, and as such does not express a specific view regarding the Parties' overlap with respect to the supply of POS terminals and related services. It should be noted, however, that as explained above in paragraph (36), the Notifying Party submits that merchant acquiring and the provision of POS terminals and related services jointly constitute a single relevant market.

*The Commission's assessment*

(119) At EEA level, the Parties' combined market shares are relatively modest, and in absolute remain below 5% for all plausible sub-segments. This would make the horizontal overlap between the Parties' activities with respect to the provision of POS terminals and related services unproblematic if the geographic market for the provision of POS terminals and related services was to be considered EEA-wide.

(120) If, however, the geographic market for the provision of POS terminals and related services was to be considered national, the Commission first notes that the Parties' market shares in the provision of POS terminals at Italian level overall are modest, [BUSINESS SECRET – MARKET SHARES' TREND]. The Commission notes that this also holds true for a potential sub-segmentation of the market for POS terminals by type of POS terminals, since the Parties' combined market share was stable between 2018 and 2019 for traditional POS terminals and [BUSINESS SECRET – MARKET SHARES' TREND]. With this respect, the Commission notes that the sales data provided by the Parties for traditional POS and mPOS for the year 2017 appears less

133 Nexi (but not ISP) is also active since 2018 in the provision of smart POS terminals. The Commission has never considered whether smart POS terminals should be considered as a separate potential sub-segment within POS terminals, because such terminals didn't exist at the time of the *FIS/Worldpay* decision (the only decision in the Commission's precedents where a potential sub-segmentation of POS terminals by type of terminal was considered). Nevertheless, the Parties do not overlap with respect to this segment, and since smart POS terminals only represent around [0-5]% of all POS terminals, including them within either the traditional POS or the mobile POS would not significantly affect the Parties' overall market share. As a result, smart POS will no longer be discussed in this decision.

reliable, since the sum of the Parties' total market size for these two years is not equal to the total market size for all POS terminals. In addition, the Parties have not computed market shares for traditional POS and mPOS separately for the year 2017.

(121) Second, a vast majority of customers, as well as a majority of competitors, indicated that a sufficient number of credible alternative providers of POS terminals and related services will remain active on the Italian market post-Transaction.[134] Moreover, a majority of customers indicated that they expect no impact from the Transaction on either the price, the quality, the choice or the innovation for POS terminals.[135] Interestingly, a majority of competitors responded that they expect either no impact or a price decrease for POS terminals and related services in Italy. As one customer puts it, "*We are convinced that standardization of terminals and services will allow a higher product quality, as well as determine a leveling of prices and the possibility of using more types of payment, even the most innovative ones that the market can make available.*"[136] Another customers mentions that "*expectations are for an improvement of quality, choice of service and innovation*".[137] Similarly, a majority of competitors mentioned that they expect either no impact or an increase in the quality of the service, the choice offered to customers and the innovation for POS terminals and related services in Italy.[138]

(122) If the market for POS terminals was sub-segmented at Italian level according to the type of POS terminals, the absence of concerns raised in the course of the market investigation, as well as the fact that customers did not expect any impact from the Transaction on either the price, the quality, the choice or the innovation for POS terminals still holds true. In addition, the Commission notes that the potential sub-segment for the provision of traditional POS terminals, representing [90-100]% of the total market for POS terminals in 2019, is not affected, while only the potential sub-segment for the provision of mPOS is. However, in this segment, **[**BUSINESS SECRET – MARKET SHARES' TREND – KNOW-HOW**]** the Parties' combined share from [40-50]% to [20-30]% between 2018 and 2019 would appear to give credit to the Parties' arguments that new entrants and alternative players (such as SumUp, iZettle, Hobex and myPOS ), who are particularly active on this segment, pose a significant constraint by the Parties in Italy.

(123) In light of the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to the market for the provision of POS terminals and related services, regardless of whether the relevant geographic market is considered national or EEA-wide.

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134 Responses to question 44 of *Q1 – Questionnaire to merchants* and question 61 of *Q2 – Questionnaire to merchant acquirers*. With respect to the alternative possible geographic market definition, it should be noted that a vast majority of customers as well as a vast majority of competitors considered the existence of a sufficient number of credible alternative suppliers to be even more true at EEA level.

