

DLP Opening Statement for Washers ITC Staff Conference

Good morning. And a very Happy New Year to everyone.

Given that all of you are already quite familiar with the washing machines which are the target of this new trade case, we can dive right into the issues.

Like Product

The petition asserts that the like product definition should mirror the scope. This claim has absolutely no legal or factual support. In 2013 the Commission examined this very same industry and concluded that there are no clear dividing lines among different large residential washers. Whirlpool has not provided any evidence that there has been a change in the market to question this prior factual finding. Or stated more pointedly, Whirlpool has not provided any evidence that top load washers with a particular type of internal clutch should constitute a separate like product. Similar to the last case, the proper like product definition should be “all large residential washers.”

Volume Effects

First volume point. According to the petition, Whirlpool is the single largest importer of complete washing machines from China.

Whirlpool claims that these washers imported through the Cleveland Customs office should be counted as U.S. produced washers because of production activity in the WP foreign trade zone. However, Whirlpool has not provided sufficient evidence to support this claim. 16 million washers is a significant volume. WP needs to provide answers to three questions: (1) what precisely was imported into the FTZ; (2) what production activity was done in the FTZ; and (3) how many finished washers entered the U.S market from the FTZ. Whirlpool should not be permitted to hide this information.

Second volume point. The Commission's analysis must take into account non-subject imports. These include both (1) washer imports from China that do not meet the ridiculously gerrymandered scope definition, many of which were probably imported by the U.S. producers; and (2) imports that do meet the definition but were imported from other countries, particularly Korea. In the real-world

market place both types of these washers are competing directly with U.S. produced washers. Their volume needs to be counted. Moreover, the Commission's analysis must reflect the unique condition of competition that customers have no idea about the country of origin of the brand they are buying.

Price Effects

All information from the real-world market confirm that LG and Samsung are high end, premium brands that sell at a high price point. LG and Samsung do not compete at all the lower priced "value" segment dominated by Whirlpool and GE. Indeed, we estimate that about two third of the U.S. producers shipments are in segments unaffected by any imports of LG or Samsung washers.

Because of this economic reality, Whirlpool has tried to rig the Commission pricing data. Whirlpool suggested pricing product categories that exclude both the highest priced LG and Samsung models and the lowest priced Whirlpool and GE value models so as to create the illusion of underselling. In fact, if the lower priced U.S. producer models are included, there is absolutely no underselling by LG and

Samsung. If there is any downward pressure on Whirlpool washers, that pressure is coming from the U.S. industry itself.

This same economic reality of consistently higher prices by LG and Samsung has also caused Whirlpool to advance an illogical price compression argument whereby more featured and higher priced models by LG and Samsung somehow cause adverse price effects on lesser featured, lower priced Whirlpool models. This argument turns the Commission's traditional underselling analysis completely upside down and should be rejected.

Impact

In the public version of the petition Whirlpool claims it has suffered operating losses on its washer sales. Such claim is completely at odds with two facts. First, Whirlpool has reported significant growth in the profitability of its North American operations, including an operating margin of 11.6 percent for the first three quarters of 2015. Washers account for a significant share of its North American operation sales, and this disparity makes no sense. Second, if Whirlpool's washer operations were performing so poorly, one would have expected this to

have been a material fact explicitly reported in its financial reporting, given the significance to their North American operations. Yet it was not, and Whirlpool's stock price more than tripled from 2012 to 2015. It is hard to see how such an industry is suffering material injury.

Bottom line: There is no factual or legal basis for an affirmative determination and therefore the Commission should terminate this case now.

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