

### **Market definition**

1. This appendix considers evidence relevant to the assessment of the extent of the product market in Section 6 of the provisional findings.

### **Relevant product market(s) for mint and pre-owned gaming products**

2. The parties submitted that within the electronic gaming retail sector there are three distinct product markets: gaming consoles or hardware, software and peripherals. The parties further submitted that both mint and pre-owned products should be considered to be in the same relevant product market for each of these three markets, and that they are constrained by both other ‘bricks and mortar’ retailers (ie those with physical retail premises), and online retailers.
3. In this section we consider whether mint and pre-owned gaming products constitute separate markets or whether they are part of the same market. We discuss software, hardware and accessories in turn.
4. The parties argued that there was easy substitutability for customers between mint and pre-owned because these are essentially the same product, sold at the same place and time from the same shops. While there may be a perceived quality differential, functionally pre-owned is the same as mint, and therefore customers should be responsive to any changes in relative price. In support of this they presented evidence showing that most customers purchased both mint and pre-owned, that the proportion who would switch between mint and pre-owned was responsive to the relative price differential, and that customers claimed to be highly price sensitive.

5. When we consulted with various third parties on whether there was a competitive interaction between mint and pre-owned products, most told us that this was a factor, for example publishers expressed concern on the impact of sales of pre-owned on sales of mint games. None argued that these were distinct economic markets.

### ***Gaming software***

6. To address the question of whether mint and pre-owned games constrain each other, we considered price and sales volume trends over time, absolute price differences, customer survey results and internal documents. We also considered the scope for supply-side substitution.

### ***Price and sales volume trends***

7. We compared price and sales volume trends over time of the mint sales and the pre-owned sales of a sample of games (ie individual titles). In relation to price trends, similar patterns would be consistent with, but not conclusive of, mint and pre-owned software being in the same market, whilst different patterns would suggest mint and pre-owned software are in different markets.<sup>1</sup> In relation to volume trends, opposite patterns could be indicative of substitution between mint and pre-owned games; this would be consistent with mint and pre-owned games being in the same market.
8. RBB Economics, on behalf of the parties, submitted a paper on product market definition that contained various graphs showing mint and pre-owned average selling prices and list prices for various bundles of game titles, for example top 25 sellers. The graphs show a very high degree of correlation between the mint and pre-owned price series. RBB also calculated correlation coefficients for these price series, which showed a very high degree of correlation—ranging from a low of 0.92 (for 25<sup>th</sup> to 50<sup>th</sup>

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<sup>1</sup>If mint and pre-owned software formed part of the same market and their relative prices diverged, customers would be likely to switch to the relatively lower-priced option which, in turn, would be likely to contribute to the elimination of the divergence in prices. See also Lindsay, A, *The EC Merger Regulation: Substantive Issues*, 2<sup>nd</sup> ed, Sweet & Maxwell 2006, p111, paragraph 3-014.

ranked games sold by GAME, based on average selling price) to 0.99 (for the top 25<sup>th</sup> and the top-100 ranked games sold by GAME based on list prices). Although this is consistent with mint and pre-owned software being in the same market, it does not in itself prove that this is the case. For example, the similar pattern that is observed may be due to common influences such as the games' life cycle; both price series (ie for mint and for pre-owned games) show a downward trend, which is consistent with a decreasing appeal of games over time. To the extent that the high degree of correlation is caused by common influences, correlation coefficients provide little or no information about competitive constraints. RBB accepted that in theory common influences could be a reason for the trend. Such common influences, it said, could be common cost shocks (eg changes in the underlying input price) or common demand shocks (eg income shocks) but these were inherently different from the notion of underlying preferences.

9. We investigated the data used by RBB. We calculated correlation coefficients for the individual titles. This showed a wide variation in the coefficients, eg for top-50-ranked games based on ASP, the individual coefficients ranged from  $-0.27$  to  $0.98$ . Averaging the games, as RBB had done, does not show this variation.<sup>2</sup> In order to address the influence of common factors, we also calculated the correlation coefficients for the change in prices (first differences). This showed much smaller correlation coefficients—around  $0.3$ .
10. We also compared (list) price series for mint and pre-owned games, for individual titles, on the basis of price data provided by GAME. These show a broadly similar pattern for mint and pre-owned prices across a range of titles (see Annex 1), which is

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<sup>2</sup>The parties submitted that they used averaging to reduce the noise inherent in the ASP series that arises from multi-buys, hardware/software bundles and other discounts.

consistent with, but not conclusive of, mint and pre-owned games being in the same market.

