

## Testimony of Daniel Klett

Good morning. My name is Daniel Klett, and I am an economist with Capital Trade, testifying on behalf of LG and Samsung. I will address six points: certain conditions of competition, volume effects, distortions caused by the pricing product specifications recommended by Whirlpool, the serious flaws in Whirlpool's price-compression theory, the U.S. industry's condition, and positive demand factors for washers.

First, regarding conditions of competition, Whirlpool ignores the basic fact that there are large segments of U.S. production that don't compete *at all* with subject imports. As you've heard, LG and Samsung only sell high-efficiency top-load, or front load models. **Slide 1** is an estimate showing that 50 percent of Whirlpool and GE washers are top-load with agitators, the low-end of the market where LG and Samsung do not compete. From the industry representatives and market research, consumers of these washers are budget-minded or income-constrained, and rarely would consider purchasing even the lowest-price-point washers from LG or Samsung.

Next, **Slide 2** shows the significant gap between the average price for Whirlpool and GE top-load washers with agitators, compared to the average price for LG and Samsung high-efficiency top-load and front-load models. In 2014, the price gap was at least \$150 per washer and these differences exist in other years as well.

As shown in **Slide 3**, another factor limiting competition is that a large volume of U.S.-origin washers are exported, and do not compete with subject imports. Moreover, I also understand that over 8 percent of U.S. washer production is sold to the contractor market for new homes. Neither LG nor Samsung sell to this channel of distribution, because they do not

have the required regional distribution infrastructure. Whirlpool says in the Petition that this channel accounts for only about 1 percent of the market, but we believe the share is much higher for Whirlpool and GE individually.

Based on these three factors, I estimate that approximately 65 percent of total U.S. shipment volume does not compete with subject imports.

As described by Mr. Brindle, Mr. Herring, and Mr. Toohey, washers are not a commodity product. That average prices for Samsung and LG models are higher than for Whirlpool and GE in and of itself tells you that the non-price attributes they identified must be factors explaining their success in the market. I am not saying that price is unimportant to consumers. I am saying that when choosing Samsung or LG washers over Whirlpool or GE washers, the driver is not Samsung or LG being lower-priced, but their superiority with respect to factors such as feature innovation, brand-perception, reliability, and other factors described earlier.

I have not yet fully analyzed your questionnaire data for volume effects. However, when compiling the data it is important that you include *all washers*, even those with characteristics outside the scope. For example, Whirlpool's requested scope excludes a number of GE front-load models with capacities ranging from 3.6 to 4.3 cubic feet, and these models compete against other front load models of comparable capacities and similar features. **Slide 4** (GFWS1700HWW) is the spec sheet for one such 4.3 cubic foot front load model, which perfectly fits your Pricing Product 4 definition, except that it has a belt drive. At Whirlpool's suggestion, the Commission included the drive-system of a washer as a defining, and limiting, characteristic even though it is not an attribute considered by consumers when choosing among competing models or brands. Moreover, as I will discuss later, the seven Pricing

Products recommended by Whirlpool cause distorted comparisons and are not representative of price relationships in the market. The Whirlpool definitions omit the lowest-priced Whirlpool and GE models. For example, with the exception of Pricing Product 7, they have specified only direct-drive, leaving out Whirlpool's lower-priced, belt-drive, top-load models, and GE's lower-priced, belt-drive, front-load models.

Turning to volume, if your data do show market share decreases for the U.S. industry, this does not reflect adverse volume effects attributable to subject import competition. Most important, the success in the U.S. market by LG and Samsung is not due to underselling.

Second, Whirlpool is a large supplier of Kenmore brand washers to Sears, particularly for top-load models other than the higher-priced Kenmore Elite models. **Slide 5** shows that Kenmore's share of the top-load market has been declining. Declining Whirlpool shipment due to decreasing popularity of the Kenmore brand among consumers cannot be attributed to competition from subject imports.

Third, LG was selected by Lowes as a new supplier in 2013, and Samsung was selected as a new supplier by The Home Depot in late 2012. These two retailers, which together account for about 35 percent of total U.S. washer purchases, added LG and Samsung not because their washers were lower-priced, but because their customers were requesting top-rated LG and Samsung products. Market share gains by LG and Samsung during the POI will reflect their introduction by these retailers. Also, while subject imports are washers from China, the commercial reality is that retailers and consumers do not distinguish between the LG and Samsung washers whether being sourced from China or Korea. Whirlpool's estimate of market share trends in Table 8 of its Petition shows that while China's share of the market increased by

18 percentage points from 2012 to 2014, the U.S. industry “lost” just 2.3 percentage points of share, reflecting the decline in imports from Korea.

Fourth, even if the U.S. industry lost some share over the period, this occurred simply because Whirlpool and GE did not grow their business as fast as LG and Samsung. As shown in **Slide 6**, Whirlpool and GE enjoyed substantial increases in shipment volume.