135 Responses to question 45 of *Q1 – Questionnaire to merchants.*

136 Responses to question 45 of *Q1 – Questionnaire to merchants.*

137 Responses to question 45 of *Q1 – Questionnaire to merchants.*

138 Responses to question 64 of *Q2 – Questionnaire to merchant acquirers.*

*4.5.3. Coordinated effects*

(124) In addition to raising serious doubts as to its compatibility with the internal market through non-coordinated effects, a merger may also change the nature of competition in such a way that firms that previously were not coordinating their behaviour, post-merger may be more likely in a better position to coordinate and raise prices or otherwise harm effective competition, or make coordination easier, more stable or more effective for firms which were coordinating prior to the merger (coordinated effects).[139] In assessing coordinated effects, the Commission considers whether (1) competitors are likely in a position to reach terms of coordination following the Transaction; (2) it would be possible for competitors to monitor potential deviations from the terms of coordination, (3) there are deterrent mechanisms to police adherence to the terms of coordination and (4) reactions of outsiders may jeopardise the outcome of coordination.

(125) In light of the market structures of the potential markets for retail markets for merchant acquiring in Italy, as well as the potential markets for the provision of POS terminals, the Commission considers it to be unlikely that the Transaction would lead to coordinated effects.

(126) First, in the ***overall Italian market for the provision of merchant acquiring services at retail level***, the merged entity will have a combined market share of [30-40]% in a rather fragmented market, where the second biggest competition would have a [5-10]% market share in Italy. Hence, the market is characterised by significant asymmetry. Such asymmetry of market positions coupled with differences in business models pursued by merchant acquirers in Italy (integrated merchant acquirers, such as UniCredit or ISP Acquiring, banks who rely on wholesale merchant acquiring services in order to provide those at retail level, and players such as Nexi active at wholesale and retail level) make coordination generally more challenging, as the interest of the different types of players may not be aligned. Moreover, prices for merchant acquiring services are heterogeneous across different customers and at times subjected to tenders, which would make the monitoring of deviations difficult. While a particularly aggressive pricing strategy could be deployed as deterrent mechanism, reactions from non-Italian merchant acquirers would likely make coordination unstable, as they are already perceived as credible alternatives to Italian players today and customers indicated that they would be willing to switch to those in the event of price increases in Italy.

(127) These arguments in relation to a possible overall Italian market for retail merchant acquiring appear are equally valid if that market were to be further segmented according to the potential sub-segments identified in paragraphs (21) and (25) above. In light of these elements, as well as the evidence available to it, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential coordinated effects in the Italian market of merchant acquiring services at retail level.

(128) Regarding potential coordinated effects in the ***Italian market for the provision of POS terminals and related services***, the merged entity would have a moderate combined market share of [10-20]% in a rather fragmented market. In particular, the larger competitors would have market shares between [5-10]% and [0-5]% and other

139 Horizontal Merger Guidelines, paragraph 22.

providers, falling under the "Others" category, would account for more than half of the market with a [60-70]% market share. As such, it appears that the relatively low concentration of the market for the provision of POS terminals and related services on the supply-side would make reaching terms of coordination among POS terminals providers difficult.[140] These considerations would apply even if considering the market for POS terminals sub-segmented in Italy by type of POS terminal.

(129) In light of these elements, as well as the evidence available to it, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential coordinated effects in the Italian market for the provision of POS terminals and related services.

## 4.6. Competitive assessment of the vertical links

### *4.6.1. Wholesale merchant acquiring (upstream) with retail merchant acquiring (downstream)*

(130) The Parties do not overlap in the provision of merchant acquiring services at wholesale level, since only Nexi is active in this market, providing wholesale merchant acquiring services to banks. About half of all its merchant acquiring volumes are at wholesale level to banks under the so-called *Licensing* model, while the other half are direct sales to merchants at retail level under the so-called *Direct* model and the *Referral* model. The vertical relationship between wholesale merchant acquiring (upstream) and retail merchant acquiring (downstream) is affected both upstream, because Nexi's market shares are above 30% for the potential Italian wholesale merchant acquiring market and some of its sub-divisions, and downstream, because the Parties' combined market share is above 30% for the potential Italian retail merchant acquiring market and some of its sub-divisions.