11. In addition, we looked at changes in sales volumes in reaction to relative price changes, for individual titles. Results based on GAME's sales and price data suggest that mint and pre-owned volume sales move in opposite directions over time, implying that customers may substitute mint and pre-owned games of the same title (see Figure 1 and similar figures for other game titles in Annex 1). Specifically, we observe an increase in volume sales of the mint games at the expense of volume sales of the pre-owned games at times at which the mint games are on promotion, suggesting that a change in relative prices leads to a response in demand that is indicative of substitution (see Figure 2 and Annex 1). However, we note that these patterns appear to be more prominent for some games and time periods than for others.

FIGURE 1

**Total volume sales by GAME of *Need for Speed Carbon* (PS2)**



Source: GAME, CC analysis.

FIGURE 2

**GAME's Volume sales and prices for *Need for Speed Carbon* (PS2), pre-owned relative to mint**



Source: GAME, CC analysis.

12. RBB Economics, on behalf of the parties, compared trends in the volume of specific pre-owned software titles and the trends in the prices of the same mint software titles for a sample of the biggest-selling mint software titles for GAME in 2006 up to the first 20 weeks of their life cycle (a period in which the majority of mint sales are

made). RBB Economics found that the volume of the pre-owned software fell when the price of the mint software fell.

13. The price/sales analysis was performed on the basis of company level data from GAME, rather than industry level data (the parties noted that no industry level data was available). Moreover, the promotions we observed often comprised changes in the relative price of mint over pre-owned games that were much larger than 5 per cent (the SSNIP criteria), frequently to an extent where the mint price fell below the pre-owned price.
14. For these reasons, the effects of these promotions in terms of sales volumes cannot directly be interpreted as the response to a SSNIP.
15. RBB Economics, on behalf of the parties, also provided scatterplots which, based on weighted averages of mint/pre-owned price differentials for a given set of SKUs (top 25), show a negative relation between the mint/pre-owned price differential and the share of mint sales of the given set of titles. This would suggest that a decrease in the mint/pre-owned price differential as a result of an increase in the prices of pre-owned games would lead to customers switching away from pre-owned to mint games. Similarly, an increase in this price differential would lead to customers switching away from mint to pre-owned games. However, the strength of the relationship appeared weak, in that there was a very high degree of variability in the data.

#### *Absolute price differences*

16. Price differences on their own are not informative for market definition. Products in the same market can have different prices as competitive constraints may be in the form of non-price factors such as service quality. However, due to the limitations on

the trend data, we examined price differences (set against non-price factors) to see what, if anything, they told us about the ability of a hypothetical monopolist to increase prices by a small amount, eg to what extent are pre-owned prices higher than mint prices and to what extent can higher mint prices (compared with pre-owned prices) be explained by non-price factors.

17. The parties submitted evidence showing the absolute price difference between pre-owned software games and their mint equivalents, for different retailers. On behalf of the parties, [X] analysed average selling prices on the basis of a fixed set of game titles—see Figure 4 in the provisional findings. However, as not all retailers stocked all these titles, the number of SKUs considered varies per retailer.<sup>3</sup> The parties also submitted variations of the exercise comparing price levels for a given set of titles—see Figure 3 of the provisional findings.
  
18. The parties said that mint prices acted as a ‘ceiling’ for pre-owned prices, ie pre-owned prices could not be persistently higher than mint prices. However, price data provided by the parties suggests that pre-owned prices sometimes do exceed mint prices (see Annex 2 to this appendix). For example, Table 1 in Annex 2 shows that [X] per cent of titles offered by GAME had a higher pre-owned price than their mint price at Asda; Table 3 in Annex 2 shows that [X] per cent of the titles sold by Gamestation had a higher pre-owned price than the mint price at Amazon. By the same token, the parties’ mint offer is sometimes cheaper than the pre-owned prices set by other retailers; [X] per cent of Gamestation’s mint prices were lower than the prices for the equivalent pre-owned title offered by Amazon. Looking at the overlaps where the parties’ pre-owned prices rise above mint prices of competitors, we see that in the bulk of instances pre-owned prices tend to rise no more than 5 per cent

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<sup>3</sup>[X] calculated the average selling price of the available titles per retailer, then indexed this against the average selling price for those same titles at GAME, and multiplied the average prices for each retailer by the respective indices. The resulting indexed average selling prices are reproduced in Figure 4 of the provisional findings.

above the mint price. However, there are significant numbers of cases where the pre-owned price of an SKU is substantially larger than the mint price offered by other retailers; Table 5 in Annex 2 shows that GAME's pre-owned price was [X] per cent more than the mint price offered at Play.com for [X] per cent of the titles that they both stocked.

