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PUBLIC VERSION

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus […]. Where possible the information omitted has been replaced by ranges of figures or a general description.

Group Crédit Agricole
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Subject: **Case M.11120 – WORLDLINE / CRÉDIT AGRICOLE / JV**
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 29 January 2024, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Group Crédit Agricole ("Crédit Agricole") and Worldline S.A. (together with its directly and indirectly controlled subsidiaries, "Worldline") will create a full-function joint venture ("JV") within the meaning of Article 3(4) of the Merger Regulation, (the "Transaction").[3] Crédit Agricole and Worldline are collectively referred to as the "Parties" or the "Notifying Parties".

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 OJ C, C/2024/1352, 6.2.2024.

1. THE PARTIES

(2) Crédit Agricole is one of the main banking groups in France. Its central body Crédit Agricole S.A. ("CASA"), a company ultimately controlled by Crédit Agricole's 39 regional banks, is listed on the Euronext Paris stock market. Crédit Agricole offers a wide range of banking and financial services and is mainly active in the EEA, especially in France and Italy, and is also present in the United Kingdom, North America, and Asia-Pacific.

(3) Worldline is listed on Euronext Paris and active in the payment and transactional services industry. Worldline is mainly active across the EEA but also in emerging markets such as India, China and certain countries in Asia and Latin America. Worldline is not controlled by any entity or individual within the meaning of Article 3(1)(b) of the Merger Regulation.

2. THE CONCENTRATION

(4) The Parties signed a Memorandum of Understanding on the creation of the JV on 18 April 2023 and on 28 July 2023, a related Framework Agreement and a draft Shareholders' Agreement.

(5) The Parties intend to create the JV in the field of merchant electronic payments services to French and foreign merchants in France. The Transaction aims to combine several of the Parties' activities in France, namely Crédit Agricole's merchant acquiring services for specified merchants[4] and Worldline's acceptance services. The Transaction will be implemented in two consecutive phases, with a third potential phase […]:

- Phase 1 should last […]. During this phase, the JV will:
    - Apply for various regulatory and banking authorizations.
    - Develop the necessary technological platform.
    - Develop some operations, while not being fully market facing.
- Phase 2 will start once the JV obtains the regulatory and banking authorizations and finishes the development of its technological platform. It will correspond to the effective transfer of the Parties' assets to the JV, […].
- Phase 3 […].[5]

(6) The Commission examined whether the creation of the JV would amount to the (i) acquisition of joint control over (ii) a full function joint venture within the meaning of Article 3(4) of the Merger Regulation.

[4] Crédit Agricole will transfer to the JV its activities of merchant services for large customers. […].
[5] Form CO, para 3.

2.1. Joint control

(7) The JV's capital will be held by Worldline and Crédit Agricole. Worldline will hold 50% plus one share of the JV's capital and voting rights, and Crédit Agricole will hold the remaining 50% minus one share of capital and voting rights.[6]

(8) The JV will be controlled by a Board of Directors ("BoD") and a CEO.[7] The BoD is composed of […] directors.[8] Worldline appoints […] directors, Crédit Agricole appoints the remaining […].[9] Decisions of the BoD (including the nomination of the CEO)[10] are typically adopted by simple majority. Only "strategic decisions" are subject to a qualified majority vote[11] (simple majority of the members present or represented, including the favourable vote of at least one member representing Crédit Agricole).[12]

(9) Therefore, the Commission assessed whether the JV would be solely controlled by Worldline or jointly controlled by the Parties.

2.1.1. Parties' view

(10) The Parties submit that the Framework Agreement and draft Shareholders' Agreement governing the JV ensure that the Parties exercise *de jure* joint control over the JV[13] for the reasons presented below.

(11) *First*, the Parties have joint control over the JV's business plans as they […][14] and this is "*in itself, sufficient to establish joint control of Crédit Agricole and Worldline over the JV's strategic decisions*".[15]

(12) *Second*, there is joint control over annual budgets. […].[16] Additionally, the Parties note that two safeguards were introduced to ensure joint control:

- […][17] […][18] […];
- […][19] […].[20]

(13) *Third*, the Parties consider that "*Crédit Agricole will be involved in the appointment and dismissal of the JV's senior management to such an extent that it is sufficient to provide it, without any doubts, with decisive influence over the JV's strategic orientations and key decisions*".[21]

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6 Form CO, Annex 2, points F and G of the draft Shareholders' agreement.
7 Form CO, Annex 2, Article 5.1 of the draft Shareholders' agreement.
8 Form CO, Annex 2, Article 5.3(a) of the draft Shareholders' agreement.
9 Form CO, Annex 2, Article 5.3(a) of the draft Shareholders' agreement.
10 Form CO, Annex 2, Article 5.2(a) of the draft Shareholders' agreement.
11 Form CO, Annex 2, Article 5.3(e) of the draft Shareholders' agreement.
12 Form CO, Annex 2, Article 5.3.(g)(v)(A) of the draft Shareholders' agreement.
13 Form CO, Annex 15, para 4.
14 Form CO, Annex 15, para 36.
15 Form CO, Annex 15, para 36.
16 Form CO, Annex 15, para 37.
17 Form CO, Annex 15, para 39.
18 Form CO, Annex 15, para 39.
19 Form CO, Annex 15, para 40.
20 Form CO, Annex 15, fn 13
21 Form CO, Annex 15, para 61.

(14) *Fourth*, the Parties explain that Crédit Agricole will hold veto rights over large acquisitions and investments because operations above a certain amount require a qualified majority vote from the BoD.[22] […].[23]

(15) […].[24]

2.1.2. The Commission's assessment

(16) According to the Commission's Consolidated Jurisdictional Notice ("**CJN**"), a minority shareholder will be deemed to enjoy joint control over a JV if it is able to block the adoption of strategic decisions by the JV without having the power, on its own, to impose such decisions.[25] Veto rights which confer joint control typically include decisions on issues such as the budget, the business plan, major investments or the appointment of senior management.[26] By contrast, veto rights that are normally accorded to minority shareholders to protect their financial interests as investors are insufficient to establish joint control.[27]

(17) The Commission considers that certain points raised by the Parties do not support a finding of *de jure* joint control. Regarding the appointment of senior management, while it is initially jointly appointed by the Parties, Worldline will be able to decide alone on subsequent appointments[28] (including the CEO).[29] [30] Additionally, the veto rights of Crédit Agricole over large investments and purchases do not seem to go beyond those usually afforded to protect minority shareholders. In addition, the committees only have a consultative role and do not have decision-making powers.[31, 32]

(18) Nevertheless, the Commission considers that there is *de jure* joint control as a result of Crédit Agricole's veto right over business plans and, through those business plans, its significant influence over annual budgets.

(19) First, Crédit Agricole has a veto right over the adoption of business plans. […][33] […].[34, 35] […][36] […].[37] […].[38] […].[39] […].[40]

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22 A qualified majority vote of the BoD is required for […] (Form CO, annex 15 para 65 and 66).

23 Form CO, Annex 15, para 67.

24 Form CO, Annex 15, para 74.

25 Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ C 95, 16.4.2008, p. 1).

26 Consolidated Jurisdictional Notice, paragraph 67.

27 Consolidated Jurisdictional Notice, paragraph 66.

28 Form CO, Annex 2, Article 5.6 of the draft Shareholders' agreement

29 Worldline is in charge of putting forward a candidate for the position of CEO to the BoD. […] (Form CO, Annex 2, Article 5.2.(a)(iii)(A) of the draft Shareholders' agreement).

30 […] (Form CO, Annex 2, Article 5.3(c) of the draft Shareholders' agreement).

31 The consultative role of the Board Committees is presented in the draft Shareholders' agreement where it is explicitly stated that it does not have any decision-making powers (Form CO, Annex 2, Article 5.3(h)(i)(A) of the draft Shareholders' agreement).

32 Alliances Committees render opinions that need to be adopted by either the CEO or the BoD to be implemented. It is explicitly stated that it does not have any decision-making powers (Form CO, Annex 2, Article 5.4(b)(iii) of the draft Shareholders' agreement).

33 […] (Form CO, Annex 15, para 23). Phase 1 is expected to last […].

34 […] (Form CO, Annex 15, para 25).

35 […] (Form CO, Annex 15, para 28).

36 Form CO, Annex 2, Article 2.1(d) of the draft Shareholders' agreement.

(20) Second, those business plans include detailed information on the JV's future revenues, costs (e.g. salaries, marketing costs, licences etc.) and financing.[41]

(21) Third, those business plans significantly constrain annual budgets. […].[42] […],[43] […].[44]

(22) Consequently, the Commission concludes that Worldline and Crédit Agricole will exercise joint control over the JV.

2.2. Full functionality

(23) As of its creation, the JV will not have the required authorisations and licenses to operate on the market. As a result, one of its main objectives in Phase 1 (which is set to last […])[45] is to request and obtain all the required authorisations to operate independently on the market, namely:

- the authorisation to operate as a payment institution in France from the *Autorité de contrôle prudentiel et de résolution* ("ACPR");[46]

- a Cartes Bancaires ("CB") license to become an affiliate member of Crédit Agricole;[47]

- a license for the VISA and Mastercard payment schemes to become an affiliate member of Worldline.[48]

(24) Given that the JV is dependent on third-party decisions to start operating on the market, the Commission examined whether, as of its creation, the JV would be full function within the meaning of Article 3(4) of the Merger Regulation.

(25) According to the CJN, for a joint venture to be full function, it has to (i) have sufficient resources to operate independently on the market,[49] (ii) carry out activities that go beyond one specific function for the parents,[50] (iii) despite potential sales/purchase relations with the parents, it has to be set up to be economically autonomous and to play an active role on the market,[51] (iv) it has to be intended to operate on a lasting basis.[52]

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37 Any annual update to the business plan which is below certain sensitivity thresholds may be approved by simple majority by the BoD if one of the following conditions if met: […]. (Form CO, Annex 15, para 34).
38 Response to RFI 7, para 4 and 5.
39 Form CO, Annex 15, para 35. Please see also Annex 27.
40 Form CO, para 158.
41 See Phase 1 Business plan (Form CO, Annex 16) and Phase 2 Business plan (Form CO, Annex 17.1, 17.2 and 17.3).
42 Form CO, Annex 2, Article 2.2(d) of the draft Shareholders' agreement.
43 Form CO, Annex 2, Article 2.2(d) of the draft Shareholders' agreement.
44 Form CO, Annex 2, Article 2.2(c) of the draft Shareholders' agreement.
45 Form CO, para 3.
46 Form CO, Annex 3, para 21.
47 Form CO, Annex 3, para 21.
48 Form CO, Annex 3, para 21.
49 Consolidated Jurisdictional Notice, paragraph 94.
50 Consolidated Jurisdictional Notice, paragraph 95.
51 Consolidated Jurisdictional Notice, paragraph 97.
52 Consolidated Jurisdictional Notice, paragraph 103.

2.2.1. Parties' view

(26) The Parties explain that the JV is full function as of Phase 1.[53] In support of their position, the Parties submit that:

- "*The JV will have its own resources to operate independently on the market during Phase 1 (i.e. […] staff will work full-time for the JV, the JV will bear its own costs related to its activity, the JV will have its own premises, brand and identity);*

- *The JV's activities will go beyond a specific function for its parent companies (i.e. the JV will market combined offers during Phase 1 based on the existing infrastructure of its parent companies, in order to prepare its direct access to the market for Phase 2);*

- *Potential sale/purchase relationships with the Parties will be temporary and will not prevent the JV from having an independent active role on the market (i.e. the links between the JV and the Parties in Phase 1 will be maintained for a period comprised […], the new offers that the JV will develop during Phase 1 are those it will market itself, independently in Phase 2);*

- *The JV will operate on a lasting basis (i.e. for a period of at least […] years*")*.*[54]

(27) Regarding the operations on a lasting basis of the JV, the Parties add that the JV depends on the acquisition of certain authorisations and licenses to operate independently on the market. Nevertheless, the Parties consider that the JV will not face difficulties in obtaining those authorisations[55] and this should therefore not be an obstacle in considering the JV full function.

2.2.2. The Commission's assessment

(28) The Commission considers that the JV is full function as of Phase 1 for the reasons set out below.

(29) *First*, the JV will have sufficient resources to operate on the market given the budget, staff, facilities and other resources it will have access to in Phase 1.[56]

(30) *Second*, the JV's activities will go beyond one specific function for the parent companies: during Phase 1, the JV will apply to regulatory and banking authorisations, develop its technological platform, develop its own offers and participate in the application to tenders.[57]

(31) *Third*, while the JV will heavily rely on its parents during Phase 1, from the beginning of Phase 2, the JV will have the required authorisations and capacities to operate on the market. It is also expected that the JV will be market facing and generate significant revenue from third parties.[58] In Phase 2, if it relies on the

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53 Form CO, Annex 3, para 141.

54 Form CO, Annex 3, para 4.

55 Form CO, Annex 3, para 23 *et seq.*

56 The JV will have […] full time dedicated staff, its own budget, premises, brand and communication strategy. (Form CO, Annex 3, para 38 *et seq*.)

57 Form CO, para 110 *et seq*.

58 Form CO, Annex 3, footnote 33 75.

Parties' technical capacities, it will pay for those services on an arm's length basis.[59] In addition, Phase 1 is set to last […],[60] below the three-year start-up period indicated in paragraph 97 of the CJN. Consequently, the Commission considers such reliance in Phase 1 to be a "start-up period" not affecting the full function character of the JV within the meaning of the CJN.

(32) *Fourth*, regarding the JV's operation on a lasting basis, the Commission investigated whether the authorizations and licenses the JV should obtain from the ACPR, CB, VISA and Mastercard amount to "mere formalities" within the meaning of the CJN.[61] The ACPR,[62] Mastercard,[63] and CB[64] explained that, given the identity of the Parties, their capabilities, relevant professional activities and experience with the respective procedures, they consider that it is just a matter of time before the JV ultimately receives the required authorisations and licenses.

(33) Consequently, the Commission considers that it would be highly unlikely for the JV not to obtain the necessary licenses and authorisations to become operational in the market. Given that these third-parties' decisions amount to "mere formalities" and that the JV is set up to operate for […] years, the Commission concludes that the JV is set to operate on a lasting basis.

(34) Therefore, the Commission concludes that the JV is full function as of Phase 1 and that its creation amounts to a notifiable concentration before the implementation of that phase.

2.3. Conclusion

(35) In light of the above, the Commission considers that the Transaction amounts to the creation of a full function joint venture by Worldline and Crédit Agricole within the meaning of Article 3(4) of the Merger Regulation.

3. UNION DIMENSION

(36) The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5 000 million (in 2022, Worldline had a turnover of EUR 4,364.13 million, Crédit Agricole of EUR 94,437.37 million). Each of the Parties has an EU wide turnover of more than EUR 250 million (in 2022, Worldline had a turnover of EUR […], Crédit Agricole of EUR […]) and they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The Transaction, therefore, has an EU dimension within the meaning of Article 1(2) of the Merger Regulation.

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59 Form CO, Annex 3, para 67.

60 Form CO, Annex 3, para 75.

61 "*A joint venture also lacks the sufficient operations on a lasting basis at a stage where there are decisions of third parties outstanding that are of an essential core importance for starting the joint venture's business activity. Only decisions that go beyond mere formalities and the award of which is typically uncertain qualify for these scenarios*." (Paragraph 105 of the CJN, emphasis added).

62 Minutes of call with the ACPR, held on 2 June 2023.

63 Minutes of call with Mastercard, held on 15 June 2023. The Parties note in that regard that "*there is no doubt that the JV will eventually have its own approvals and licenses (e.g. Autorité de contrôle prudentiel et de resolution ("ACPR") approval, CB, Visa and Mastercard licenses)*" (Form CO, paragraph 118).