(131) The Notifying Party has provided the Commission with market shares estimates for wholesale merchant acquiring for all the plausible sub-segments identified above in paragraphs (35) and (38) in Italy,[141] except for the potential sub-segmentation between large merchants and SMEs (since wholesale merchant acquiring services are provided at a wholesale level to banks only, which would always qualify as large customers). However, the Notifying Party has failed to provide precise market share estimates, as well as market share estimates for their competitors, for lack of visibility into this segment. Table 16 below summarises the Parties' market shares for each of the potential sub-segment considered. The Parties' market shares for merchant acquiring in Italy[142] as well as all potential sub-segments discussed above in paragraphs (35) and (38) are provided above in Table 1 to Table 12.

140 Horizontal Merger Guidelines, paragraph 45.

141 At EEA level, the Notifying Party was not able to provide an estimate of Nexi's market shares for wholesale merchant acquiring.

142 At EEA level, the Parties' combined market shares in retail merchant acquiring are small, ranging from [0-5]% to [0-5]%, depending on the potential sub-segment considered.

**Table 16: Overview of the Parties' market share estimates in Italy for all plausible market sub-divisions within wholesale merchant acquiring (in 2019, by total value of transactions)**

| | Italian market overall | Physical POS / e-commerce | | International / domestic | | Debit / Credit | | Visa / Mastercard | |
|---|---|---|---|---|---|---|---|---|---|
| | | Physical POS | e-commerce | International | Domestic | Debit | Credit | Visa | Mastercard |
| **NEXI** | [50%-60%] | [50%-60%] | [40%-50%] | [70%-80%] | - | [40%-50%] | [70%-80%] | [70%-80%] | [60%-70%] |
| **ISP ACQUIRING** | - | - | - | - | - | - | - | - | - |
| **COMBINED** | [50%-60%] | [50%-60%] | [40%-50%] | [70%-80%] | - | [40%-50%] | [70%-80%] | [70%-80%] | [60%-70%] |

Source: Parties' sales and market size estimates.

*The Notifying Party's view*

(132) The Notifying Party considers that its high market shares in this segment are a legacy of the past acquisition of ICBPI by Advent International and Bain Capital (see paragraph (42)), and argues that [BUSINESS SECRET – CONTRACTUAL RELATIONSHIPS], and that the market shares laid out above in Table 16 constitute an improper reflection of Nexi's current or future market power.[143]

(133) The Notifying Party explains that banks may have multiple providers of merchant acquiring services at wholesale level, and all of Nexi's wholesale customers source [BUSINESS SECRET – SALES].[144]

(134) **With respect to potential input foreclosure,** as regards *ability*, the Notifying Party considers that there is no risk of input foreclosure because the banks Nexi currently supplies are sophisticated players with significant buyer power, which could switch to suppliers of merchant acquiring services should Nexi attempt to alter commercial terms to its advantage.[145] The Notifying Party submits that a substantial proportion of its current customers in the wholesale segment [BUSINESS SECRET – SALES – CONTRACTUAL RELATIONSHIPS AND TERMS].[146] As regards *incentive*, the Notifying Party considers that, overall, Nexi would have no incentive to discontinue wholesale supply of merchant acquiring services to banks or to degrade the terms on which these services are supplied and risking that some of its wholesale customer switch away, considering that [BUSINESS SECRET – SALES' STRATEGY]. In addition, the loss of revenue at wholesale level from customer banks arising from a foreclosure strategy would not be offset by a significant increase in ISP's business with merchants at retail level because ISP would not be capable of capturing a significant proportion of customers that might switch from their current providers. In fact, (i) many merchants obtain merchant acquiring services as part of a wider banking

143 Form CO, paragraph 227.

144 Form CO, paragraphs 224 – 226.

145 Form CO, paragraphs 238 – 240.

146 Form CO, paragraphs 241 – 242.

relationship (of which merchant acquiring is only a minor component). It is unlikely that customers of another bank (which is currently bundling merchant acquiring supplied by Nexi with other in-house banking services) would switch to ISP for the full bundle of their services; and (ii) should they switch for the sourcing of merchant acquiring services only, the Commission notes that ISP is a retail bank which would require a much larger retail distribution network to reach and capture merchants from other banks across Italy.[147] As regards *impact on competition*, the Notifying Party considers that any input foreclosure strategy would unlikely have a significant impact on competing banks at retail level, because merchant acquiring services ultimately represent a small proportion of their overall costs (<5%) compared to the value of the bundle banks create and sell to merchants. Moreover, there would be no impact on barriers to entry, since there are sufficient alternative merchant acquirers from which potential entrants can source wholesale merchant acquiring services.[148]