19. GAME told us that in some cases it offered a mint title at a price lower than its offer on pre-owned—[X]. GAME said that examples of pre-owned prices being higher than mint prices were so infrequent that the idea of a mint ceiling did hold in broad terms for the majority of titles. Furthermore, GAME said that the fact that the mint ceiling was not a literal ceiling for all titles all the time did not in any way indicate that the price of mint was not a constraint on the price of pre-owned. GAME accepted that the highest pre-owned price in the market was often above that of the cheapest mint price in the market for the equivalent game. It said that this was not evidence that a general mint price ceiling did not exist, but instead showed that the 'ceiling' could be penetrated in relation to individual titles due to deep discounting on mint, typically by one or other of the supermarkets and online retailers. GAME told us that when the total basket was taken into consideration, the mint ceiling remained intact. This is due, GAME said, to the fact that the same mint retailer did not consistently deep discount across all games and therefore, in general, the parties' pre-owned price baskets remained below the mint-equivalent price baskets of competitors.

20. Using averages, the prices of pre-owned games are lower than the prices of mint games. The difference in price depends on the particular comparison being made. We discuss non-price factors below.

### *Customer survey results*

21. We asked BMRB to carry out a customer survey to get a better understanding of customer behaviour, including purchasing patterns and price-sensitivity. The parties have also conducted several customer surveys.
22. GAME presented several individual pieces of analysis by [REDACTED] which were based on various survey results.
23. GAME presented analysis by [REDACTED] based on two different surveys by MyVoice. In the first survey (April 2007), 1,278 online respondents were asked if they had bought any new video games in the last 12 months—from this the ‘mint-only’ percentage was derived. The second survey (July 2007), which was deliberately biased towards pre-owned purchasers, asked 919 online respondents how many pre-owned games they had bought in the last 12 months and how many new games they had bought in the last 12 months—from this, the percentage of customers who buy both mint and pre-owned games was derived.<sup>4</sup> This group was then asked to what extent they were happy to buy either a new or pre-owned version of the same game.<sup>5</sup> The results are reproduced in Table 1.

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<sup>4</sup>The number of respondents buying both mint and pre-owned and pre-owned only was rebased using the proportion of ‘mint only’ purchasers obtained from the first survey (ie [REDACTED] per cent). See [REDACTED] response to CC information request of 2 October 2007.

<sup>5</sup>Respondents could choose one of the following three options: (i) ‘I would rather buy a new version of a game’, (ii) ‘I am happy to buy either a new or pre-owned version of a game’ or (iii) ‘I would rather buy a pre-owned version of a game’.

TABLE 1 Consumer purchasing behaviour—mint and pre-owned games

All shoppers	%
Those that only shop mint	$\left[ \begin{array}{c} \\ \\ \times \\ \\ \end{array} \right]$
Those that shop both	
Prefer mint	
Happy with either	
Prefer pre-owned	
Those who only shop pre-owned	

Source: GAME.

24. After rebasing and aligning the results of the two surveys, [x] found that [x] per cent of respondents indicated that they had bought only mint games, [x] per cent of respondents indicated that they had bought only pre-owned games, but the majority, [x] per cent, of respondents indicated that they had bought both mint and pre-owned games in the last 12 months. This [x] per cent was further broken down between those who preferred mint ([x] per cent); those who preferred pre-owned ([x] per cent); and those who were happy with either ([x] per cent).
  
25. Market research provided by Gamestation showed that [x] per cent of sampled male adults and [x] per cent of sampled teenagers bought pre-owned products (compared with [x] per cent and [x] per cent purchasing mint games).<sup>6</sup>
  
26. Analysis of GAME's loyalty card database showed that over 18 months, [x] per cent had purchased both mint and pre-owned products from GAME ([x] per cent of purchasers had only bought pre-owned). GAME stressed that this result ignored purchases from other retailers implying that the figures may therefore understate the proportion of customers buying both mint and pre-owned but from different sources.