64 Minutes of call with CB, held on 9 June 2023.

4. INTRODUCTION AND THE PARTIES' ACTIVITIES

4.1. Background

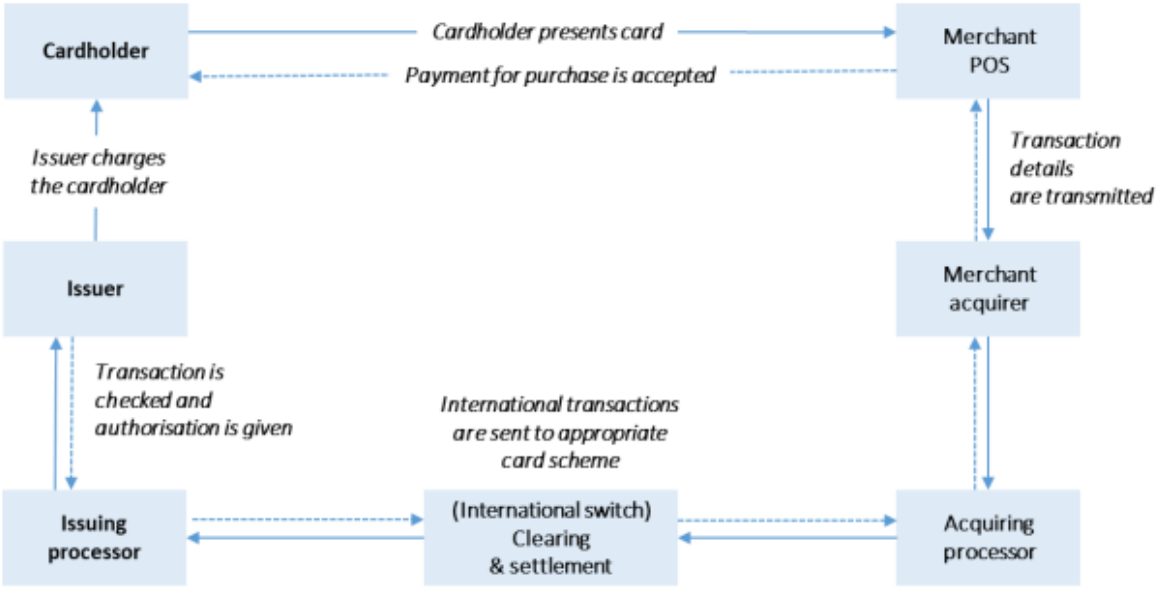
(37) The Transaction consists of the creation of a joint venture by Worldline and Crédit Agricole that will be active in the field of merchant electronic payments services to French and foreign merchants in France. The JV will combine the Parties' offerings in France, i.e., Crédit Agricole's merchant acquiring services for specified merchants[65] and Worldline's acceptance services.[66]

(38) Card payment systems 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 online) without using cash. Through these systems, merchants are connected with financial institutions, namely the bank issuing the card (issuer bank) and the bank endorsing the cashless payment to the benefit of the merchant (acquirer bank) to execute the entire payment transaction from the moment of payment at the point of sale ("POS") until the merchant's account is credited.

4.2. Physical (POS) payment transactions

(39) This Section will describe the actors and main steps in a physical card payment transaction as illustrated in Figure 1 below.

Figure 1 - Overview of an in-store card-based payment transaction



Source: Case M.9776, Worldline / Ingenico, and referred to in the Form CO, paragraph 312

65 Please see paragraph 5 above.
66 Form CO, paragraphs 1 and 2.

- **Step 1:** A physical card payment transaction begins when the cardholder uses a payment card to pay for the purchase of goods or services from a merchant.
- **Step 2(a):** The merchant will seek authorisation for the transaction from its merchant acquirer.[67] The authorisation request is transmitted from the merchant's POS terminal[68] at which the customer presented his/her card.
- **Step 2(b) (applicable to large merchants only):** the payment details are often sent to an (in-store) acceptance service provider that routes payments to the different acquirers.[69] This allows large merchants to stimulate competition between different acquirers thereby obtaining better terms and conditions for their services.
- **Step 3:** Subsequently, the authorisation request is sent to the acquirer processor[70], which will identify the scheme network to which the payment card belongs and transmit the request to the issuer processor.
- **Step 4:** The issuer processor will perform checks, such as whether the card is valid and whether the cardholder's account contains sufficient funds.
- **Step 5:** The result of the authorisation request is sent back to the POS terminal; if the transaction is authorised, the merchant can be sure of payment.

4.3. E-commerce payment transactions

(40) As illustrated in Figure 2, e-commerce payment transactions involve similar actors as physical payment transactions, including e-commerce merchant acquirers[71] and e-commerce acceptance service providers[72]. The difference to physical transactions is that e-commerce transactions do not involve POS terminals. Instead, when making a payment, the customer will see a landing page or gateway, which then routes the customer to the appropriate interface for the selected payment method (e.g. debit, credit card, e-wallet).

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67 POS merchant acquiring is 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.

68 Terminals are the card readers in which the payment card is introduced, and in some cases the PIN is entered, when making a payment transaction.

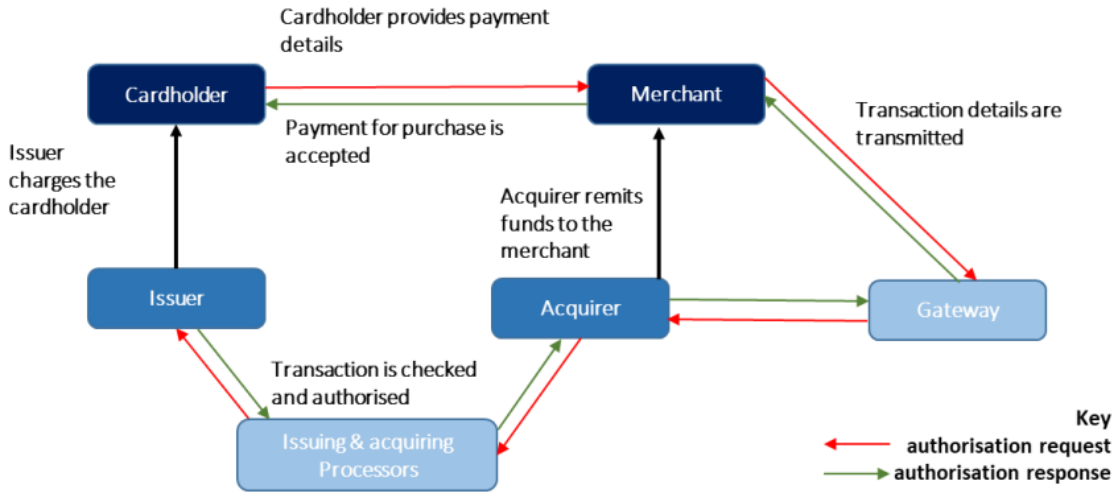
69 In-store acceptance is a technical service that allows a merchant to optimise the connection to multiple acquirers. In-store acceptance services act as a central platform that connects the merchant's entire installed base of POS terminals to merchant acquirers. This service is only provided to large merchants with a significant number of terminals and transaction volume.

70 Acquiring processing services are 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 the service to third party processors.

71 Similar to POS merchant acquiring, e-commerce merchant acquiring comprises a set of services that allow merchants to accept cards.

72 E-commerce acceptance is the provision of this gateway service. E-commerce acceptance solutions give the option to select multiple types of cards (e.g. credit or debit card) various scheme networks such as Mastercard and Visa and can also route payments with alternative payment methods ("APMs"), such as digital wallets. E-commerce acceptance can be offered to merchants on a stand-alone basis or in a combined offering together with e-commerce merchant acquiring. E-commerce acceptance can also be offered to merchant acquirers on a white label basis who then sell it to merchants together with their e-commerce merchant acquiring services.

Figure 2 – Overview of an e-commerce transaction



Source: Case M.9776, Worldline / Ingenico, and referred to in Form CO, paragraph 314

4.4. The Parties' activities

(41) **Worldline**'s offering in the EEA includes[73]:

(a) POS merchant acquiring services (via Worldline's direct and indirect subsidiaries (e.g. PayOne[74]));

(b) E-commerce merchant acquiring services (via Worldline's direct and indirect subsidiaries (e.g. PayOne[75]));

(c) E-commerce acceptance services (via Worldline's solutions or entities: SIPS, SaferPay, PayUnity, WOPA, PayOne, GlobalCollect, Ogone, PaymentIQ and Bambora);

(d) In-store acceptance services (via Worldline's solutions AXIS, SACC[76] and Conexflow[77]);

(e) Acquiring and issuing processing services (via Worldline's direct and indirect subsidiaries).

(42) In most EEA countries, Worldline provides only a selection of these services. In France specifically, Worldline provides e-commerce acceptance services essentially via SIPS and Ogone, in-store acceptance services essentially via SACC, and AXIS, and acquiring processing services. Worldline provides both e-commerce merchant acquiring and POS merchant acquiring services but only to a very limited extent in France.[78] Worldline supplies POS terminals together with its in-store acceptance solution (AXIS) in France and in other countries, as it is necessary to

73 Form CO, paragraphs 319-327.
74 PayOne being the JV between Worldline and DSV in Germany (Form CO, paragraph 691).
75 Ibid.
76 […].
77 In Spain only.
78 In France Worldline only provides marginal POS and e-commerce merchant acquiring services to international clients with cross-border activities who are present in neighbouring countries, on international schemes Visa and Mastercard (Form CO, paragraph 322).

configure the terminals before connecting them to AXIS. Worldline currently procures POS terminals from a third-party.[79]

(43) As regards merchant payment services specifically, **Crédit Agricole** is mainly active in France where its offering includes[80]:

(a) POS merchant acquiring services;

(b) E-commerce merchant acquiring services;

(c) Management of POS terminals services[81];

(d) Acquiring processing services: although within the EEA Crédit Agricole does not provide acquiring processing services to third parties.[82]

(44) Crédit Agricole does not develop or market its own e-commerce acceptance or in-store acceptance services on the market. With regards to e-commerce acceptance services, Crédit Agricole's banks offer to their clients two white label solutions: Up2PAY E-Transaction (derived from the […]) and Sherlock (derived from the SIPS solution owned by Worldline). Similarly, Crédit Agricole's subsidiary AVEM distributes Worldline's in-store acceptance offer, AXIS.

(45) **The JV** will be active in the following activities relating to in-store and e-commerce payment transactions, in France:[83]

(a) POS merchant acquiring

(b) E-commerce merchant acquiring

(c) In-store acceptance

(d) E-commerce acceptance

4.5. Overview of the horizontal overlaps and vertical/conglomerate relationships

(46) Due to the mostly complementary nature of the Transaction, horizontal overlaps are limited and concern the following markets:

(a) POS and e-commerce merchant acquiring;

(b) Provision and management of POS terminals[84].

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79 Worldline was previously active in the supply of POS terminals to merchants, but it divested its Terminals, Solutions & Services (TSS) business line in 2022.

80 Form CO, paragraphs 328-333.

81 Crédit Agricole's subsidiary AVEM notably provides to merchants, either directly or indirectly through Crédit Agricole and other third-party banks, management of POS terminals services and after-sales services (Form CO, paragraph 69).

82 Outside the EEA Crédit Agricole provides residual acquiring processing services to one third-party in […] for historic reasons.

83 Form CO, paragraphs 316 and 322. For completeness, the JV will offer POS management services to new customers, although it will entirely outsource the implementation of such services to POS management service providers (Crédit Agricole's AVEM, but also of others such as […]) (Form CO, paragraph 922).

84 A horizontal overlap between Crédit Agricole and Worldline in POS management services only exists if one takes into account the POS terminals that are provided to merchants as part of Worldline's in-store acceptance offering.

(47) The Transaction gives rise to the following non-horizontal links:

(a) Vertical link: Acquiring processing (upstream) – Merchant acquiring (downstream);

(b) Vertical link: E-commerce acceptance in white label (upstream) – E-commerce merchant acquiring (downstream);

(c) Conglomerate links: In-store acceptance – other payment related services including POS merchant acquiring.

5. MARKET DEFINITIONS[85]

5.1. Merchant acquiring services

a. Product market definition

The Commission's past practice

(48) The Commission considered the market for merchant acquiring services in previous cases,[86] most recently in *DNB/Danske Bank/SB1/EIKA/Balder/VIPPS/MobilePay* [87] and also in *Worldline/Ingenico*.[88] The Commission concluded that the merchant acquiring space could be divided into two main markets based on whether the services were provided for online transactions (e-commerce merchant acquiring) or in-store through a point-of-sale terminal (POS merchant acquiring). It further considered potential segmentations of these two markets based on the type of payment card scheme used (international or domestic), the payment card brand (Mastercard or Visa), the type of payment card (debit or credit), and on the size of the merchant (large or SME) but ultimately left the final definition open.[89]

(49) With respect to e-commerce merchant acquiring, the Commission has also considered segmenting the market between alternative payment methods ("APMs") and card-based payments but left the exact market definition open.[90]

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85 The relevant market within which the Commission appraises competition dynamics typically comprises a product and a geographic dimension. See the Commission Notice on the definition of the relevant market for the purposes of Union competition law, OJ C, 22.2.2024, paragraph 12.

86 Case M. 9759 - *Nexi / Intesa San Paolo (Merchant Acquiring Business)*, Commission decision of 26.6.2020, paragraphs 17-27; Case M.9387 - A*llied Irish Banks/First Data Corporation/Semeral*, Commission decision of 23.10.2019, paragraphs 30-33; and Case M. 7873 - *Worldline / Equens / Paysquare*, Commission decision of 20.4.2016, paragraphs 19-32.

87 Case M.10935 - *DNB/ Danske Bank / SB1 / EIKA / Balder / VIPPS / Mobilepay*, Commission decision of 21.10.2022, paragraphs 158-163.

88 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 15- 36. See also, Case M. 9759 - *Nexi / Intesa ISP (Merchant Acquiring Business)*, Commission decision of 26.6.2020, paragraphs 17-57; Case M.9387 - *Allied Irish Banks/First Data Corporation/Semeral*, Commission decision of 23.10.2019, paragraphs 30-33; and Case M. 7873 - *Worldline / Equens / Paysquare*, Commission decision of 20.4.2016, paragraphs 17 et seqq.

89 Case M.10935 - *DNB / Danske Bank / SB1 / EIKA / Balder / VIPPS / Mobilepay*, Commission decision of 21.10.2022, paragraphs 158-163; Case M.10358 - *Advent International / Eurazeo / Planet Payment Group*, Commission decision of 22.9.2021, paragraphs 10-14; Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 35-36; Case M.10075 - *Nexi / Nets Group*, Commission decision of 8.3.2021, paragraph 19.

90 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraph 36.

The Notifying Parties' view

(50) The Parties submit[91] that the difference between e-commerce merchant acquiring and POS merchant acquiring tends to decrease as the importance of e-commerce transactions grows and more market participants offer omnichannel options which are increasingly popular among merchants. However, the technical infrastructure, commercial strategy, fraud management requirements, as well as the difference in the respective related services (e.g. facilitation of reimbursement in case of returns, management of automated subscriptions, uncoupling of authorisation) justifies analysing the market for POS merchant acquiring and the market for e-commerce merchant acquiring separately.

(51) With respect to other possible market segmentations, the Parties submit[92] that they are not appropriate. Neither of the two markets (POS merchant acquiring and e-commerce merchant acquiring) should be segmented per type of payment card scheme (international or domestic) considering that most merchant acquirers and POS terminals can handle both types of card scheme and that, from a demand-side perspective, merchants typically prefer to accept as many card types as possible. Card types or card brands are also not on distinct markets as merchant acquirers usually provide their services through both credit and debit card and regardless of brands.

(52) Specifically with respect to the market for e-commerce merchant acquiring, the Parties further submit[93] that a distinction between e-commerce merchant acquiring for APMs and e-commerce merchant acquiring for card-based payments is not appropriate since both use cards as the underlying payment method.

The Commission's assessment

(53) The market investigation results highlight a trend toward POS merchant acquiring and e-commerce merchant acquiring competing more closely. Indeed, a large number of payment service providers ("PSPs")[94] considered that the two services are on the same market. However, the majority of merchants still consider the two services as distinct markets[95] since they include different actors and dedicated ecosystems. One large merchant explained that "*the in-store and e-commerce solutions face different challenges. Fraud is not dealt with the same way. We have two separate providers for each of these services."*[96] This is in line with the Commission's decisional practice mentioned above. For the purposes of this Transaction, the Commission will therefore conduct its assessment on the market for POS merchant acquiring and the market for e-commerce merchant acquiring separately.

(54) With respect to further segmentations, the majority of merchants and PSPs in the market investigation confirm[97] the Parties' submission that potential segmentations according to the type of payment card scheme, payment card, or size of the

91 Form CO, paragraphs 347 to 349.
92 Form CO paragraphs 360 to 372.
93 Form CO paragraphs 373 to 380.
94 Replies to question C.A.1 of the Questionnaire to PSPs.
95 Replies to question C.A.1 of the Questionnaire to Merchants.
96 Reply of one large French merchant to question C.A.2 of the Questionnaire to Merchants.
97 Replies to question C.A.3 of the Questionnaire to Merchants and of the Questionnaire to PSPs.

merchant are not appropriate.[98] In any event, the exact product market definition can be left open[99] with respect to further plausible segmentations since the Transaction does not raise serious doubts as to its compatibility with the internal market under any plausible product market definition regarding merchant acquiring services.[100]

b. Geographic market definition

The Commission's past practice

(55) In *Worldline/Ingenico*,[101] the Commission considered that the market for POS merchant acquiring was national in scope and the market for e-commerce merchant acquiring was EEA-wide.[102] With regard to the market for POS merchant acquiring, the majority of respondents in that case stressed the importance of having a local presence and access to local infrastructure. Conversely, regarding e-commerce merchant acquiring, a majority of both merchants and PSPs indicated that the market is at least EEA-wide.