Turning to the pricing products, there are numerous reasons why the carefully crafted pricing product definitions recommended by Whirlpool will cause distortions for your price comparisons. I will highlight just a few. First, products 1 to 6 include “direct drive” as a factor, which was not included in the prior investigation and is not a factor considered by consumers. **Slide 7** shows that certain GE front-load washers would be included in Pricing Product specifications 1 (GFWH1400DWW), 3 (GFWS1500DWW), and 6 (GFWS1705HDG), but for being belt-driven. Pricing data should be reported by GE for these models, whether produced in the United States, or as non-subject imports.

Next, **Slide 8-1** shows certain Whirlpool models that do not meet the pricing product specifications because of selective exclusion of some models, such as Whirlpool’s 5.3 cubic foot model, the inclusion or exclusion of water heater or steam features, or color. **Slide 8-2** is for pricing product 7, and shows that certain of Whirlpool’s Black Friday models are not included in this pricing product category due to slight variations from the specified parameters. **Slide 9** highlights the Amana model. In addition, because Sears has its own repair and warranty program for Kenmore models, prices to Sears of OEM Kenmore models are typically lower than prices to other retailers. Comparing OEM prices to non-OEM prices also will therefore also introduce distortions in the price comparisons.

Whirlpool continues to rely on a theory of price compression. There can be no adverse price effects associated with subject imports as to the U.S. industry's shipments of top-load washers with agitators. As shown in **Slide 10**, the price gap between U.S. producers' shipments of these models, and Samsung and LG and Samsung's high-efficiency top-load and front load washers is so large that these constitute different market segments. There is no economic mechanism for the higher prices charged by LG or Samsung to "push" down the prices of top-load, agitator, models.

For the high-efficiency top-load and front load categories, it is our belief that when the pricing data are compared on an apples-to-apples basis, and with better coverage of Whirlpool and GE models, there will not be underselling. Here, the price premium for Samsung and LG models will not be as large. However, if a purchaser chooses to buy a higher-priced Samsung or LG washer over a lower-priced Whirlpool or GE model, it is axiomatic that it chose to do so for superior non-price attributes associated with the higher-priced products, not due to underselling. Whirlpool's compression argument essentially reduces to "LG and Samsung should have priced their models higher to be non-competitive."

Regarding industry condition, Whirlpool's claim of adverse effects is at odds with its public statements. **Slide 11-1** lists a few positive statements made by Whirlpool management about demand and Whirlpool's prospects. **Slide 11-2** highlights other positive factors for Whirlpool's washer operations in Clyde, Ohio. GE similarly has not behaved in a way that would indicate its washer operations are injured. **Slide 12-1** shows significant investments made in its Louisville, Kentucky top-load washer facilities in 2012. **Slide 12-2** shows that GE is continuing to invest in its U.S. washers facilities, with increasing employment.

In contrast to these rosy reports, Whirlpool is claiming that it has incurred losses on its washer operations. Please note the following. First, about 65 percent of the U.S. industry's shipments don't compete with subject imports, and any profit declines associated with these shipments can't be attributed to subject import competition. Second, while the scope of this investigation is just washers, the market reality is that Whirlpool and GE look at their laundry operations overall, and their pricing of dryers and pedestals effectively subsidizes their washer operations, as described by Mr. Brindle. **Slide 13-1** is an example of this paired pricing by Whirlpool and GE during Black Friday 2014. **Slide 13-2** is a similar example for Black Friday 2015 for Maytag and Amana washers.

Third, Whirlpool reported significant Energy Tax Credits in 2015, a portion of which would be related to its washer sales. Now that Whirlpool is profitable, it can utilize these credits, which would have a real and significant effect on its cash flow. For these reasons, the Commission should require Whirlpool and GE to report financial information for their dryers, pedestals, and for their entire North American laundry segments.

The reported operating losses also are inconsistent with the fact that Whirlpool has reported significant growth in the profitability of its North American operations, with an operating margin of 11.6 percent for the first three quarters of 2015, shown in **Slide 14**. Washers account for a significant share of its North American sales, and this profit disparity makes no sense. If its washer operations were performing so poorly, one would have expected this to have been a material fact identified in its financial reporting, given the significance to their North American washer operations. Yet it was not, and Whirlpool's stock price more than tripled from 2012 to 2015, as shown in **Slide 15**.

The final point I want to address is demand. U.S. demand for appliances, including washers, is largely driven by the strength of the U.S. housing sector. **Slide 16** shows the significant improvement in U.S. housing starts and completions since the first quarter of 2012, with particular strength in the most recent two quarters of 2015. A Whirlpool presentation is replicated in **Slide 17**, and shows appliance demand plummeting from 2006 to 2012, as consumers deferred expenditures for big-ticket items during the Great Recession. Washers have a useful life that averages 7 to 10 years, and this purchase deferral created pent-up replacement demand, the effects of which Whirlpool projects to continue through 2018. Although this graphic is for T-7 appliances, the principle would also apply to washers alone. In sum, taken altogether, the data do not show a domestic industry injured by reason of Chinese washers produced by Samsung and LG.