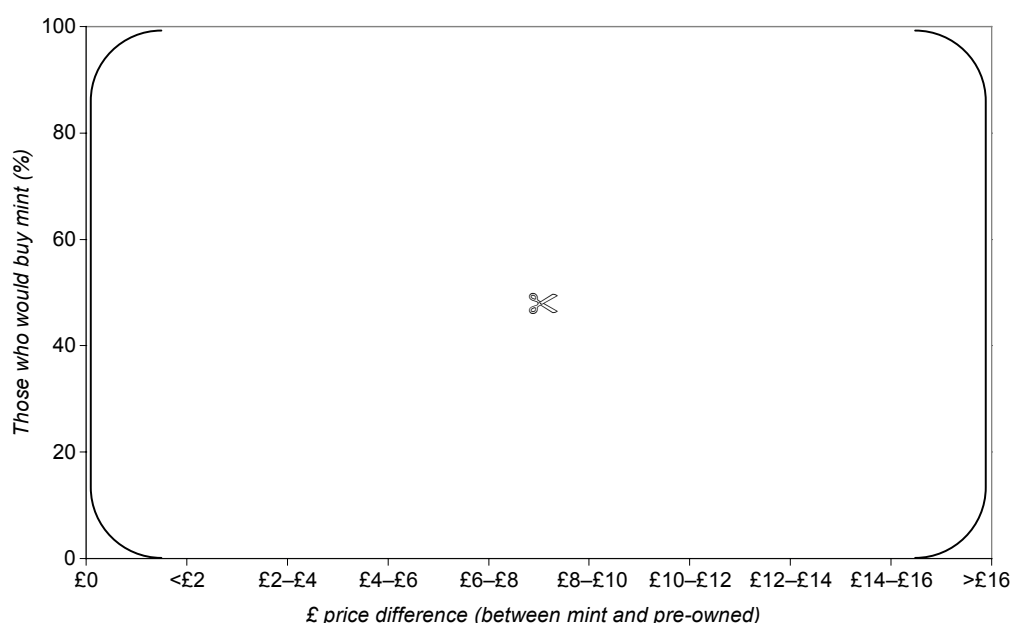
<sup>6</sup>HPI Research, 13 October 2006. Based on 250 telephone interviews with boys and girls aged 12 to 15, and 1,006 online interviews with male gamers aged 16 to 34. See Gamestation's Off The Shelf Material, Annex 11bb and Annex 11cc.

27. The BMRB survey for the CC asked respondents who had previously bought a pre-owned game on the most recent occasion from either a shop or the Internet whether they had bought anything else on the same occasion. 47 per cent of respondents had also bought a mint game at the same time. The equivalent figures for customers of GAME and Gamestation were 58 and 41 per cent.
28. The fact that customers are prepared to buy both new and pre-owned does not necessarily indicate easy substitutability between mint and pre-owned games if mint and pre-owned are purchased for different reasons. For example, when questioned as to why they bought pre-owned games, the most common response given by teenagers (78 per cent) was 'I wanted to get an older game that wasn't available new'. For adults, this was the second most common response (28 per cent). GAME said that for adults the most common response, with 38 per cent, was 'it was such good value for money I couldn't resist'. And the second most common response for teenagers was that they 'couldn't afford the new game'. GAME said that these results stressed the importance of price.
29. BMRB asked respondents why they chose to purchase a pre-owned game rather than a mint game on the last occasion. Respondents were not prompted towards responses and were able to give as many reasons as they wanted to. By far the most common reason for buying a pre-owned game rather than a mint game on this last occasion was because it was cheaper, which was mentioned by over three-quarters (78 per cent) of respondents. This rises to 80 per cent when taking account of bundled offers. Other reasons included that the brand-new game was not available (12 per cent) and that it was an easier way to get retro games (4 per cent). Of the 78 per cent of respondents who said that they bought pre-owned games because they were cheaper, only 35 per cent said that they compared prices before they bought their most recent pre-owned game.

30. The parties also presented analysis of survey results on the proportion of customers who were likely to choose the pre-owned or mint version of the same title for a given price difference. In an online survey by MyVoice (July 2007), 564 of 598 customers who had indicated that they had purchased pre-owned games in the last 12 months answered the question ‘How much more money are you prepared to pay for a new chart game that’s just been released, than for a pre-owned copy of the same game?’<sup>7</sup> Customers were not given any additional information (eg a particular price level). The results are reproduced in Figure 3.

FIGURE 3

**Customer responses to price differences between mint and pre-owned games**



Source: GAME.