(56) In a subsequent decision, the Commission received mixed feedback as to the exact geographic market definition of these two markets or their plausible segments.[103]

The Notifying Parties' view

(57) The Parties agree with the Commission's past practice with respect to the market for e-commerce merchant acquiring being EEA-wide in scope. They however highlight that recent regulatory changes in the Single Euro Payments Area ("SEPA") zone coupled with the development of omnichannel options have likely broadened the geographic scope of the POS merchant acquiring market.[104]

The Commission's assessment

(58) During the market investigation, the majority of PSPs and half of the responding merchants considered that the market for POS merchant acquiring is wider than national. One PSP notes that "*more and more acquirers have an international acquiring license and have a cross-border technical set up (with an international*

98 In Case M. 10075 – *Nexi / Nets Group*, Commission decision of 8.3.2021, the Commission segmented the acquiring market between wholesale acquiring services and retail acquiring services in Italy. The Parties have submitted that such a segmentation would not be appropriate in France and the market investigation results did not disprove this. For the purposes of this Transaction, the Commission will not look into this potential segmentation any further.

99 Commission Notice on the definition of the relevant market for the purposes of Union competition law, OJ C, 22.2.2024, paragraph 20: The Commission is not obliged to reach a definitive conclusion on the precise scope of the market where the outcome of the Commission's assessment would not change under various plausible market definitions. The Commission may leave the market definition open both in cases where competition concerns arise regardless of the market definition applied and in cases where no competition concerns arise regardless of the market definition applied.

100 The Notifying Parties have confirmed that, to the best of their knowledge, market shares would not significantly differ under any plausible market segmentation.

101 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 37 to 48.

102 See also Case M.10935 - *DNB / Danske Bank / SB1 / EIKA / Balder / VIPPS / Mobilepay*, Commission decision of 21.10.2022, paragraphs 164-167; Case M.10358 – *Advent International / Eurazeo / Planet Payment Group*, Commission decision of 22.9.2021, paragraphs 12-14; and Case M.10075 - *Nexi / Nets Group*, Commission decision of 8.3.2021, paragraph 22.

103 Case M.10935 - *DNB / Danske Bank / SB1 / EIKA / Balder / VIPPS / Mobilepay*, Commission decision of 21.10.2022, paragraphs 164-167.

104 Form CO paragraphs 384 to 388.

protocol)"[105] while responding merchants highlight the need to work with providers that match their own geographical footprint.[106]

(59) Conversely, several PSPs and the other half of the responding merchants submit that, from a technical perspective (integration protocols and local payment methods) as well as from a practical one (setting up of POS terminals on-site), the market for POS merchant acquiring is likely national.[107]

(60) In any case, the exact geographic definition of the market can be left open since the Transaction does not raise serious doubts as to its compatibility with the internal market whether the POS merchant acquiring market is considered national in scope or EEA-wide. For the purposes of this Decision, the Commission will conduct its assessment of the market for POS merchant acquiring at national level.

(61) With respect to the market for e-commerce merchant acquiring, in line with previous decisions,[108] the vast majority of responding market participants consider that the market is at least EEA-wide as switching is easy regardless of the location of the service provider and there are fewer technical hurdles than for POS merchant acquiring.[109] For the purposes of this Decision, the Commission will conduct its assessment of the market for e-commerce merchant acquiring at the EEA level.

5.2. **Acceptance services**

5.2.1. *Acceptance services as a whole*

The Commission's past practice

(62) The Commission has analysed the potential markets for acceptance services once.[110] It found that acceptance services should be segmented between solutions provided online via a payment gateway (e-commerce acceptance services) and solutions provided through physical payment terminals (in-store acceptance services). Following its market investigation in this case, the Commission did not consider appropriate to segment these two markets any further (e.g., by type of customer), for the purposes of its decision at the time.

The Notifying Parties' view

(63) The Parties agree with the Commission's past decisional practice that in-store and e-commerce acceptance services constitute two separate markets considering that in-store acceptance solutions are not mandatory technical services, as opposed to e-commerce acceptance solutions and only partially address the same type of customers (in-store solutions only target large retailers while e-commerce solutions target both small and large retailers).

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105 Replies to question C.A.2 of the Questionnaire to PSPs.

106 Replies to question C.A.4-2 of the Questionnaire to Merchants.

107 Replies to question C.A.4 of the Questionnaire to PSPs and question C.A.4-1 of the Questionnaire to Merchants.

108 See also Case M.10935 - *DNB / Danske Bank / SB1 / EIKA / Balder / VIPPS / Mobilepay*, Commission decision of 21.10.2022, paragraphs 164-167; Case M.10358 – *Advent International / Eurazeo / Planet Payment Group*, Commission decision of 22.9.2021, paragraphs 12-14; and Case M.10075 - *Nexi / Nets Group*, Commission decision of 8.3.2021, paragraph 22.

109 Replies to question C.A.4 of the Questionnaire to PSPs and of the Questionnaire to Merchants.

110 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 94-116.

The Commission's assessment

(64) In the course of the market investigation, the majority of the responding PSPs and merchants considered that acceptance services should be split into a market for in-store acceptance services and a market for e-commerce acceptance services. One PSP further explained that "*the technical needs, the knowledge and the security are very different"*[111] between the two services. In addition, a merchant explained that the services "*operate on distinct ecosystems (in-store hardware includes POS terminals while e-commerce requires a software) with different rules. Also, the stakes are different in terms of fraud, tools and conversion rates. Finally, the two markets do not have the same timing with respect to new technologies and their deployment on the field*".[112]

(65) In light of this feedback and of the Parties' submission, the Commission will conduct its assessment of the market for in-store acceptance services and e-commerce acceptance services separately.

5.2.2. *In-store acceptance services*

a. Product market

The Commission's past practice

(66) As mentioned above, the Commission has assessed the market for acceptance services once.[113] In this context, it found that in-store acceptance services should constitute a distinct market from merchant acquiring and acquiring processing, the latter two being indispensable services required by all types of customers that wish to accept card payments (unlike in-store acceptance, which is optional). Additionally, based on the results of the market investigation, the Commission considered that no further segmentation was appropriate for the purposes of its decision at the time.[114]

The Notifying Parties' view

(67) In line with the Commission's past decisional practice, the Parties submitted that the market for in-store acceptance services constitutes a separate product market. In-store acceptance solutions are a technical service provided only to large retailers that handle significant volumes of transactions and terminals and who wish to optimize their payment flows and, for the largest merchants, to follow a multi-acquirer strategy.

(68) Therefore, in-store acceptance solutions are distinct from POS merchant acquiring services, from the provision of POS management services and from acquiring processing services, as they are usually offered to large retailers separately from these types of services.

(69) The Parties also submitted that there is no basis for further segmentation based on the type of services provided (i.e., concentration of transaction flows, multiple

111 Replies to question C.B.2 of the Questionnaire for PSPs.
112 Replies to question C.B.2 of the Questionnaire to Merchants.
113 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 109-111.
114 *Ibid.*

acquirer switching and reporting services) because a combination of, if not all, these services is always provided to customers.

(70) A further segmentation of in-store acceptance services per size of customers or per industrial sector (e.g., restaurants, supermarkets) would not be appropriate because this solution is mostly used by large merchants with specific characteristics (i.e., significant volume of transactions and terminals, and/or multi-acquirer strategy). However, there is no agreed upon industry-wide definition of what would be a large merchant, and such classification is unrelated to in-store acceptance services.[115]

The Commission's assessment

(71) The market investigation confirmed that in-store acceptance solutions are separate from POS acquiring services and from acquiring processing services as these services can be purchased separately and, while linked, meet different market needs.[116] Respondents did not highlight other potential sub-segmentation of the in-store acceptance market which could be appropriate.

(72) The Commission will therefore conduct its assessment of the in-store acceptance market separately from POS merchant acquiring and acquiring processing without looking into further subsegments for the purposes of this Decision.

b. Geographic market

The Commission's past practice

(73) In its previous decision *Worldline / Ingenico*,[117] the Commission found that a large majority of customers could source in-store acceptance services from providers established anywhere in the EEA. Moreover, while competitors identified some barriers to offering in-store acceptance services everywhere in the EEA such as local schemes, language barriers or consumer preferences, a large number of competitors indicated that they were able to provide in-store acceptance services at EEA level or at least in several countries in the EEA. As a result, the Commission considered that the market for in-store acceptance services was EEA-wide for the purposes of its decision at the time.

The Notifying Parties' view

(74) In line with the Commission's past practice, the Parties submitted that the market for in-store acceptance services is EEA-wide in scope. This is based on the fact that (i) most suppliers offer a multi-country service and are expanding their market positioning to several EEA countries (e.g., Adyen, Wynid/VeriFone, and ACI), (ii) customers for in-store acceptance services are only large retailers that often have cross-border activities, with one single provider across countries, and (iii) barriers to entry have been decreasing.

115 Form CO paragraphs 463 to 483.
116 Replies to question C.C.1 of the Questionnaire to PSPs.
117 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 115-116.

(75) According to the Parties, the decrease in barriers to entry is explained by the openness of the ecosystem with only open, non-proprietary protocols, which means that the local scheme licenses are easily accessible for service providers established within the EEA. They also note that the local schemes certification procedures for in-store acceptance solutions are not complex and can be successfully completed by any provider.

(76) In addition, some players have started offering in-store acceptance services without having a local scheme licence because almost all cards are now co-branded with the international payments' schemes Visa and Mastercard.

(77) Finally, as regards customer preferences, merchants increasingly value the overall in-store acceptance offer (as opposed to price only). Consequently, large retailers are willing to purchase solutions that match their needs, irrespective of whether the service provider is not originally a local player.[118]

The Commission's assessment

(78) The vast majority of PSPs[119] and the majority of merchants[120] consider that in-store acceptance services have an EEA-wide scope. Nonetheless, further questioning highlights the presence of technical barriers, namely the need to access local schemes such as *Cartes Bancaires* in France, as well as other barriers such as language and solution certification, which does not support the Parties' submission.[121] As one PSP respondent states "*Access to Cartes Bancaire is complex, French certification is long and costly, cost for integrating local french specificities can be considered as entry barriers"*.[122] The majority of respondents also note that a local presence is necessary to allow for the servicing of POS terminals and for sales purposes with one PSP explaining that *"in-store payments being critical to our in-store sales activities, it is indispensable to have a provider with an after-sale service in French, and available to intervene on the French territory in the event of technical issue"*.[123]

(79) Furthermore, while cards can indeed be co-branded with an international payment scheme, market participants highlight that, in France, cards running only on the *Cartes Bancaires* scheme remain common with no sign of decreasing usage.[124]

(80) Considering these mixed results from the market investigation and the fact that potential concerns at the French level were brought to the Commission's attention during prenotification discussions with third parties,[125] the Commission considers both France and the EEA as potential geographic markets, leaving the precise geographic market definition for in-store acceptance services open, as the Transaction does not raise serious doubts as to the compatibility with the internal market regardless of the geographic market definition for in-store acceptance services.

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118 Form CO 484-497

119 Replies to question C.C.1 of the Questionnaire to PSPs

120 Replies to question C.C.1 of the Questionnaire to Merchants

121 Replies to question C.C.5-1 of the Questionnaire to PSPs

122 Replies to question C.C.5-2 of the Questionnaire to PSPs

123 Reply of a large French Merchant to question C.C.5-2 of the Questionnaire to Merchants

124 Reply of a large PSP to question C.C5-2 of the Questionnaire to PSPs

125 Minutes of call with a large merchant in November, 2023; Minutes of call with a PSP in October, 2023.

5.2.3. *E-commerce acceptance services*

a. *Product market*

The Commission's past practice

(81) In the *Worldline/Ingenico* decision, the Commission considered the market for e-commerce acceptance services to be separate from the market for e-commerce merchant acquiring services.[126] During the market investigation a significant proportion of customers indicated that they procure e-commerce merchant acquiring services separately from e-commerce acceptance services. The Commission did not consider that any further segmentation was appropriate for the purposes of its decision at the time.[127]

The Notifying Parties' view

(82) In line with the Commission's past decisional practice, the Parties submit that the provision of e-commerce acceptance services constitutes a separate market from the provision of e-commerce merchant acquiring services, for which further sub-segmentation is not required.

(83) The market for e-commerce acceptance services differs from the market for e-commerce merchant acquiring services based on numerous factors including service differentiation (one is a technical service while the other is a financial service) and regulatory differences. In addition, while the provider of e-commerce acceptance services may be the same as that of e-commerce merchant acquiring services, providers are often different.[128]

(84) With regard to a further segmentation based on whether the service is provided on a white-label basis or not, the Parties submit that it is irrelevant. The underlying technical solution is similar whether it is sold to merchants or to merchant acquirers in white label. In addition, there is no significant price difference between the two services as the margin of the merchant price is divided between the provider and the distributor. Finally, providers can usually provide both solutions as the white label offer is often built from the direct-to-merchant one.[129]

The Commission's assessment

(85) In line with its past practice and with the Parties' submission, the Commission considers that the provision of e-commerce acceptance services constitutes a separate market from the provision of e-commerce acquiring services mostly considering that the two services are technically different as well as their respective providers.

(86) As regards a potential sub-segmentation consisting in the provision of white-label e-commerce acceptance services, while the Notifying Parties submit that the technical solution remains the same whether provided on a white-label basis or not, following the market investigation, a majority of respondents consider the provision of e-commerce acceptance solutions on a white-label basis to be a

126 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 97-98.
127 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 97-98.
128 Form CO paragraphs 429 to 431.
129 Form CO paragraphs 434 to 438.

separate market from the overall market for the provision of e-commerce acceptance services.[130] Indeed, as explained by a one market participant, "*white labelling is more a relationship where the merchant acquirer takes benefit of the infrastructure and services of an acceptance service provider acting as technical provider on-behalf of the merchant acquirer"*.[131]

(87) White label e-commerce acceptance solutions are usually marketed to banks or other PSPs who wish to provide a fully integrated service. In this case, there are usually no contractual relationships between the merchant and the white label e-commerce acceptance solution provider who merely provides technical assistance. Non-white label solutions are, on the other hand, marketed directly to merchants through a contractual relationship between them and their provider. One large bank indeed highlighted that "*the white label e-commerce acceptance services are a real offer for bank or PSP when they want to provide a fully integrated services for their merchants. These services are based on a market solution but banks have features and integration model for their own clients"*.[132]

(88) Market participants also highlight that the pricing model of the white label e-commerce acceptance solution differs from the non-white label solution in that, for the former, the merchant acquirer sets the ultimate price of the solution for the merchant and manages the related fee statements and invoices while in the case of a non-white label solution, the price of the solution and related fees are set up by the solution provider directly.[133]

(89) Further, the fact that no provider of e-commerce acceptance services provides only white label solutions and that all e-commerce acceptance solutions providers can provide both solutions is not sufficient to consider that those two services are on the same market.

(90) In light of the above, the Commission considers that e-commerce acceptance services are on a distinct market from e-commerce merchant acquiring services, and for the purposes of this Decision, the Commission will assess the market for white label e-commerce acceptance solutions separately from the overall market for e-commerce acceptance solutions.

b. *Geographic market*

The Commission's past practice

(91) In *Wordline/Ingenico*, the Commission found that a large majority of e-commerce acceptance customers could procure from players established anywhere in the EEA. Furthermore, most competitors indicated that they offered e-commerce acceptance services in every EEA country, and that there were no significant barriers to offering e-commerce acceptance services across the EEA. As a result, the Commission considered that the market for e-commerce acceptance services was EEA-wide for the purposes of its decision at the time.[134]

130 Replies to question C.B.3 of the Questionnaire to PSPs.
131 Reply of one large PSP to question C.B.6 of the Questionnaire to PSPs.
132 Reply of a large PSP to question C.B.6 of the Questionnaire to PSPs.
133 Replies to question C.B.4 of the Questionnaire to PSPs.
134 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 102 -104.

The Notifying Parties' view

(92) In line with the Commission's past decisional practice, the Parties submit that the market for in-store acceptance services should be considered as EEA-wide in scope. This is based on the fact that most e-commerce acceptance solution providers can provide their services competitively throughout the EEA as a single solution without significant barriers (e.g., Adyen, WorldPay, PayPal, or Stripe). In addition, merchants with cross-border activities tend to use only one e-commerce acceptance provider throughout the EEA, and local merchants have the possibility to choose a local provider or providers with a cross-border presence.