(135) In addition, the Commission reviewed a complaint from a competitor[149] supporting the theory of harm that Nexi would enjoy an information advantage in light of its position as wholesale merchant acquirer *vis-à-vis* other retail banks when tendering for large clients. The Commission, however, does not consider this theory of harm grounded nor merger specific. This theory would be based on the consideration that Nexi, as a wholesale merchant acquirer, has knowledge of costs for the sourcing of merchant acquiring services borne by banks and that it might leverage this knowledge to have a competitive advantage against its rivals at downstream level. The Commission observes that (i) the market investigation results revealed that banks served by Nexi define the price of the bundle of services they offer to large customers independently,[150] and (ii) even if this theory was grounded, it would not be merger specific, considering that Nexi's knowledge of banks' costs for merchant acquiring services would not improve or change post-Transaction.

(136) **With respect to potential customer foreclosure,** the Notifying Party claims that the Transaction would have no impact on the current situation, since ISP did merchant acquiring in-house, therefore, it did not source from wholesalers in the past and is not a current nor a potential customer of other wholesalers.[151]

*The Commission's assessment*

(137) *First*, as regards ***ability to engage in a potential input foreclosure strategy***, the Commission considers that, following the Transaction, the merged entity despite its sizeable market share at wholesale level would likely not have the ability to engage in full or partial input foreclosure, such as raising the price it charges when supplying wholesale merchant acquiring services to banks which are active at the retail level for merchant acquiring services, or making the conditions of supply less favourable. Respondents to the market investigation, in fact, indicated that they would switch wholesale merchant acquirer following a price increase or the worsening of supply

147 Form CO, paragraphs 243 – 244.

148 Form CO, paragraph 245.

149 Submission by *[Competitor of the Parties]* dated 8 June 2020 - ID 654.

150 Responses to question 37 of *Q2 – Questionnaire to merchant acquirers.*

151 Form CO, paragraphs 246 – 247.

conditions and that there would be sufficient alternative wholesale merchant acquirers to switch to, such as SIA, Banca Sella, or ICCREA.[152]

(138) *Second*, as regards ***incentive to engage in a potential input foreclosure strategy***, the Commission considers that, assuming that Nexi would have the ability to put in place an input foreclosure strategy (which, as explained above, is not plausible), this strategy would not be profitable. The profit Nexi would lose in the upstream market for the supply of wholesale merchant acquiring services, following an increase in prices or the degradation of the service, would not be offset by profit gains at the downstream level. The market investigation results indicated that Nexi would have no incentive to put in place an input foreclosure strategy, as it would lose economies of scale at upstream level, which are considered essential to remain competitive, and considering that wholesale merchant acquiring services represent Nexi's core business.[153]

(139) *Third*, as regards ***the effects of a potential input foreclosure strategy***, as explained above, Nexi would have no ability to increase the costs of its customers at wholesale level, which are its rivals at downstream level, by increasing the price for wholesale merchant acquiring services. The customers, in fact, would switch to alternative players. Therefore, the Commission considers that the Transaction will not result in a significant price increase in the downstream market and will not impede effective competition.

(140) *Finally*, as regards a potential ***customer foreclosure strategy***, although, as shown in Table 1 above, in a potential overall market for retail merchant acquiring in Italy, ISP Acquiring would hold a [20-30]% market share and the Parties' combined market share would amount to [30-40]%, Unicredit being the closest competitor with a [5-10]% market share, ISP Acquiring sources its wholesale merchant acquiring services only from Nexi. Following the Transaction, ISP Acquiring will continue sourcing wholesale merchant acquiring in-house and, therefore, the Transaction will bring no change in the market. Nexi will not have the ability to foreclose access to ISP Acquiring as a customer for wholesale merchant acquiring to its rivals in the upstream market because ISP Acquiring is currently not a customer to other wholesale merchant acquirers. In addition, the market investigation results did not bring to the Commission's attention any concerns regarding a potential customer foreclosure strategy.

(141) In light of the above, the Commission considers that the Transaction does not give rise to serious doubts as to its compatibility with the internal market as possibly deriving from its vertical effects between the provision of wholesale merchant acquiring services (upstream) and of retail merchant acquiring services (downstream).