(93) The Parties note that the proportion of cross-border sales in the total e-commerce sales is significant and tends to increase, with a vast majority of merchants selling to international customers. On a global scale, cross-border e-commerce is becoming an increasingly important component of the overall online commerce market, a driver of cross-border payment volumes and is expected to grow further.

(94) For these same reasons, if the Commission were to define a market segment for white label e-commerce acceptance solutions, the Parties consider that this market should be defined at the EEA level.[135]

The Commission's assessment

(95) During the market investigation, the majority of both PSPs and merchants submitted that the market for e-commerce acceptance services was EEA-wide[136] due to the lack of barriers to online trade across the EEA.

(96) Similarly, the vast majority of respondents[137] submit that the market for white label e-commerce acceptance solutions is EEA-wide with one respondent stating that "*White label services are available EEA wide and merchant acquirers, due to passporting, can chose any of these to offer services though*".[138]

(97) In line with its past practice, the Parties' submission, and the results of the market investigation, the Commission considers that both the market for e-commerce acceptance services as such and the market for white label e-commerce acceptance services are EEA-wide in scope.

135 Form CO paragraphs 441 to 450.

136 Replies to question C.B.1 of the Questionnaire to Merchants and the Questionnaire to PSPs

137 Note that only PSPs submitted responses regarding white-label e-commerce acceptance solutions as merchants do not purchase these services.

138 Replies to question C.B.8 of the Questionnaire to PSPs.

5.3. **Acquiring processing services**

a. *Product market definition*

The Commission's past practice

(98) In its past decisional practice,[139] the Commission discussed the existence of a separate market for acquiring processing services, most recently, in *Advent International/Eurazeo/Planet Payment Group* [140] but also in *Worldline/Ingenico*.[141] In particular, the Commission found that acquiring processing services should be considered a separate market from issuing processing services[142] given that acquiring processing services are required for merchant acquirers whereas issuing processing services are necessary for issuing banks.[143]

(99) Within the acquiring processing services market, the Commission most recently identified potential sub-segmentations based on (i) the payment card scheme (domestic/international) or (ii) the platform (POS terminals or web-enabled interfaces), but left the exact market definition open.[144]

The Notifying Parties' view

(100) In line with the Commission's past decisional practice, the Parties submit that the provision of acquiring processing services constitutes a separate market from the market for issuing processing services or merchant acquiring.

(101) This is because:

(a) The acquiring processing services relate to the merchant-side of technically processing a card payment transaction, whereas the issuing processing relates to the issuer side of technically processing a transaction. These services are offered to different types of stakeholders (merchant acquirers vs. issuing banks) and, in the case of Worldline, with different business divisions in charge of each service.

(b) The provision of acquiring processing services constitute a separate market from the markets for merchant acquiring because they are different in nature: acquiring processing relates to the technical processing of a payment transaction whereas merchant acquiring concerns the financial settlement of the transaction.

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139 Case M.10075 - *Nexi / Nets Group*, Commission decision of 8.3.2021, paragraph 27; Case M.9452 - *Global Payments/TSYS*, Commission decision of 16.9.2019, paragraphs 17-25; Case M.7873 - *Worldline/Equens/PaySquare*, Commission decision of 20.4.2016, paragraphs 33-37; Case M.7241 - *Advent International/Bain Capital Investors/Nets Holding*, Commission decision of 8.7.2014, paragraphs 31-36.

140 Case M.10358 - *Advent International / Eurazeo / Planet Payment Group*, Commission decision of 22.9.2021, paragraphs 19-23.

141 Case M.9776 - Worldline / Ingenico, Commission decision of 30.9.2020, paragraphs 78-87.

142 Issuing processing relates to the issuer-oriented side of technically processing a transaction. It includes payment authorisation requests from the issuer, management of card accounts and credit card limits, and the preparation of cardholder statements and invoices.

143 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 78-87.

144 See Case M.8073 - *Advent International/Bain Capital/Setefi Services/Intesa Sanpaolo Card*, Commission decision of 10.8.2016, paragraphs 22-27; and Case M.7241 - *Advent International/Bain Capital Investors/Nets Holding*, Commission decision of 8.7.2014, paragraph 36.

(102) In addition, the Parties argue that the provision of acquiring processing does not need to be further sub-segmented because customers typically choose one provider of acquiring services for all types of schemes and all types of cards and both POS and e-commerce transactions. Similarly, providers of acquiring processing services can process all types of schemes and cards, for both physical and e-commerce transactions.

(103) Finally, the provision of acquiring processing services for internal use and the provision of acquiring processing services to third party merchant acquirers relate to the same technical activity and are offered by the same providers. These two aspects of the same service are therefore on the same market.[145]

The Commission's assessment

(104) During the market investigation, the vast majority of respondents submitted that acquiring processing is distinct from issuing processing.[146] This is because "*In most cases the acquiring bank is different from the issuing bank and the services are typically marketed as separate products"*.[147] Respondents also mostly do not consider any further segmentation appropriate including a potential split between acquiring processing provided for third parties and internal acquiring processing. This is in line with the Commission's past practice and with the Parties' submission.

(105) Therefore, for the purposes of this Decision, the Commission will conduct its assessment of the acquiring processing market separately from the issuing processing market and without further segmentations.

b. *Geographic market*

The Commission's past practice

(106) In its decisional practice, the Commission had previously left open whether the provision of acquiring processing services is national or EEA-wide in scope.[148] Recently however, the Commission found that the market for acquiring processing services should be considered as EEA-wide for the purposes of its decision at the time.[149] This is due to the fact that during the market investigation, the large majority of customers indicated that international acquiring processing providers can credibly supply all types of acquiring processing services to businesses across the EEA and that there are no significant barriers to procure acquiring processing services at EEA level.

The Notifying Parties' view

(107) The Parties submit that the market for acquiring processing services should be considered as EEA-wide in scope. Acquiring processing is primarily an IT service that can be delivered from anywhere, irrespective of where the customer is located.

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145 Form CO paragraphs 407 to 413.

146 Replies to question C.D.1 of the Questionnaire to PSPs.

147 Reply of a PSP to question C.D.2 of the Questionnaire to PSPs.

148 See Case M.9452 - *Global Payments/TSYS*, Commission decision of 16.09.2019, paragraphs 28-29; Case M.7873 - *Worldline/Equens/PaySquare*, Commission decision of 20.04.2016, paragraphs 112-114; and Case M.7241 - *Advent International/Bain Capital Investors/Nets Holding*, Commission decision of 8.07.2014, paragraphs 37-41.

149 Case M.9776 – *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 91-93.

For example, Worldline has acquiring processing platforms in five European countries (Belgium, Germany, Luxembourg Switzerland, and Sweden), and is able to provide its processing services from these platforms to every merchant in the EEA.

(108) In addition, acquiring processing requirements are similar across the EEA, and major providers of acquiring processing services operate across multiple EEA countries thanks to the "passporting" provisions contained in Directive 2015/2366,[150] which enable processors to provide services across the EU.[151]

The Commission's assessment

(109) In line with its precedent and with the Parties' submission, the vast majority of the respondents to the market investigation[152] submits that the scope of the acquiring processing market is at least EEA-wide since acquiring processing services are, for the most part, IT services provided through an internet connection which do not necessarily require a local presence.[153]

(110) In light of the above, for the purposes of this Decision, the Commission will conduct its assessment of the acquiring processing services market at EEA level.

5.4. Management of POS terminals

a. *Product market definition*

The Commission's past practice

(111) The Commission previously considered the market for the management of POS terminals on several occasions.[154] In this context, it found that the market for the manufacture and supply of POS terminals was separate from the market for the management of POS terminals due to lack of interchangeability among the services.

(112) Within the market for the management of POS terminals, the Commission considered potential further segmentation according to the type of terminal used (mobile, smart or traditional) or to the customer size.[155] The Commission deemed a segmentation according to customer size inappropriate as the market investigation results indicated that differences in supply conditions between large and small customers are largely linked to scale effects, rather than reflecting different competitive dynamics. It did not further conclude with respect to a potential segmentation based on the type of terminal.

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150 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, OJ L 337, 23.12.2015, p. 35.

151 Form CO paragraphs 416 to 421.

152 Note that only PSPs submitted responses regarding acquiring processing services as merchants do not purchase these services.

153 Replies to question C.D.1 of the Questionnaire to PSPs.

154 See Cases M.10358 - *Advent International / Eurazeo / Planet Payment Group*, Commission decision of 22.9.2021, paragraphs 15-18; M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 59-64; M.9357 - *FIS/WorldPay*, Commission decision of 5.7.2019, paragraphs 36-38; and M.9387 – *Allied Irish Banks/First Data Corporation/Semeral*, Commission decision of 23.10.2019, paragraphs 11-15.

155 Case M.10075 – *Nexi/Nets Group*, Commission decision of 8.3.2021, paragraphs 31-33; Case M.9776 – *Worldline/Ingenico*, Commission decision of 30.9.2020, paragraphs 59-64, Case M.9759 – *Nexi/ISP (Merchant Acquiring Business)*, Commission decision of 26.6.2020, paragraphs 65-67.

The Notifying Parties' view

(113) The Parties agree that the management of POS terminals constitutes a separate market from the market for the manufacture and supply of POS terminal, merchant acquiring services, or in-store acceptance services. The provision and management of POS terminals in France is sold by merchant acquirers or performed directly by POS management service providers and does not always include the provision of POS terminals, whereas the manufacturing and supply of POS terminals can be procured in-house directly from the manufacturer instead of via the merchant acquirer.[156]

(114) The Parties specify that although POS management services and in-store acceptance solutions involve the provision of POS terminals, these two sets of services belong to two distinct product markets based on intrinsic differences. In practice, no customer requires both services (as traditionally defined by the Commission) because in-store acceptance services, which are only useful for larger customers, already include certain POS management-related services while small and medium merchants do not require in-store acceptance services and are traditional customers of POS management services.

(115) In addition, the procurement of POS terminals and physical POS configuration are only a necessary accessory to the acceptance service itself as the acceptance platform is connected to both POS terminals and merchant acquirers. Conversely, POS management services generally consist in the sale or renting of POS terminals to merchants and include services such as the maintenance and repair of terminals and connection to the acquirer's network. Therefore, the scope of the service provided by an in-store acceptance provider such as Worldline is wider than what the market for POS management services includes.[157]

(116) With regard to a potential further segmentation, the Parties do not believe it would be appropriate. For example, a segmentation per type of terminal (traditional POS terminal, mPOS or smartPOS) is not necessary since all devices serve the same purpose and are substitutable from both the demand-side and the supply-side.[158]

The Commission's assessment

(117) During the market investigation, the majority of PSPs and merchants considered that the market for POS management services was distinct from the market for the supply and manufacture of POS terminals.[159] This is mostly due to the fact that these two types of services can be purchased separately from different providers. No further segmentation of the market was suggested as appropriate by the respondents. In line with the Commission's past decisions, the Parties' submission, and the results of the market investigation, the Commission considers that the market for POS management services is separate from the market for the manufacture and supply of POS terminals and will conduct its assessment accordingly.

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156 Form CO paragraphs 395 to 399.
157 Form CO paragraphs 468 to 474.
158 Form CO paragraph 398.
159 Replies to question C.E.1 of the Questionnaire to PSPs and C.D.1 of the Questionnaire to Merchants.

(118) Based on the Parties' description of Worldline's acceptance services[160] and on the results of the market investigation which highlight that, for the majority of respondents, Worldline's acceptance services include POS management services which are the same as POS management services offered on a standalone basis by other providers, the Commission will consider that a part of Worldline's in-store acceptance services consists in POS management services. It will conduct its assessment of the POS management services market attributing that part of Worldline's acceptance activity to the POS management services market.

b. *Geographic market definition*

The Commission's past practice

(119) In its past decisional practice, the Commission has considered the market for the provision and management of POS terminals to be likely national in scope.[161] In particular, the Commission found that the provision and management of POS terminals requires the presence of local service teams.

(120) Most recently, it considered that possibility of an EEA-wide market but left the exact definition open.[162]

The Notifying Parties' view

(121) The Parties agree with the Commission's past practice and submit that the market for POS management services should be defined as national in scope, similar to the market for POS merchant acquiring, given the strong links between both markets.[163]

The Commission's assessment

(122) The results of the market investigation confirm the Commission's past approach and the Parties' submissions for the most part as a small majority of respondents submit that the market is national in scope.[164] While there seems to be a slight move towards a broader geographic scope than national, the market investigation did not reveal sufficient indications of a broader market.

(123) Therefore, the Commission will conduct its assessment at the national level for the purposes of this Decision.

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160 Form CO paragraphs 469, 471.

161 Case M.9776 - *Worldline / Ingenico*, Commission decision of 30.9.2020, paragraphs 65-77; Case M.10075 - *Nexi/Nets Group*, Commission decision of 8.3.2021, paragraph 36; Case M.9759- *Nexi/ISP (Merchant Acquiring Business)*, Commission decision of 26.6.2020, paragraphs 71-72. See also Cases M.9387 - *Allied Irish Banks/First Data Corporation/Semeral*, Commission decision of 23.10.2019, paragraphs 16 - 18; M.9357 - *FIS/WorldPay*, Commission decision of 5.07.2019, paragraphs 39-41; and M.7873 - *Worldline/Equens/PaySquare*, Commission decision of 20.04.2016, paragraphs 128-134.

162 Case M.10358 - *Advent International / Eurazeo / Planet Payment Group*, decision of 22 September 2021, paragraph 18.

163 Form CO paragraph 402.

164 Replies to question C.E.1 of the Questionnaire to PSPs; Replies to question C.D.1 of the Questionnaire to Merchants.

6. COMPETITIVE ASSESSMENT

6.1. Legal framework

6.1.1. Horizontal mergers

(124) A merger can entail horizontal effects. In this respect, the Commission Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings (the "Horizontal Merger Guidelines") [165] 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 that were coordinating prior to the merger (coordinated effects).[166]

6.1.2. Non-horizontal mergers

(125) In addition, a merger can also entail non-horizontal effects when it involves companies operating at different levels of the same supply chain or in closely related markets. 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"),[167] non-horizontal 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 non-horizontal mergers may significantly impede effective competition. This is in particular the case if they give rise to foreclosure.[168] In the assessment of non-horizontal mergers, the Commission distinguishes between two broad types of such mergers: vertical mergers and conglomerate mergers.

(126) **Vertical mergers** involve companies operating at different levels of the supply chain. For example, when a manufacturer of a certain product (the 'upstream firm') merges with one of its distributors (the 'downstream firm'), this is called a vertical merger.

(127) In assessing potential vertical effects of a merger, the Commission analyses whether a merger results in foreclosure so that actual or potential rivals' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing these companies' ability and/or incentive to compete. Such foreclosure may discourage entry or expansion of rivals or encourage their exit. Foreclosure thus can be found even if the foreclosed rivals are not forced to exit the market: It is sufficient that the rivals are disadvantaged and consequently led to compete less effectively. Such foreclosure is regarded as anti-competitive where the merging companies — and, possibly, some of their competitors as well — are as a result able to profitably increase the price charged to consumers.

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165 OJ C 31, 5.2.2004, p. 5.

166 Horizontal Merger Guidelines, paragraph 22.

167 OJ C 265, 18.10.2008, p. 6.

168 Non-Horizontal Merger Guidelines, paragraph 18.

(128) The Non-Horizontal Merger Guidelines distinguish between two forms of foreclosure.[169] The first is where the merger is likely to raise the costs of downstream rivals by restricting their access to an important input (input foreclosure). The second is where the merger is likely to foreclose upstream rivals by restricting their access to a sufficient customer base (customer foreclosure).

(129) In assessing both types of foreclosure, the Commission applies the ability, incentive, effects framework. This implies the assessment of whether (1) the merged entity would have the ability to engage in foreclosure, (2) it would have the incentive to do so, and (3) what would be the overall impact on effective competition in the affected markets.

(130) **Conglomerate mergers** are mergers between firms that are in a relationship that is neither horizontal (as competitors in the same relevant market) nor vertical (as suppliers or customers). In practice, the Commission focusses on mergers between companies that are active in closely related markets (e.g. mergers involving suppliers of complementary products or products that belong to the same product range).

(131) The main concern in the context of conglomerate mergers is also that of foreclosure. The combination of products in related markets may confer on the merged entity the ability and incentive to leverage a strong market position from one market to another by means of tying or bundling or other exclusionary practices. Tying and bundling as such are common practices that often have no anticompetitive consequences. Companies engage in tying and bundling in order to provide their customers with better products or offerings in cost-effective ways. Nevertheless, in certain circumstances, these practices may lead to a reduction in actual or potential rivals' ability or incentive to compete. This may reduce the competitive pressure on the merged entity allowing it to increase prices.

(132) In assessing the likelihood of such a scenario, the Commission examines, first, whether the merged firm would have the ability to foreclose its rivals, second, whether it would have the economic incentive to do so and, third, whether a foreclosure strategy would have a significant detrimental effect on competition, thus causing harm to consumers. In practice, these factors are often examined together as they are closely intertwined.

(133) Finally, as acknowledged in the Non-Horizontal Guidelines, the merged entity may gain access to commercially sensitive information regarding the upstream or downstream activities of rivals. For instance, by becoming the supplier of a downstream competitor, a company may obtain critical information, which allows it to price less aggressively in the downstream market to the detriment of consumers. It may also put competitors at a competitive disadvantage, thereby dissuading them from entering or expanding in the market.[170]For the avoidance of doubt, in this case in particular, the data-related aspects of the Transaction will be assessed under the section on conglomerate effects given that these aspects arise out of links of a conglomerate nature (please see Section 6.5.4).

169 Non-Horizontal Merger Guidelines, paragraph 30.
170 Non-Horizontal Merger Guidelines, paragraph 78.

6.2. Overview of affected markets

(134) The Transaction gives rise to **one horizontally affected market**, i.e. POS management services in France. [171]

(135) In addition, while not giving rise to horizontally affected markets, as they may be eligible for a simplified treatment pursuant to the Notice on a simplified treatment,[172] the Commission will also review the following **horizontal overlaps** as third parties raised potential concerns on those markets during pre-notification discussions with the Commission:

(a) POS merchant acquiring in France and in the EEA[173]

(b) E-commerce merchant acquiring in the EEA[174]

(136) Furthermore, while eligible for a simplified treatment pursuant to the Notice on a simplified treatment, the Commission will review in this decision the following vertical links in light of the market feedback received during the pre-notification discussions:

(a) **The vertical relationship** between acquiring processing services in the EEA (upstream) and merchant acquiring services in France and in the EEA (downstream) giving rise to potential input foreclosure (Section 6.4.2);[175]

(b) **The vertical relationship** between white label e-commerce acceptance services in the EEA (upstream) and e-commerce merchant acquiring services in the EEA (downstream) giving rise to potential input and customer foreclosure (Section 6.4.3).[176]

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171 A horizontal overlap between Crédit Agricole and Worldline in POS management services only exists if one takes into account the POS terminals that are provided to merchants as part of Worldline's in-store acceptance offering.

172 Notice on a simplified treatment for certain concentrations under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings, OJ C 160, 5.5.2023, p. 1 (the "Notice on a simplified treatment").

173 Pursuant to Points 5 (d)(i)(aa) and 5 (d)(i)(bb) of the Notice on a simplified treatment, this overlap may be eligible for simplified treatment as the HHI prior to the Transaction is [1500-2000] and will be [1500-2000] post Transaction. The delta HHI resulting from the Transaction in the market for POS merchant acquiring services in France is therefore below 150.

174 Pursuant to Point 5 (d)(i)(aa) of the Notice on a simplified treatment this overlap may be eligible for simplified treatment as the Parties combined shares fall below 20%..

175 The vertical relationship between acquiring processing and POS merchant acquiring falls under point 8 of the Notice on a simplified treatment as the Parties' combined market shares do not exceed 35% in the relevant upstream and downstream markets. The vertical relationship between acquiring processing and e-commerce merchant acquiring on the other hand falls under point 5 (d)(ii)(aa) of the Notice on a simplified treatment as the Parties' combined market shares are lower than 30 % on the relevant upstream and the downstream markets.

176 Pursuant to Point 5(d)(ii)(aa) of the Notice on a simplified treatment based on a EEA-wide geographic scope of the markets for (white-label) e-commerce acceptance and e-commerce acquiring, the Transaction does not give rise to an affected vertical relationship as the Parties' market shares are lower than 30 % on the respective upstream and the downstream markets

(137) **The Transaction gives rise to conglomerate relationships** in France and the EEA between in-store acceptance services and (i) POS merchant acquiring, (ii) e-commerce merchant acquiring and (iii) acquiring processing (Section 6.5).[177] The Commission will review these relationships because of the stronger position of Worldline in in-store acceptance and as third parties raised potential concerns on those markets during pre-notification discussions with the Commission.

(138) As a last point, the Commission will assess the cooperative effects of the JV given that the Parties will remain active in POS merchant acquiring, e-commerce merchant acquiring and acquiring processing (Section 6.6).

6.3. Competitive assessment of the horizontal overlaps

6.3.1. Merchant acquiring

6.3.1.1. POS merchant acquiring

The Parties' activities

(139) Both Worldline and Crédit Agricole provide POS merchant acquiring services with the bulk of Worldline's activities being located outside of France in the EEA and Crédit Agricole's activities being mostly located in France. As part of the Transaction, Credit Agricole will transfer some of its French merchant acquiring services to the JV which will give rise to a horizontal overlap between the JV and its parents.

(140) Below is an overview of the Parties' market share post-Transaction with respect to the market for POS merchant acquiring in France and in the EEA.

Table 1 – Parties estimated market shares for POS merchant acquiring in 2022

Parties	EEA	France
Worldline (not transferred to the JV)	[10-20]%	0%
Worldline (transferred to the JV)	[0-5]%	[0-5]%
Crédit Agricole (not transferred to the JV)	[0-5]%	[10-20]%
Crédit Agricole (transferred to the JV)	[0-5]%	[10-20]%
Combined	[10-20]%	[30-40]%

Source: Parties estimates as submitted in the Form CO

(141) Per the table above, the combined market shares of the Parties amount to [30-40]% in France and [10-20]% in the EEA. Worldline's share at the French level is marginal and the overall increment minimal. At the EEA level, the combined market shares fall below 20%. The Parties have confirmed that the market shares listed above would not significantly vary under any plausible market segmentation discussed in Section 5.1.

[177] Following third party concerns raised during pre-notification discussions, the Commission also assessed whether the JV would be able to leverage Crédit Agricole's status as an issuer to avoid the interchange fee usually due between an issuing bank and an acquiring bank, referred to as "on us" transactions. However, the Parties have confirmed that the JV will be a separate entity from its parents and that […].

The Notifying Parties' view

(142) The Parties have requested that the Commission applies paragraph 5(d)(i)(bb) of the revised Notice on a simplified treatment to the market for POS merchant acquiring in France considering their combined market share on this market as well as the low HHI delta resulting from the Transaction.[178]

The Commission's assessment

(143) The Commission will apply paragraph 5(d)(i)(bb) of the revised Notice on a simplified treatment to the market for POS merchant acquiring services in France since the Parties combined shares fall below 50% and the increment of the HHI resulting from the concentration on this market is below 150. It also notes that the majority of respondents consider that the Transaction will have a positive or neutral impact on this market.[179] The Commission will not assess this horizontal overlap further for the purposes of this Transaction.

(144) At the EEA level, the market for POS merchant acquiring is not affected by the Transaction given the Parties' low market shares.

6.3.1.2. E-commerce merchant acquiring

(145) Both Worldline and Crédit Agricole provide e-commerce merchant acquiring services in the EEA. As part of the Transaction, Crédit Agricole will transfer some of its e-commerce merchant acquiring activities to the JV which will give rise to a horizontal overlap between the JV and its parents.

(146) Below is an overview of the Parties' market shares post-transaction with respect to the market for e-commerce merchant acquiring in the EEA.

Table 2 – Parties estimated market shares for e-commerce merchant acquiring in the EEA in 2022

Parties	Including APMs	Excluding APMs
Worldline (not transferred to the JV)	[0-5]%	[5-10]%
Worldline (transferred to the JV)	[0-5]%	[0-5]%
Crédit Agricole (not transferred to the JV)	[0-5]%	[0-5]%
Crédit Agricole (transferred to the JV)	[0-5]%	[5-10]%
Combined	[5-10]%	[10-20]%

Source: Parties estimates as submitted in the Form CO

(147) Per the table above, the combined market shares of the Parties amount to [5-10]% on a market for e-commerce merchant acquiring services including alternative payment methods in the EEA, or [10-20]% on a market for e-commerce merchant acquiring services excluding alternative payment methods in the EEA.

(148) The market for e-commerce merchant acquiring services is therefore not horizontally affected by the Transaction as the Parties' combined share falls below

178 Per the Parties' submission and in accordance with the Commission's revised Notice on a simplified treatment, the HHI prior to the Transaction is [1500-2000] and will be [1500-2000] post Transaction. The delta HHI resulting from the Transaction in the market for POS merchant acquiring services in France is therefore below 150.

179 Replies to question H.1-1 of the Questionnaire to PSPs; Replies to question F.1-1 of the Questionnaire to Merchants.

20%. For the purposes of this decision, the Commission will not assess this horizontal overlap further.

6.3.1.3. Assessment of the combined position and associated increased negotiation power

(149) While the above two markets are not horizontally affected, during pre-notification discussions, third parties shared potential concerns that post-Transaction, the JV, in its French merchant acquirer capacity combined with Worldline's merchant acquirer position at the EEA level, could benefit from lower scheme fees or rebates due to a high combined volume of transactions. This would create potentially unmatchable gains making new entry on the market difficult and competitors compete less actively against the Parties.

The Commission's past decisions

(150) The Commission has taken into account similar considerations on several occasions. In its decision regarding the M.784 *Kesko/Tuko* case,[180] the Commission found that the Transaction would allow the acquirer to obtain lower prices from its suppliers due to its increased size and the importance of its purchases for the suppliers. This increased buyer-power would *"act as a further disincentive for […] competitors to actively compete […] It will also make new entry on the market more difficult and as such act as a significant barrier to entry on the market"*[181].

(151) In case M.1684 – *Carrefour/Promodes*[182], the Commission also found that the merged entity's size and financial power would allow it to gain significant rebates from its suppliers that competitors would not be able to match. The Commission further detailed that the parties' purchasing shares could create permanent benefits with respect to commercial conditions on the upstream market that could not be matched by its rivals.

The Notifying Parties view

(152) The Parties submit that the potential concerns expressed by some market players in relation to possible anti-competitive advantages to be enjoyed by the JV due to reduced scheme fees were factually unfounded for the reasons set out below.[183]

(153) The Parties submit that, in France, over 75% of the acquiring transaction value occurs via the local scheme *Cartes Bancaires*, for which the scheme fees remain minimal and the same for every acquirer regardless of their transaction volumes or size. The remainder of the acquiring transaction value (less than 25%) is split between the international schemes.[184]

(154) In addition, the structure of the Transaction[185] will likely lead […]. This would further limit the actual acquiring volumes that the JV could add to Worldline's EEA volumes.

180 Case No IV/M.784, *Kesko/Tuko*, Commission decision of 20 November 1996, paragraphs 75 and 87.
181 Ibid, paragraph 134.
182 Case M. 1684, *Carrefour/Promodes*, Commission decision of 25 January 2000.
183 Form CO Paragraphs 1021 to 1047
184 Form CO paragraph 1030.
185 See section 2 footnote 5.

(155) The Parties also submit that the scheme fee prices are usually established at national level and not at EEA level; hence, Worldline will not be able to combine its EEA acquiring position with the JV's French acquiring position to obtain better pricing conditions.

(156) The Parties further highlight that neither the JV nor Worldline will have market power on any of the markets (POS merchant acquiring, e-commerce merchant acquiring) as their market shares remain low or the increment is minimal (see sections 6.3.1.1 and 6.3.1.2 above).

(157) Finally, Worldline and the JV will be met with international schemes in very strong bargaining positions as VISA and Mastercard are the two main international schemes active in the EEA and enjoy significant market power as a result. This will counter even further the already-minimal increase in buyer power of Worldline and the JV.

The Commission's assessment

(158) In the course of its market investigation, the Commission received feedback highlighting that, while it was in theory possible for Worldline and the JV to negotiate their scheme fees together and at a supra-national level, there was no general set volume-based pricing system that would give them a significant enough advantage to create barriers to entry on the merchant acquiring markets.

(159) Furthermore, based on data provided by the Parties,[186] the Commission notes that the value of the scheme fee per transaction amounts to a very small portion of the overall acquiring fee charged to the merchant (on average […]%, compared to […]% interchange fee and […]% acquiring fee). Even if negotiated, a reduction in the scheme fee would therefore not provide a significant competitive advantage to the Parties in terms of ultimate pricing of their acquiring services.

(160) Finally, the Parties' situation is distinguishable from the ones in the Commission's previous decisions. In both previous cases, the acquirer was in a strong, if not dominant, market position with significant market shares that would have been strengthened by the transaction granting the acquirer the ability to act independently of its competitors on the market. This is not the case here as the Parties' market shares are too low to grant them such market power (even falling below the threshold for being horizontally affected markets).

(161) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential horizontal effects arising from the horizontal link between the Parties' activities on the merchant acquiring markets in France and the EEA.

186 Parties reply to RFI 12 Section 2.

6.3.2. POS management services

The Parties' activities

(162) Worldline explains that their in-store acceptance solution include a number of specific services, namely concentration of transaction flow,[187] reporting services, multi-acquirer switching and the provision of compatible and certified POS terminals which is typically considered a part of POS management services.[188] In addition, a majority of respondents to the market investigation[189] highlighted that they consider Worldline's in-store acceptance services to include some POS management services. In this context, a horizontal overlap could arise between Crédit Agricole's POS management activities performed by its subsidiary AVEM and the POS management services that are part of Worldline's in-store acceptance services.[190]

(163) Below is an overview of the Parties' market share post-Transaction with respect to the market for POS management services in France. These shares were calculated based on the number of terminals managed by the Parties.

Table 3 – Parties' estimated market shares for POS management services in France in 2022

Parties	Number of terminals	Market Share
Crédit Agricole	[…]	[20-30]%
Worldline (transferred to JV post transaction)	[…]	[10-20]%
Combined	[…]	[30-40]%
Market size	[2,000,000 -3,000,000]	100%

(164) Per the table above, the Parties have a combined share of [30-40]% in France. It should be noted, however, that the Parties did not provide Worldline's market share estimate as they consider it not to be active on the market for POS management services. In this context, the Commission has made its own estimate based on the total market size as provided by the Parties and including the number of terminals provided by Worldline as part of its acceptance solution in France. The resulting market shares are, therefore, likely overstated as the overall market size used for this estimate does not include the POS terminals managed by other acceptance services providers.

The Notifying Parties' view

(165) The Parties submit that Worldline is not active on the market for POS management services and do not discuss further any potential overlap between AVEM's POS management services and Worldline's acceptance services.

187 Described in paragraph 452 of the Form CO as single remittance of funds/transactions collected across multiple shops and location towards the merchant acquirer per day (instead of several per day) which decreases merchant costs and facilitates transactions' reporting.

188 Form CO paragraphs 452, 469 and 470.

189 See section 5.4.

190 Worldline's in-store acceptance services in France will be transferred to the JV.

The Commission's assessment

(166) In the course of its market investigation, respondents mostly submitted that they did not consider Worldline's POS management services included in its acceptance solution as a close alternative to AVEM's POS management services because Worldline's offer is part of a bundle while AVEM offers these services on a standalone basis.[191]

(167) In addition, respondents highlighted a number of other credible close competitors to AVEM including JDC, SYLQ, Nepting, SumUp, and Verifone.[192]

(168) Finally, the majority of the respondents[193] consider that the Transaction will have a neutral or positive impact on the POS management market in France and no further concern arose at other stages of the Commission's investigation.

(169) In conclusion, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential horizontal effects arising from the horizontal overlap between the Parties' activities on the POS management market in France.

6.4. Competitive assessment of the vertical relationships

6.4.1. Introduction

(170) The Transaction gives rise to the following vertical relationships:

(a) acquiring processing services (upstream) and merchant acquiring services (downstream); and

(b) white label e-commerce acceptance services (upstream) and e-commerce merchant acquiring services (downstream).[194]

(171) Therefore, the Commission will assess whether the Transaction could potentially lead to foreclosure as a result of these vertical relationships. The Parties' ability and incentive to engage in such foreclosure as well as the impact of potential foreclosure are assessed below.

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191 Replies to question C.E.4 of the Questionnaire to PSPs and to question C.D.2 of the Questionnaire to Merchants.