*4.6.2. Provision of POS terminals and related services (upstream) with retail merchant acquiring (downstream)*

(142) Both Nexi and ISP Acquiring provide their customers with POS terminals. The vertical relationship between the provision of POS terminals (upstream) and retail merchant acquiring (downstream) gives rise to an affected market because the market

152 Responses to question 45 of *Q2 – Questionnaire to merchant acquirers*.

153 Responses to question 46 of *Q2 – Questionnaire to merchant acquirers*.

share levels are above 30% for retail merchant acquiring and certain of its potential sub-segments.

(143) The Parties' market shares for the provision of POS terminals and related services in Italy are provided above in Table 13. The Parties' market shares for merchant acquiring in Italy at retail level[154] as well as all potential sub-segments discussed above in paragraphs (35) and (38) are provided above in Table 1 to Table 12.

(144) Given the Parties' small market shares in the upstream market for the provision of POS terminals and related services, and consequently the combined entity's inability to foreclose access to the provision of POS terminals and related services post-Transaction, input foreclosure will not be assessed in this decision.

*The Notifying Party's view*

(145) The Notifying Party considers that there is no risk of customer foreclosure since, as stated above in paragraph (116), ISP Acquiring is already procuring its POS terminals exclusively from Nexi pursuant to a long-term agreement, and is therefore not a current or potential customer of third-party providers of POS terminals.[155]

*The Commission's assessment*

(146) *First*, as regards ability, the Commission considers that, post-Transaction, nothing would change in terms of access to ISP Acquiring's customer base. Already today, in fact, ISP Acquiring sources its POS terminals exclusively from Nexi and, therefore, it is not a customer for alternative providers of POS terminals. The Notifying Party would have no ability to foreclose access to ISP Acquiring's customer base as ISP Acquiring is not a customer to other players.

(147) *Second*, as regards incentive and effects, it is not necessary for the Commission to conclude on whether the Parties would have an incentive to engage in a potential foreclosure strategy, or whether such a potential input foreclosure strategy would have meaningful effects on the market, as the lack of ability would already prevent the Parties to engage in such a potential foreclosure strategy in the first place.

(148) *Finally*, the market investigation results did not bring any evidence to the Commission's attention with respect to a potential customer foreclosure strategy that the Notifying Party might put in place following the Transaction.

(149) In light of the above, the Commission considers that the Transaction does not give rise to serious doubts as to its compatibility with the internal market in relation to the vertical link arising between the provision of POS terminals and related services (upstream) and retail merchant acquiring (downstream). Acquiring processing (upstream) with retail merchant acquiring (downstream)

*4.6.3. Acquiring processing (upstream) with retail merchant acquiring (downstream)*

(150) Both Parties are active in the market for retail merchant acquiring services but only Nexi is active in the provision of acquiring processing services to other merchant

154 At EEA level, the Parties' combined market shares in retail merchant acquiring are small, ranging from [0-5]% to [0-5]%, depending on the potential sub-segment considered.

155 Form CO, paragraph 256.

acquirers. In 2015, Nexi purchased the acquiring processing business of ISP, and ISP Acquiring and Nexi entered into a long-term exclusive agreement whereby ISP Acquiring obtains acquiring processing exclusively from Nexi. As a result, [90-100]% (in value) of all acquiring processing activities performed by Nexi are for ISP Acquiring, and ISP Acquiring sources its acquiring processing services exclusively from Nexi. Moreover, [BUSINESS SECRET – QUANTITIES AND KIND OF SERVICES SOLD]. The vertical link between acquiring processing (upstream) and retail merchant acquiring (downstream) is affected both upstream, because Nexi's market shares are above 30% for the overall segment of acquiring processing in Italy and some of the sub-divisions within acquiring processing, and downstream, because the Parties' combined market shares are above 30% for retail merchant acquiring and some of its sub-divisions.

(151) The Notifying Party has provided the Commission with market shares estimates for all the plausible sub-segments identified above in paragraph (73) in Italy.[156] Table 17 below summarises the Parties' market shares for each of the potential sub-segment considered.