192 Replies to question E.1 of the Questionnaire to merchants and of the Questionnaire to PSPs.

193 Replies to question F.1-2 of the Questionnaire to Merchants; Replies to question H.1-2 of the Questionnaire to PSPs.

194 In addition, there is a theoretical vertical relationship between POS management services and POS merchant acquiring services in France as on the French market POS management services providers provide their services also to POS merchant acquirers (in addition to merchants). However, as described above under Section 6.3.2 Worldline's activities in POS management are limited to those provided together with in-store acceptance (provided to merchants) i.e. Worldline does not provide POS management on a standalone basis to merchant acquirers. Further, as described above under Section 6.3.1, Worldline's activities in POS merchant acquiring in France are marginal (market share below [0-5]% in France). Therefore, the Commission considers that the vertical relationship between POS management services and POS merchant acquiring services is not merger specific and it will not be further discussed in this decision.

6.4.2. The vertical relationship between acquiring processing services (upstream) and merchant acquiring services (downstream)

(172) Acquiring processing corresponds to the technical handling and routing of a payment transaction. Merchant acquirers can either provide acquiring processing in-house or purchase these services from third-party processors. When merchant acquirers procure their acquiring processing from a third-party, a vertical relationship can exist between acquiring processing upstream and POS or e-commerce merchant acquiring downstream.

(173) Crédit Agricole performs the totality of its acquiring processing in-house and does not supply acquiring processing services to third-parties within the EEA. Worldline mainly procures its acquiring processing in-house.[195] Contrary to Crédit Agricole, Worldline also supplies acquiring processing services to third parties in the EEA. Although the Parties' acquiring processing services will not be transferred to the JV, it is foreseen that the transaction volumes managed by the JV as a merchant acquirer (on the downstream market) will gradually be processed by Worldline's acquiring processing platform (on the upstream market) as envisaged under the Framework Agreement.[196] As a result, the Transaction gives rise to potential vertical effects and, in particular, potential input foreclosure, which will be addressed in this section. As prior to the Transaction Crédit Agricole is not sourcing acquiring processing services from third parties, the Transaction will not result in any volumes being transferred from a third-party supplier to Worldline and will therefore not deprive competing acquiring processing providers of a sufficient customer base. Therefore, customer foreclosure will not be addressed in this decision.

The Notifying Parties' views

(174) According to the Notifying Parties, Worldline will not have the ability to foreclose access to its acquiring processing services due to the following factors: (i) lack of market power on the acquiring processing market, (ii) presence of alternative suppliers, and (iii) possibility for merchant acquirers to internalise their acquiring processing operations.[197]

(175) The Notifying Parties also submit that Worldline will not have the incentive to engage in input foreclosure since the JV will only provide merchant acquiring services in France, whereas Worldline provides acquiring processing also in other EEA countries. Worldline would therefore not find it profitable to restrict access to its acquiring processing activities in the other EEA countries where it would only incur losses without any gains. Further, engaging in a foreclosure strategy in France could lead to Worldline losing acquirers with cross-border activities.[198] In addition, the Notifying Parties highlight that more than […] of the transactions currently processed by Crédit Agricole will continue to be processed internally by Crédit Agricole also post-Transaction thereby limiting the volumes to be transferred to Worldline as a result of the Transaction.[199]

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195 Exceptionally in Greece and Italy Worldline is sourcing its acquiring processing services from a third party.

196 Form CO, paragraphs 626-627.

197 Form CO, paragraphs 651-658.

198 Form CO, paragraph 663.

199 Form CO, paragraphs 661-662.

(176) Finally, the Notifying Parties consider that since competing merchant acquirers could turn to alternative acquiring processing suppliers any strategy consisting in increasing rivals' costs in acquiring processing to gain a competitive advantage over them at the downstream level would not result in any appreciable effect on competition.[200] Furthermore, the Notifying Parties highlight that in France, where the JV will be active, merchant acquirers are mostly banks which typically carry out their acquiring processing in house. Based on the Notifying Parties' best estimates approximately 80% of all acquiring processing in France is supplied internally.[201]

The Commission's assessment

(177) For input foreclosure to be a concern, there must be a significant degree of market power in the upstream market.[202] As noted under Section 5.3 above, the Commission considers the market for acquiring processing to be EEA-wide for the purposes of this case. The Parties' combined market share in the EEA-wide acquiring processing market remains below 30% (namely [20-30]%, including both transactions processed internally and externally). Also, the results of the market investigation confirmed that post-Transaction there remain sufficient credible alternative providers of acquiring processing services in the EEA such as Nexi/Nets, Monext and WorldPay/FIS.[203] Of these, the Notifying Parties estimate Nexi/Nets to have a market share of 15-25% on the EEA-wide acquiring processing market.[204] The market investigation also confirmed that merchant acquirers frequently provide acquiring processing internally or consider internalising these operations to be a viable option.[205] The Commission notes that Crédit Agricole is itself further evidence of this as prior to the Transaction it is self-suppling its acquiring processing as described above. In light of the above, the Commission does not consider that Worldline would have the ability to foreclose merchant acquirers competing with the JV access to acquiring processing services post-Transaction.

(178) As regards incentives, the arguments brought forward by the Notifying Parties relating to Worldline's lack of incentive to foreclose access to acquiring processing solutions as described above appear plausible. Based on the arguments presented by the Notifying Parties and in light of the factors discussed in relation to ability, the Commission considers it likely that a foreclosure strategy would result in Worldline losing more profit on the upstream market (i.e. acquiring processing) compared to the profit it would gain on the downstream market (i.e. merchant acquiring) through the JV hence making such strategy unprofitable for Worldline. Therefore, the Commission considers it unlikely that Worldline would have the incentive to engage in an input foreclosure strategy post-Transaction.

(179) The Commission also takes note of the fact that in France, where the JV will be active, the majority of acquiring processing takes place internally. Therefore, any potential effects arising from input foreclosure would be limited. This is also in line with the fact that the majority of respondents of the market investigation are of the view that the Transaction will have a neutral or positive impact in terms of price,

200 Form CO, paragraph 666.
201 Form CO, paragraph 667.
202 Non-Horizontal Merger Guidelines, paragraph 35.
203 Replies to questions F.1 and F.2 of the Questionnaire to PSPs.
204 Form CO, paragraph 629.
205 Replies to questions B.3 and F.4 of the Questionnaire to PSPs.

choice, quality and innovation on the EEA-wide acquiring processing market.[206] Therefore, the Commission finds that potential input foreclosure is unlikely to have any significant detrimental effect on competition.

(180) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential input foreclosure arising from the vertical relationship between acquiring processing services (upstream) and POS merchant acquiring or e-commerce merchant acquiring (downstream).[207]

6.4.3. The vertical relationship between white label e-commerce acceptance services (upstream) and e-commerce merchant acquiring services (downstream)

(181) E-commerce acceptance corresponds to the provision of a gateway service which routes the customer wishing to make an online payment to the appropriate interface for the selected payment method. Worldline supplies e-commerce acceptance services both directly to merchants as well as to e-commerce merchant acquirers on a white label basis (i.e. the merchant acquirer customises the solution with its own brand and sells it together with its acquiring service).[208] Worldline will transfer to the JV its e-commerce acceptance activities in France and the JV's e-commerce acceptance offers to merchants will be based on Worldline's WLOP solution (i.e. a new e-commerce acceptance solution combining Worldline's SIPS and Ogone solutions).[209] Crédit Agricole (and the JV post-Transaction) is active on the downstream e-commerce merchant acquiring services market, but not on the market for e-commerce acceptance services. Prior to the Transaction, for e-commerce acceptance services Crédit Agricole's banks rely exclusively on white label solutions from […] and Worldline.

(182) The risk of input foreclosure that arises as a result of the fact that Worldline provides e-commerce acceptance services to competing e-commerce merchant acquirers in the EEA and the risk of customer foreclosure that arises as a result of the fact that Crédit Agricole partly uses a third party's white label offering (namely […] solution) to provide e-commerce acceptance services to merchants are assessed below.

The Notifying Parties' views on input foreclosure

(183) The Notifying Parties acknowledge that there might be an incentive for Crédit Agricole to foreclose access to the WLOP solution as this could weaken the Transaction's rationale (i.e. pooling the Parties' respective strengths in merchant

206 Replies to question H.1 of the Questionnaire to PSPs.

207 The Commission also takes note of the fact that the vertical relationship between acquiring processing and POS merchant acquiring falls under point 8 of the Notice on a simplified treatment as the Parties' combined market shares do not exceed 35% in any of these markets. The vertical relationship between acquiring processing and e-commerce merchant acquiring on the other hand falls under point 5 (d)(ii)(aa) of the Notice on a simplified treatment as the Parties' combined market shares are lower than 30 % on the respective upstream and the downstream markets.

208 Depending on the model chosen by the merchant, the merchant may have: (i) two separate contracts (i.e., one with a merchant acquirer and one with an acceptance provider), (ii) one contract with a merchant acquirer which will also provide a white label acceptance solution (the "white label solution") or (iii) one contract with an integrated platform which offers both e-commerce acquiring and acceptance services.

209 The Framework Agreement signed between the Parties […] (Form CO, paragraphs 695-697).

acquiring services and acceptance services to be able to better compete against players providing integrated offers combing acquiring and acceptance services).[210]

(184) However, according to the Notifying Parties, the JV will not have the ability to engage in input foreclosure considering the following factors: (i) the JV does not have market power on the downstream e-commerce acceptance market, (ii) there are alternative providers of e-commerce acceptance solutions, and (iii) there are no barriers to switching providers.[211]

(185) Furthermore, the Notifying Parties note that the adoption of a foreclosure strategy could not have a significant detrimental effect on competition as WLOP cannot be viewed as an indispensable solution for e-commerce merchant acquirers (including third party banks) since it is currently not offered to third parties under white label in France.[212]

The Commission's assessment of input foreclosure

(186) For input foreclosure to be a concern there must be a significant degree of market power in the upstream market.[213] As noted above at Section 5.2.3, the Commission considers, for the purposes of this case, the market for white label e-commerce acceptance solutions to be distinct from an overall e-commerce acceptance solutions market and such market to be EEA-wide. On an EEA-wide market for white label e-commerce acceptance services, Worldline's market share is below 20%, and is therefore not indicative of market power.[214]

(187) Also, the results of the market investigation confirm that post-Transaction there remain sufficient credible alternative providers of white label e-commerce acceptance providers in the EEA such as ACI Worldwide, Fiserv, Lyra, Monext and Verifone.[215] As described in further detail below, prior to the Transaction Crédit Agricole is sourcing part of its white label offering from […], which is therefore well placed to supply its solution also to other e-commerce merchant acquirers. Therefore, the Commission does not consider that the JV or Worldline would have the ability to foreclose competing e-commerce merchant acquirers' access to white label e-commerce acceptance services.

(188) The Commission notes that the Notifying Parties have not disputed the fact that there may exist an incentive for Crédit Agricole to foreclosure its competitors' access to the WLOP solution.[216] Indeed, it appears that post-Transaction Crédit Agricole could have the incentive to restrict or prevent competing e-commerce merchant acquirers from sourcing the WLOP solution as this could undermine the rationale of the Transaction, i.e. combining Worldline's acceptance solution offering with Crédit Agricole's merchant acquiring offering in order for the JV to be able to compete more efficiently against competitors already providing these services in an integrated offer.

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210 Form CO, paragraphs 739-741

211 Form CO, paragraphs 725-735.

212 Form CO, paragraphs 742. Outside France Worldline will continue to provide its e-commerce acceptance solutions in white label, including WLOP, […] as described above in footnote 209).

213 Non-Horizontal Merger Guidelines, paragraph 35.

214 Form CO, paragraph 718. Also, on the overall market for e-commerce acceptance services Worldline's market share is below 20% (namely [10-20]%).

215 Replies to question G.1 of the Questionnaire to PSPs.

216 See above, paragraph 183.

(189) As to potential effects, the Commission takes note of the fact that the WLOP solution is not currently offered to competing e-commerce merchant acquirers under white label in France and cannot, therefore, be considered indispensable for competing e-commerce merchant acquirers. In addition, the Commission notes that the majority of respondents of the market investigation consider that the Transaction will have a neutral or positive impact in terms of price, choice, quality and innovation on the EEA-wide market for white label e-commerce acceptance solutions.[217] Therefore, the Commission finds that potential input foreclosure is unlikely to have any significant detrimental effect on competition.

(190) Therefore, taking into account the market investigation results and other available evidence considering the lack of ability to foreclose and lack of effects the Commission does not consider that the Transaction would raise serious doubts as to its compatibility with the internal market in relation to potential input foreclosure.

The Notifying Parties' views on customer foreclosure

(191) The Notifying Parties consider that the fact that certain Crédit Agricole banks will progressively replace the white label e-commerce acceptance offer derived from […] prior to the Transaction by Worldline's WLOP solution will not lead to any significant adverse competition effects considering that (i) the JV and Crédit Agricole will not be unavoidable trading partners for e-commerce acceptance solution providers, (ii) the replacement of […] by WLOP will only impact one e-commerce acceptance provider i.e. […] and only a limited share of its revenues, (iii) the Transaction does not render potential entry unattractive as the e-commerce acceptance market is competitive and experiencing unparalleled growth, and (iv) only a limited fraction of upstream output would be affected by the Transaction (approx. [0-5]% at EEA level).[218]

The Commission's assessment of customer foreclosure

(192) For customer foreclosure to be a concern there must be a significant degree of market power in the downstream market.[219] The JV and Crédit Agricole will have a combined market share below 20% in the EEA-wide e-commerce merchant acquiring market (and its potential segments), which is not indicative of market power.[220] As the market investigation confirmed that the market for (white label) e-commerce merchant acceptance is EEA-wide, alternative customers whom […] could start supplying include numerous players active in e-commerce merchant acquiring across the EEA. In light of the above, the Commission does not consider that the Parties would have the ability to restrict […] access to a sufficient customer base post-Transaction.

(193) As regards incentives, the Commission notes that it is foreseen that Crédit Agricole (and the JV post-Transaction) will stop relying on […] white label e-commerce acceptance solution and will instead rely exclusively on Worldline's competing acceptance solution, which will be transferred to the JV (in France). Therefore, the

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217 Replies to question H.1 of the Questionnaire to PSPs.

218 Form CO, paragraphs 754-759.

219 Non-Horizontal Merger Guidelines, paragraph 61.

220 According to Crédit Agricole's estimates, also its purchasing share for e-commerce acceptance services (for white labelled solutions only) is below 20% at both French and EEA level (Form CO, paragraph 674).

Commission considers that the Parties could have an incentive to restrict […] access to a sufficient customer base.

(194) As regards effects of potential customer foreclosure, the Commission notes that firstly, the potential customer foreclosure only concerns […] as prior to the Transaction Crédit Agricole is only sourcing white label e-commerce acceptance solutions from […] and Worldline. Secondly, the Notifying Parties have submitted that the share of […] white label sales to Crédit Agricole represents a very limited proportion of […] turnover[221], which based on the market investigation seems plausible. As a result, the Commission considers it unlikely that the fact that Crédit Agricole (and the JV post-Transaction) would stop relying on […] white label e-commerce acceptance solution would result in any significant detrimental effect on competition.

(195) In light of the lack of ability to engage in a customer foreclosure strategy and the lack of prospect of effects of any such customer foreclosure strategy on the market in question, the Commission does not consider that the Transaction would raise serious doubts as to its compatibility with the internal market in relation to potential customer foreclosure.

Conclusion

(196) Based on the above, the Commission considers that the Transaction does not raise serious doubts as to its compatibility with the internal market in relation to potential vertical effects arising from the vertical relationship between acquiring (white label) e-commerce acceptance solutions (upstream) and e-commerce merchant acquiring (downstream).[222]

6.5. Competitive assessment of the conglomerate links

6.5.1. Introduction

(197) As explained above, the JV will combine mostly complementary services in various closely related markets in the field of payment services for merchants, including acceptance (both in-store and e-commerce) and merchant acquiring (POS and e-commerce). In relation to these markets, the Commission notes at the outset that Worldline's position is stronger in in-store acceptance, where its market share amounts to [20-30]% at EEA level and to [40-50]% in France.

(198) During the pre-notification market outreach, some participants voiced concerns of a non-horizontal nature, which primarily related to Worldline's in-store acceptance and were: [223]

(a) The bundling of the provision of in-store acceptance services with other payment-related services such as POS merchant acquiring; [224]

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221 Form CO, paragraph 757.

222 The Commission takes note of the fact that pursuant to Point 5(d)(ii)(aa) of the Notice on a simplified treatment based on a EEA-wide geographic scope of the markets for (white-label) e-commerce acceptance and e-commerce acquiring, the Transaction does not give rise to an affected vertical relationship as the Parties' market shares are lower than 30% on the respective upstream and the downstream markets.