**Table 17: Overview of the Parties' market share estimates for Italy for all plausible market sub-divisions within acquiring processing (in 2019, by total value of transactions)**

| | Italian market overall | Physical POS / e-commerce | | International / domestic | |
|---|---|---|---|---|---|
| | | Physical POS | e-commerce | International | Domestic |
| **NEXI** | [20-30]% | [20-30]% | [10-20]% | [30-40]% | - |
| **ISP ACQUIRING** | - | - | - | - | - |
| **COMBINED** | [20-30]% | [20-30]% | [10-20]% | [30-40]% | - |

Source: Parties' sales and market size estimates.

*The Notifying Party's view*

(152) The Notifying Party considers that there is no risk of input or customer foreclosure given the Parties' exclusive relationship with respect to acquiring processing. Indeed, as mentioned above in paragraph (150), Nexi provides acquiring processing services almost exclusively to ISP Acquiring and ISP Acquiring sources its acquiring processing services exclusively from Nexi.[157] Nexi supplies *de minimis* amounts of acquiring processing services only to very few other third-party clients, which account only for approximately [0-5]% of the transactions that Nexi processes. [BUSINESS SECRET – CUSTOMERS AND QUANTITIES SOLD].[158]

*The Commission's assessment*

156 At EEA level, Nexi's market shares are negligible, ranging from [0-5]% to [0-5]%, depending on the potential sub-segment considered.

157 Form CO, paragraphs 266 – 269.

158 Form CO, footnote 110.

(153) The previously mentioned complaint by a competitor[159] also covers the vertical relationship between acquiring processing and merchant acquiring at retail level. It puts forward that Nexi would have the ability and incentive to foreclose competitors downstream in the market for retail merchant acquiring to which Nexi supplies acquiring processing. According to this complaint, Nexi would have the ability to increase its rivals' costs in acquiring processing in order to gain a competitive advantage over them at downstream level.

(154) *With regard to this* ***input foreclosure strategy****, the Commission firstly notes* that already today, Nexi supplies its acquiring processing services almost exclusively to ISP Acquiring and, therefore, **[**BUSINESS SECRET – CUSTOMERS AND QUANTITIES SOLD**]**. The Notifying Party would therefore have no ability to foreclose access to Nexi's acquiring processing services as Nexi is not an active supplier to acquiring processing customers other than ISP Acquiring. The very few alternative third-party customers that Nexi supplies with acquiring processing services represent only [0-5]% of the transactions it processes and **[**BUSINESS SECRET – CUSTOMERS AND QUANTITIES SOLD**]**.

(155) As regards incentive to engage in a potential input foreclosure strategy and effects of such a potential input foreclosure strategy, it is not necessary for the Commission to conclude on whether the Parties would have an incentive to engage in a potential input foreclosure strategy, or whether such a potential input foreclosure strategy would have meaningful effects on the market, as the lack of ability would already prevent the Parties to engage in such a potential input foreclosure strategy in the first place.

(156) *Second*, as regards the possibility to engage in a potential ***customer foreclosure strategy***, the Commission considers that, post-Transaction, nothing would change in terms of access to ISP Acquiring as a customer for acquiring processing. Already today, in fact, ISP Acquiring sources its acquiring processing services exclusively from Nexi and, therefore, it is not a customer, for alternative providers of acquiring processing services. The Notifying Party would have no ability to foreclose access to ISP Acquiring as a customer for acquiring processing as ISP Acquiring is not a customer, nor actual nor potential, to other players. As regards incentive to engage in a potential customer foreclosure strategy and effects of such a potential customer foreclosure strategy, it is not necessary for the Commission to conclude on whether the Parties would have an incentive to engage in a potential customer foreclosure strategy, or whether such a potential customer foreclosure strategy would have meaningful effects on the market, as the lack of ability would already prevent the Parties to engage in such a potential customer foreclosure strategy in the first place.

(157) *Finally*, with the exception of the above-mentioned complaint, which appears to be based on a wrong understanding of Nexi's market position in acquiring processing, the market investigation results did not bring any evidence to the Commission's attention with respect to a potential input or customer foreclosure strategy that the Notifying Party might put in place following the Transaction.

(158) In light of the above, the Commission considers that the Transaction does not give rise serious doubts as to its compatibility with the internal market in relation to the vertical

159 Submission by *[Competitor of the Parties]* dated 8 June 2020 - ID 654.

link arising between the provision of acquiring processing services (upstream) and of retail merchant acquiring services (downstream).

## 5. CONCLUSION

6. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

*For the Commission*

*(Signed)*
*Margrethe VESTAGER*
*Executive Vice-President*