223 Calls with payment service providers and merchants in October to December 2023.

224 Some market participants raised bundling concerns where the JV would exclusively offer a bundle of in store acceptance services and POS merchant acquiring services (to follow the trend started by

(b) The tying of the provision of in-store acceptance services with POS merchant acquiring notably via the technical degradation of the offering, and self-preferencing of the JV's own POS merchant acquiring services; [225]

(c) Collection of data by the JV from its activities in acceptance and merchant acquiring, which would give the JV an undue competitive advantage compared to other payment service providers.

(199) In light of the voiced potential concerns, the market structure and Worldline's position in in-store acceptance, the Commission deems it appropriate, for the purposes of this decision, to focus its conglomerate assessment on the following links:[226]

(a) The provision of in-store acceptance services and e-commerce merchant acquiring services;

(b) The provision of in-store acceptance services and POS merchant acquiring services[227]; and,

(c) The provision of in-store acceptance services and acquiring processing[228].

Adyen and Stripe). This fear was notably raised by merchants, who want to be able to access in-store acceptance and merchant acquiring services on a standalone basis, and by payment service providers who would lose access to Worldline's acceptance services (see for instance, some replies to question D.B.14 of the Questionnaire to Merchants; replies to question D.B.9 of the Questionnaire to PSPs).

225 Some market participants raised concerns relating to self-preferencing in the routing of transaction flows: the JV would use its in-store acceptance platform to preference its own POS merchant acquiring services by either (i) favouring its POS merchant acquiring services during technical updates or (ii) by routing transactions not attributed to a certain merchant acquirer to its own merchant acquiring services (see for instance, some replies to question D.C.13 of the Questionnaire to Merchants).

226 The Notifying Parties also identified other conglomerate links: (i) the provision of e-commerce merchant acquiring and the provision of e-commerce acceptance services, (ii) the provision of POS merchant acquiring services and the market for e-commerce merchant acquiring, and (iii) the provision of POS merchant acquiring services and the market for e-commerce acceptance solutions. In relation to those links, *first*, the Parties' market shares are below 15% in all markets except POS merchant acquiring where Crédit Agricole's and the JV's market shares are below 20% at EEA level and […] [30-40]% in France (for the period 2020-2022). These relatively moderate market shares support the finding of a lack of ability to engage in conglomerate foreclosure. *Second*, there are sufficient alternatives on the concerned markets given the Parties' low market shares. In particular for POS merchant acquiring in France, where the Parties' position is stronger, the market investigation confirmed that several players were credible alternatives to Crédit Agricole's POS merchant acquiring including Caisse d'Epargne, Crédit Mutuel, Société Générale, Adyen, Banque Populaire, BNP Paribas and Stripe (Please see replies to question D.B.7 of the Questionnaire to Merchants).

227 The Parties also identified a conglomerate link between Worldline's in-store acceptance services and POS management services. As mentioned above in Section 6.3.2, a horizontal overlap between Crédit Agricole and Worldline in POS management services could exist if considering Worldline's provision of POS terminals included in its in-store acceptance offering. As the effects on the market for POS management services have been assessed in Section 6.3.2, the Commission will not discuss these again in this Section.

228 While not assessed in the Form CO, the market investigation indicated that in-store acceptance services could be bundled with acquiring processing (Replies to question D.B.2 of the Questionnaire to Merchants, Replies to question D.B.1 of the Questionnaire to PSPs).

(200) The Commission will analyse whether the Parties would have the ability and incentives to engage in conglomerate foreclosure strategies such as described in paragraph 198, and whether those strategies would have an impact on competition. After providing the Parties' and their competitors' market shares in in-store acceptance, the Commission will cover the bundling and tying / self-preferencing concerns together given that the same considerations generally apply to both concerns, and, where applicable, it will identify those considerations that are specific to either bundling or tying / self-preferencing. The Commission will then assess the data-related concern.

6.5.2. The Parties' and their competitors' market shares in in-store acceptance

(201) The market shares of the Parties and their competitors at EEA and French levels are shown below:

Table 4 – Market shares in in-store acceptance services in the EEA

Market player	**2020**		**2021**		**2022**	
	Number of transactions (million)	**Market share**	**Number of transactions (million)**	**Market share**	**Number of transactions (million)**	**Market share**
Worldline	[…]	[5-10]%	[…]	[5-10]%	[…]	[5-10]%
JV	[…]	[20-30]%	[…]	[20-30]%	[…]	[20-30]%
Combined	***[…]***	***[20-30]%***	***[…]***	***[20-30]%***	***[…]***	***[20-30]%***
Verifone	-	[10-20]%	-	[10-20]%	-	[10-20]%
Adyen	-	[10-20]%	-	[10-20]%	-	[10-20]%
Nexi	-	[10-20]%	-	[10-20]%	-	[10-20]%
Monext	-	[5-10]%	-	[5-10]%	-	[5-10]%
ACI	-	[5-10]%	-	[5-10]%	-	[5-10]%
Nepting	-	[0-5]%	-	[0-5]%	-	[0-5]%
Others[229]	-	[10-20]%	-	[10-20]%	-	[10-20]%
Total market	[15,000-20,000]	100%	[15,000-20,000]	100%	[20,000-25,000]	100%

Source: Form CO, Table 34

229 E.g. Planet, FreedomPay, Sipay, SmartPay Advance, N&TS, CCV.

Table 5 – Market shares in in-store acceptance services in France

Market player	2020		2021		2022	
	Number of transactions (million)	Market share	Number of transactions (million)	Market share	Number of transactions (million)	Market share
***JV*[230]**	***[…]***	***[40-50]%***	***[…]***	***[40-50]%***	***[…]***	***[40-50]%***
Wynid (VeriFone)	-	[10-20]%	-	[10-20]%	-	[10-20]%
Monext	-	[10-20]%	-	[10-20]%	-	[10-20]%
Nepting	-	[5-10]%	-	[5-10]%	-	[5-10]%
Adyen	-	[5-10]%	-	[5-10]%	-	[5-10]%
ACI	-	[0-5]%	-	[0-5]%	-	[0-5]%
Others (SmartPay Advance, Lusis)	-	[5-10]%	-	[5-10]%	-	[5-10]%
Total market	[5,000-10,000]	100%	[5,000-10,000]	100%	[5,000-10,000]	100%

Source: Form CO, Table 35

6.5.3. Bundling and tying / self-preferencing concerns raised in relation to the Parties' in-store acceptance offering

6.5.3.1. The Notifying Parties' views

6.5.3.1.1. Ability

(202) The Notifying Parties argue that the JV will not have the ability to engage in conglomerate foreclosure for several reasons, which are briefly summarised below.[231]

(203) *First*, the Parties will not hold market power in any of the markets covered in paragraph 199 given that the Parties' market shares are below 30% in these markets, with the exception of POS merchant acquiring, where the Parties' market shares […] [30-40]% in France, and in-store acceptance in France, where Worldline's market share exceeds 40%.

(204) *Second*, there will remain a significant number of competitors able to provide credible alternative in-store acceptance solutions, including Verifone, Monext, Nepting and Adyen.

(205) *Third*, switching is facilitated by the absence of technical or contractual barriers to switching between in-store acceptance providers. This is evidenced by the fact that customers regularly switch between their provider of in-store acceptance solutions. The same considerations apply to POS and e-commerce merchant acquiring services.

230 Contributed by Worldline in France.

231 See notably, Form CO, paragraphs 834-885, 952-962.

(206) *Fourth*, any bundling or tying / self-preferencing strategy would not be able to foreclose competitors on any market in so far as in-store acceptance services have traditionally been purchased separately from other merchant services.

(207) *Fifth*, any bundling or tying / self-preferencing would not succeed given the strong countervailing buyer power as customers of in-store acceptance services are large merchants.[232]

(208) *Sixth*, as regards tying / self-preferencing specifically, the JV would have no ability to degrade or reduce interoperability with other POS merchant acquirer providers and/or self-preference as it acts as a purely technical provider and implements the strategy and payment flows decided by the merchant. As regards updates and maintenance on Worldline's in-store acceptance platform, it is up to the merchant to carry out these updates or these are launched subject to merchant's consent.[233]

6.5.3.1.2. Incentives

(209) The Parties argue that they would lack any incentives to engage in conglomerate foreclosure because of their position in in-store acceptance (in particular to the detriment of rival POS merchant acquirers).

(210) As regards bundling, in-store acceptance solutions have historically been purchased by customers separately from other payment services. In the case of POS merchant acquiring specifically, any bundling strategy would risk losing those customers to other competing solutions given that many customers would not be interested in a bundle. It is unlikely that such a strategy would be profitable given that it would mean that the JV would have to forego sales on one profitable market without any certainty that it would be able to recoup its losses based on hypothetical higher sales in the other market. [234]

(211) As regards tying / self-preferencing, in addition to losing customers, *first*, such a strategy would harm the JV, as it would expose itself to contractual financial penalties to be paid to customers. Worldline's in-store acceptance contracts explicitly specify the open architecture of the AXIS solution. The contracts with merchants include a financial penalty clause in case of degradation of the services, which customers do not hesitate to use when Worldline does not respect the level of service agreed contractually. *Second*, any degradation of AXIS' service level would be greatly detrimental to Worldline's image and reputation on the market. [235]

6.5.3.1.3. Impact on competition

(212) The Notifying Parties submit that any conglomerate foreclosure would not have the effect to impede competition on the market. They rely on several arguments, including:[236]

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232 The Parties also note in relation to e-commerce merchant acquiring that some of these large merchants have started internalising their e-commerce merchant acquiring.

233 Form CO, paragraphs 883, 884 and 1409.

234 Form CO, see in particular, paragraphs 886-895, and 963-965 (in relation to e-commerce merchant acquiring).

235 Form CO, see in particular, paragraphs 896-909.

236 Form CO, see in particular, paragraphs 910-919, 966-972.

(a) *First*, the Parties and the JV do not hold market power and a conglomerate foreclosure strategy is unlikely to reduce sales by non-integrated suppliers or make them less efficient.

(b) *Second*, the customer base for merchant acquiring services and for in-store acceptance solutions is different. The former concerns all types of merchants while the latter is only relevant for large merchants. This means that the broad range of competing providers of merchant acquiring services would typically continue to serve such customers, irrespective of whether the JV and the Notifying Parties offer integrated offers or implement a foreclosure strategy.

(c) *Third*, bundling or self-preferencing could not be used by the Notifying Parties or the JV as a strategy to erect barriers to entry. Both markets are very dynamic, and several players have recently entered with aggressive pricing strategies and were able to gain significant market shares (e.g. Adyen or Stripe).

(d) *Fourth*, integrated offers such as those combining in-store acceptance and merchant acquiring services can bring significant efficiencies. For instance, such a bundle would eliminate pricing inefficiencies for large merchants.

6.5.3.2. The Commission's assessment

6.5.3.2.1. Ability

(213) The Commission assesses several factors to determine whether the Parties will have the ability to engage in conglomerate foreclosure. These include the degree of market power the Parties will have, whether there are sufficient alternatives, and whether the products in question can actually be bundled or tied.[237]

(214) As regards the Parties' position on the market and the presence of alternatives, the Commission notes:

(a) The Notifying Parties' shares in the concerned markets are below 30%, except for in-store acceptance services and POS merchant acquiring services. In in-store acceptance, Worldline's shares at EEA level remain below 30% and only reach [40-50]% when considering the market at a national level. In POS merchant acquiring, the Parties' shares are below 20% in the EEA and […] [30-40]% in France.

(b) The market investigation confirms that there will be sufficient alternatives post-Transaction that can offer in-store acceptance services either as a bundle or separately from other services even for in-store acceptance services in France. For instance, PSPs consider that Adyen, Nepting, Monext and Verifone (among others) are credible existing alternatives to Worldline's in-store acceptance offering in France.[238] A majority of responding merchants

237 Non-Horizontal Merger Guidelines, 98-104.

238 Replies to question D.A.1 of the Questionnaire to PSPs. The Parties note in that regard that several market players have entered the in-store acceptance services market in the EEA in the last five years (e.g., Verifone, Monext, ACI, SumUp), and that some pure e-commerce players have gained substantial market shares in this market (e.g., players such as Adyen or Nepting have deployed solutions that work on all payment terminals, unlike Worldline's SACC and AXIS solutions) (Form CO, paragraphs 1413 and 1414).

also consider that there will be sufficient alternatives in France and in the EEA to respond to their company's needs.[239]

(c) Market respondents acknowledge that switching between in-store acceptance providers is difficult[240] but occurs. For instance, most in-store acceptance service providers confirm that they had customers that switched to alternative providers in the last five years.[241] Reasons for switching included better pricing, better quality or functionality of the product or global offering.[242] Further, merchants decided to switch providers mainly due to better pricing or functionality of the product, even if this entailed changing hundreds or thousands of POS terminals.[243] This is in line with the Parties' switching data, which listed the customers that moved either to Worldline's acceptance solutions or from Worldline's solution to a competitor's solution. Based on that data, the number of POS terminals that had to be switched exceeded […] for several merchants.[244]

(d) Customers of in-store acceptance services are large merchants, which enjoy certain countervailing buyer power towards the Parties and could counter any bundle or self-preferencing strategy due to their size, their commercial significance, and their ability to switch to alternative suppliers.[245] Merchants using in-store acceptance services are large merchants, which handle large volumes of payments, hence representing important customers for payment service providers. This is evidenced in the market investigation results where a majority of merchants confirm that they can negotiate the terms of their in-store acceptance contracts, including pricing and routing.[246] In addition, as mentioned above, merchants switch between suppliers of in-store acceptance services for better pricing or product functionality.

(215) As regards the possibility to bundle products or engage in tying (e.g. by degrading one of the products if they are not tied) / self-preferencing (e.g. by routing payments to the JV's own POS merchant acquiring services), the Commission notes:

(a) As regards bundling, while the market investigation reveals to some extent that in-store acceptance services could be bundled with other services such as POS merchant acquiring, e-commerce merchant acquiring and acquiring processing, a majority of respondents confirm that there will remain sufficient alternatives that offer in-store acceptance services as a standalone

239 Replies to question D.A.3 of the Questionnaire to Merchants.

240 Replies to questions D.A.7 and D.A.8 of the Questionnaire to Merchants. Participants notably submitted that switching took a year at least and sometimes involved changing several thousands of terminals.

241 Replies to question D.A.6 of the Questionnaire to PSPs.

242 Replies to question D.A.7 of the Questionnaire to PSPs.

243 Some merchants responded that they had to change at least several thousands of their POS terminals (Replies to question D.A.8 of the Questionnaire to Merchants).

244 Response to Question 13 of RFI 8.

245 Please see the reference in the Non-Horizontal Merger Guidelines at paragraph 114, and Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Horizontal Merger Guidelines"), OJ C 31, 5.2.2004, paragraphs 64 to 67.

246 Replies to question D.A.9 of the Questionnaire to Merchants.

service such as Monext, Nepting or Verifone.[247] Therefore, those customers who do not wish to purchase the bundle would have alternatives to procure e.g. in-store acceptance services on a standalone basis.

(b) As regards tying / self-preferencing, the market investigation provides evidence that self-preferencing the JV's own services would not be feasible in practice. *First*, only a few PSPs and merchants consider that in-store acceptance service providers can unilaterally decide on the routing of payments to the different POS merchant acquirers, as a majority of market participants consider that routing is either decided by merchants alone, or decided either by acceptance providers or merchants depending on the agreed contractual arrangement.[248] *Second*, a majority of respondents explain that technical updates of the connection between in-store acceptance platforms and merchant acquirers do not happen frequently and have little to no effect on the routing of transaction flows.[249] *Third*, in-store acceptance service providers are generally required by contract to operate updates to all POS merchant acquirers simultaneously, or operate updates to some POS merchant acquirers first only subject to customer consent.[250]

(216) As a result, the Commission does not consider it likely that the JV will have the ability to engage in conglomerate foreclosure on the markets related to in-store acceptance.

6.5.3.2.2. Incentives

(217) At the outset, as mentioned above in Section 6.1, the existence of conglomerate concerns is based on the fulfilment of three cumulative conditions, i.e. (i) the ability to foreclose, (ii) the incentive to foreclose, and (iii) the impact of foreclosure. There will be no likely foreclosure where one of these conditions is missing. As concluded above, the Parties will likely not have the ability to foreclose, hence excluding the likelihood of conglomerate concerns. The Commission will nonetheless assess whether the two other conditions apply for sake of completeness.

(218) The incentive to foreclose rivals through bundling or tying / self-preferencing depends on the degree to which this strategy is profitable. The merged entity, or in this case the JV, faces a trade-off between the possible costs associated with bundling or tying / self-preferencing its products and the possible gains from expanding market shares in the market(s) concerned or, as the case may be, being able to raise prices in those market(s) due to its market power.[251]

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247 Replies to questions D.A.1 and D.B.5 of the Questionnaire to Merchants; Replies to questions D.A.1 and D.B.3 of the Questionnaire to PSPs. The market investigation also confirmed that there are sufficient alternatives in POS merchant acquiring, in e-commerce merchant acquiring, and in acquiring processing (please see for instance, footnote 226 above).

248 Replies to question D.C.1 of the Questionnaire to Merchants; Replies to question D.C.1 of the Questionnaire to PSPs.

249 Replies to question D.C.4 of the Questionnaire to Merchants; Replies to question D.C.4 of the Questionnaire to PSPs.

250 Replies to question D.C.5 of the Questionnaire to Merchants; Replies to question D.C.5 of the Questionnaire to PSPs.

251 Non-Horizontal Merger Guidelines, paragraph 105.

(219) As regards the incentives to engage in bundling, while market participants consider that the JV will have the incentives to bundle in-store acceptance with other products[252], market feedback also flags that such a bundle could lead the JV to lose customers and the Parties would have an interest to remain open to e.g. other acquirers to keep large merchants.[253]

(220) Margin data provided by the Parties also suggests that foreclosure via bundling would likely not be profitable for the JV. The Parties' margins in the markets where they hold a stronger market power (i.e. in-store acceptance and POS merchant acquiring) are as follows:

(a) As regards its in-store acceptance services, Worldline's margin information is shown in the table below:

Table 6 - Worldline's in-store acceptance average contribution margin, 2020-2022, France

	2020	2021	2022
MSV (billion euros) (A)	[…]	[…]	[…]
Revenues (million euros)	[…]	[…]	[…]
Contribution margin (million euros) (B)	[…]	[…]	[…]
Number of transactions (billions) (C)	[…]	[…]	[…]
Average contribution margin per transaction (euro cents) (D = B/C)	[…]	[…]	[…]
Average contribution margin per transaction (% of average transaction value) (E = D*C/A)	[…]	[…]	[…]

Source: Response to RFI 12

252 Replies to question D.B.10 of the Questionnaire to Merchants; Replies to question D.B.5 of the Questionnaire to PSPs.

253 See for instance, Replies to question D.B.6 of the Questionnaire to PSPs.

(b) As regards its POS merchant acquiring services, Crédit Agricole's margin information is shown in the table below:

Table 7 - Crédit Agricole's POS merchant acquiring average contribution margin, 2021-2022, France[254]

	2021	2022
MSV (billion euros) (A)	[…]	[…]
Contribution margin (million euros) (B)	[…]	[…]
Number of transactions (billions) (C)	[…]	[…]
Average contribution margin per transaction (euro cents) (D = B/C)	[…]	[…]
Average contribution margin per transaction (% of average transaction value) (E = D*C/A)	[…]	[…]

Source: Response to RFI 12

(221) Based on the above, the Commission notes that, on the one hand, the margins in acquiring and acceptance for large merchants (which are those customers using both services) are similar ([…]% in acceptance, and […]% in acquiring in 2022). This means that at least […]% of customers facing bundling would have to accept abandoning the multi-acquirer strategy and working with the JV exclusively. On the other hand, those margins for large merchants are relatively low compared to margins from transactions with smaller merchants (which amount to […]% for the smallest merchants). It would suggest that Worldline could not easily impose a specific business model (such as a bundle), and, on the contrary, supports the finding above that large merchants enjoy certain countervailing buyer power vis-à-vis Worldline. [255]

(222) As regards the incentives to engage in tying / self-preferencing, on the one hand, the market investigation confirms that contracts with in-store acceptance service providers typically include penalty clauses.[256] Pursuant to these clauses, merchants can sanction in-store acceptance service providers if they do not comply with their obligations e.g. to route payments to the relevant POS merchant acquirers. In relation to Worldline's current in-store acceptance service contracts, merchants considered these penalty clauses to be sufficiently deterrent when included in the contracts.[257] The Parties further confirm that […].[258] On the other hand, a majority of PSPs and merchants consider that the reputational damage that would be caused

254 Data is available for years 2021 and 2022 (Response to RFI 12, paragraph 8). Data presented in the table only concerns margins from transactions for large merchants, which are the ones using in-store acceptance.

255 Please see paragraph 214 above and replies to question D.A.9 of the Questionnaire to Merchants.

256 See for instance, Replies to question D.C.9 of the Questionnaire to PSPs.

257 Replies to question D.C.9 of the Questionnaire to Merchants. Nonetheless, merchants responded that penalty clauses agreed with in-store acceptance providers are rarely activated (Replies to question D.C.10 of the Questionnaire to Merchants).

258 Response to Question 3 of RFI 12.

by self-preferencing to the detriment of rival POS merchant acquirers is a sufficient deterrent.[259]

(223) In light of the above considerations, the Commission considers that the Parties are unlikely to have the incentives to engage in conglomerate foreclosure, either via bundling or tying / self-preferencing.

6.5.3.2.3. Impact on competition

(224) The vast majority of market participants (PSPs and merchants) are neutral to the Transaction, and some of them are positive to it.[260] The same applies in relation to bundling and tying / self-preferencing specifically, to which market participants are generally neutral.[261] Most rival PSPs say that any potential bundling or tying / self-preferencing would have a neutral impact on their activity.[262]

(225) In light of the above, the Commission considers it unlikely that a conglomerate strategy such as described above will have a negative impact on competition.

6.5.4. Data-related concerns

6.5.4.1. Introduction

(226) As a provider of merchant acquiring and acceptance services, the JV will have access to data pertaining to its activities on both the acquiring and the acceptance side. More precisely:[263]

(a) when providing merchant acquiring services, the JV will be able to collect data from the merchants (e.g. merchant sales value[264]), the number of transactions, and the data necessary for the acquirer to carry-out Strong Customer Authentication processes (e.g. "3D-Secure" protocol);

(b) when providing e-commerce acceptance services, the JV will have access to data relating to […][265], […][266];

(c) when providing in-store acceptance services, the JV will have access to data relating to […][267].

(227) As described above in paragraph 198, in relation to the JV's position as an acceptance service provider (which acts as an intermediary between the merchant and the acquirers), some participants raised concerns that the JV would gain additional visibility over payment flows, giving it a competitive advantage compared to other merchant acquirers. Gaining access to commercially sensitive

259 Replies to question D.C.10 of the Questionnaire to PSPs; Replies to question D.C.11 of the Questionnaire to Merchants.
260 Replies to question F.1 of the Questionnaire to Merchants; Replies to question H.1 to the Questionnaire to PSPs.
261 Replies to questions D.B.12-D.B.14, and D.C.12-D.C.13 of the Questionnaire to Merchants; Replies to questions D.B.7-D.B.9, and D.C.12-D.C.13 of the Questionnaire to PSPs.
262 Replies to questions D.B.7-D.B.9, and D.C.12-D.C.13 of the Questionnaire to PSPs.
263 Form CO, paragraph 1068.
264 […].
265 […].
266 […].
267 […].

information regarding the activities of rivals could allow the JV to price less aggressively to the detriment of customers.

(228) It may also put competitors at a competitive disadvantage, thereby dissuading them from entering or expanding in the market.[268] In this case in particular, conglomerate effects related to the collection of data are more likely to be felt by leveraging the Parties' in-store acceptance position, given their higher market shares on that market in France.

(229) In this context, for a competitive concern to arise, as a result of a merger the merged entity should gain access to commercially sensitive information on its rivals in upstream or downstream markets, which can allow the merged entity to undertake conducts which would put competitors at a competitive disadvantage.

(230) This theory of harm differs from the vertical non-coordinated effects discussed in paragraphs 29 to 77 of the Non-Horizontal Merger Guidelines in so far as it does not require the merged entity to directly foreclose access of its actual or potential rivals to supplies (input foreclosure) or markets (customer foreclosure). The qualifying element of the potentially anticompetitive conduct is in fact linked to the intelligence underlying that conduct, that is commercially sensitive information on the merged entity's rivals acquired through the vertical integration brought about by the merger. However, the conduct must also be liable to negatively affect competition, for instance because the merged entity can price less aggressively to the detriment of consumers or because it can put competitors at a competitive disadvantage.[269]

6.5.4.2. The Notifying Parties' views

(231) The Notifying Parties raise several arguments as to why data gathering does not constitute a competitive advantage in this context, as well as why such a data gathering has efficiencies, namely:[270]

(a) Although the JV may have access to information on transaction flows to competing merchant acquirers thanks to its acceptance solutions (i.e., […]), this information does not provide in itself a competitive advantage.

(b) The JV will only be able to collect acceptance-related data (i.e. data which is indispensable to offer effective data analytics services) to the extent of its market share in the e-commerce and in-store acceptance relevant markets.

(c) The information to which the JV will have access for the purposes of the AXIS reporting tool, or the e-commerce acceptance reporting tool will exclusively be dictated by the customers' decision. In any event, the JV will not have access to any information relating to terms and conditions and tariffs of competing acquirers.

(d) The data that the JV will be able to gather is not a rare commodity since all players active in the acceptance markets have access to it, enabling them to offer merchants the same value-added services that the JV will offer.

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268 Non-Horizontal Merger Guidelines, paragraph 78.

269 Please see in that regard, Case M.8788 – *APPLE / SHAZAM*, paragraph 193. See also, Case M.8314 - *BROADCOM / BROCADE*.

270 Form CO, paragraphs 1068 et seq.

(e) Most acceptance service providers in France are also active in merchant acquiring, whether in France or in the EEA. These actors are already able to collect both acquiring and acceptance data to feed into their value-added services.

(f) The collection of transaction-related data leads to pro-competitive efficiencies, benefiting customers. For instance, data can be used to inform merchants on consumer trends or for the detection of fraud.

6.5.4.3. The Commission's assessment

(232) While the market investigation indicates that there may be an advantage for a merchant acquirer in having access to acceptance data, it also reveals that:[271]

(a) That data informs on consumer behavior and transaction patterns, potentially allowing the JV to make more informed decisions and/or better tailor its services to the benefit of customers.

(b) Most respondents do not consider that that data informs on prices of competing merchant acquirers, some of which already have access to acceptance data.

(c) The market investigation does not reveal how having access to that data would allow the JV to engage in foreclosure and negatively impact competition.

(233) In addition, the Commission notes that:

(a) As pointed out by the Notifying Parties, the JV will only collect and have visibility over data to the extent of its market shares in in-store acceptance ([20-30]% in the EEA, and [40-50]% in France) and in e-commerce acceptance (below 20% in the EEA).

(b) Worldline confirmed that it has never used the data collected via its acceptance services (in-store and e-commerce) to improve or develop its merchant acquiring services (POS and/or e-commerce) or to offer better conditions to its customers (e.g. via tailored pricing/offering) neither in France nor in the EEA.[272]

(234) The above suggests that, even though the JV might be able to collect acceptance data (to the extent of its market shares in in-store acceptance and e-commerce acceptance), this visibility would not result in a competitive advantage[273] that would make it harder for competing PSPs to compete on the market and ultimately foreclose them. This observation is also supported by the fact that a majority of

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271 Replies to question D.D.1 of the Questionnaire to Merchants; Replies to question D.D.1-D.D.3 of the Questionnaire to PSPs.

272 Response to Question 1 of RFI 13. Worldline further stated that it does not hold sufficient market power in acceptance and acquiring services markets to be able to do so. Further, Worldline always applied a clear distinction between the conditions and price charged as part of its acceptance services and the conditions and price charged as part of its acquiring services.

273 In line with the Parties' arguments, market participants acknowledged that the collection of data could lead to a better commercial offering, could inform merchants on consumer trends and improve the service via e.g. risk prevention (Replies to question D.D.3 of Questionnaire to PSPs).

respondents also consider that the Transaction would have a neutral impact on the markets for merchant acquiring and acceptance services.[274]

(235) In light of the above, the Commission considers that on balance, conglomerate foreclosure via the collection of data is unlikely to foreclose competitors.

6.6. Cooperative effects of the joint venture

6.6.1. Introduction

(236) Article 2(4) of the Merger Regulation provides that to the extent that the creation of a joint venture constituting a concentration has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be appraised in accordance with the criteria of Article 101(1) and 101(3) of the TFEU, with a view to establishing whether or not the operation is compatible with the common market.

(237) Under Article 2(5) of the Merger Regulation, to assess such effects, the Commission will take into account in particular whether:

(a) two or more parent companies retain, to a significant extent, activities in the same market as the joint venture or in a market which is downstream or upstream from that of the joint venture or in a neighbouring market closely related to this market,

(b) the coordination which is the direct consequence of the creation of the joint venture affords the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products or services in question.

(238) A restriction of competition under Article 101(1) TFEU is established when the coordination of the parent companies' competitive behaviour is likely and appreciable and results from the creation of the joint venture, be it as its object or its effect.

(239) Worldline and Crédit Agricole will remain active on:

(a) POS merchant acquiring and e-commerce acquiring, which are markets where the JV will operate; and,

(b) Acquiring processing, which is a neighbouring market to the markets where the JV will operate.

(240) The Commission will therefore assess whether post-Transaction, there will remain a possibility for coordination that would restrict competition under Article 101 TFEU.

[274] Replies to question F.1 of the Questionnaire to Merchants; Replies to question H.1 to the Questionnaire to PSPs.

6.6.2. Notifying Parties' views

(241) The Parties' arguments can be summarised as follows.[275]

(242) As regards POS merchant acquiring, the Parties will not be active to a sufficient extent in the same geographies. Crédit Agricole and the JV will be active in POS merchant acquiring in France, whereas Worldline will mostly be active in other EEA countries.[276] Further, local specificities such as local schemes would counter the Parties' ability to coordinate at EEA level.

(243) As regards e-commerce merchant acquiring, Worldline's retained activities in the EEA (outside of France) represent [0-5]% market share at EEA level, and Crédit Agricole's retained activities at EEA level represent [0-5]%. The Parties' presence on the e-commerce merchant acquiring market at EEA level is therefore non-significant. In addition, the Parties will have a different geographic focus, where Crédit Agricole's activity is located in France and Worldline's is outside of France.

(244) As regards acquiring processing, Crédit Agricole's activities are not significant given that it performs these services exclusively in-house to meet internal needs, and does not offer acquiring processing services to third parties and does not plan to do so.[277] Given that only one parent is active in acquiring processing for third parties, the Parties will have no capacity or incentive to coordinate their behaviour regarding the provision of acquiring processing to third parties.[278]

(245) As a final remark, the Framework Agreement concluded between the Parties provides that, in so far as the preparation and the implementation of the Proposed Transaction require the exchange of commercially sensitive information, the Notifying Parties commit to promptly enter into a dedicated agreement enabling the exchange of such information in full compliance with competition law. The Framework Agreement also provides for several competition law safeguards for the information flows.[279]

6.6.3. The Commission's assessment

(246) The Commission considers that the Transaction is unlikely to lead to a coordination of the competitive behaviour of the Parties for several reasons:

(a) *First*, as set out in the Parties' submissions, while being active at EEA level, the Parties' geographical focus differ. Crédit Agricole's activities in merchant acquiring and acquiring processing are located in France, whereas Worldline will be more active in other EEA countries.

(b) *Second*, as regards acquiring processing specifically, only Worldline provides such services to third parties. In line with previous case practice[280], coordination is unlikely when only one parent of the JV is active on the market.

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275 Form CO, paragraphs 1445-1487.

276 […] (Form CO, paragraph 1452). […] (Form CO, paragraph 90).

277 […] (Form CO, paragraph 1472). […] (Form CO, paragraph 1474).

278 Please see COMP/JV.51, *Bertelsmann/Mondadori/BOL Italia*, 1 September 2000, para. 25 as referred to in Form CO, paragraph 1478.

279 Form CO, paragraphs 1482-1483.

280 COMP/JV.51, *Bertelsmann/Mondadori/BOL Italia*, 1 September 2000.

(c) *Third*, the Parties have confirmed that there will be sufficient safeguards to prevent undue information sharing. These are set out in the Framework Agreement, and in specific guidelines on information flows that will be annexed to the Shareholders' Agreement.[281] For instance, guidelines include [information barriers].[282] [283]

(247) In light of the above, the Commission concludes that the Transaction does not give rise to serious doubts as to its compatibility with the internal market in relation to cooperative effects in France and in the EEA in the markets for merchant acquiring (POS and e-commerce) and acquiring processing.

7. CONCLUSION

(248) 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

281 Response to Question 25 of RFI 6.
282 Annex 24 to the Form CO.
283 Form CO, paragraph 1485.