31. GAME told us that it tended to set its pre-owned prices £5 or £10 lower than its mint prices. As an example, at a mint price of £39.99 and a pre-owned price of £34.99, a 5 per cent price increase in the pre-owned version would reduce the price difference from £5 to £3.25—on the basis of the information in Figure 3 (and the underlying

<sup>7</sup>Respondents could choose one of the following options: nothing at all, less than £2, £2-£4, £4-£6, £6-£8, £8-£10, £10-£12, £12-£14, £14-£16, more than £16. We note that this approach may not accurately reflect customers’ willingness to pay a certain amount more for the mint version of a game, in the sense that the ‘boundary’ values appear in two categories (ie someone who was willing to pay £4 more may have answered ‘£2-£4’ or ‘£4-£6’).

data), this would lead to [X] per cent of customers switching from pre-owned to mint. At a mint price of £34.99 and a pre-owned price of £24.99, a 5 per cent price increase in the pre-owned version would reduce the price difference from £10 to £8.75—according to the information in Figure 3 (and the underlying data) this would lead to a considerable proportion, [X] per cent, of customers switching from pre-owned to mint. However, because of the way that this data is recorded (in £2 intervals rather than continuously, and with ‘boundary values’ appearing in two categories—see footnote 7), the suggested switching percentages are therefore crude estimates.

32. GfK undertook a customer survey for the parties, interviewing customers exiting GAME, Gamestation and independent games specialists in September 2007. When these and following results are quoted, it should be borne in mind that a few respondents will have said that they did not know, or did not answer. Customers who had purchased a new game (428 respondents) were asked why they had not bought a pre-owned version of the same game. [X] per cent said that they never bought pre-owned, [X] per cent said that they did not consider it, [X] per cent said that a pre-owned version of the game was not available, [X] per cent said that pre-owned was not that much cheaper, and [X] per cent said that they could not be bothered to look for a pre-owned version. [X] per cent said that the new version was part of a promotional (eg multibuy) offer, and [X] per cent said that the shop did not sell pre-owned.<sup>8</sup> 382 respondents who had bought pre-owned were asked why they had chosen pre-owned over new. [X] per cent said that it was much cheaper, and [X] per cent said that it was a bit cheaper. [X] per cent said that a new version of

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<sup>8</sup>GfK Survey Table 6.

the game was no longer available, and [X] per cent that it was not in stock in that shop. [X] per cent said that they never bought mint games.<sup>9</sup>

33. The GfK survey also asked respondents who purchased pre-owned how often they consider the price of mint games when purchasing pre-owned games. [X] per cent said always, [X] per cent said mostly, [X] per cent said sometimes and [X] per cent said rarely, with just [X] per cent saying never.<sup>10</sup>
34. Similarly, the parties' RLO survey asked whether respondents considered the price of a mint version of a game when deciding to buy a pre-owned game. [X] per cent said always, [X] per cent mostly, [X] per cent sometimes, [X] per cent rarely and [X] per cent never.
35. The RLO survey included several questions on price sensitivity. The first question suggested to those who had bought used games in the previous year that a price increase of £2 for a used game that cost around £25 might make them more likely to buy new and Table 2 shows that most, [X] per cent, of Gamestation and GAME customers agreed that it would. [X] per cent of all customers who had bought used games agreed that it would. However, the wording of this question is, we believe, rather leading.

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<sup>9</sup>GfK Survey Table 8.

<sup>10</sup>GfK Survey Table 23.

TABLE 2 Whether customers would become more likely to consider a new game for an 8 per cent increase in the price of pre-owned

More likely to buy new*	GAME	Where buys pre-owned games most often				per cent	
		Gamestation	Other bricks and mortar	Internet	Informal sources	Don't know or not stated	All
Yes	(						)
No							
Total Base							

Source: The parties' RLO survey. CC calculations.

\*For a used game that cost around £25 would a £2 increase in the price of the used version of that game make you more likely to consider buying the new version of the game?

Note: Unweighted data.

36. Another question asked those who had bought new or pre-owned games in the previous year to estimate the price of a new game that was selling at £25 for a pre-owned version. [X] did not know, and others focused on two price-points: £[X] and £[X]. The median and mode (ie average) estimate was £[X]. By comparison, BMRB, in its survey for the CC, asked a set of questions that adjusted for the age of the game (ie the weeks after its release date) and found that, on average, customers expected a price differential of about £9 to £10 between new and used games of the same age.
37. Next, consumers who estimated a price for a new game were asked whether they would be likely to buy new at their previously-stated price of a new game, if the pre-owned price were £25. Table 3 shows that [X] per cent of those who had bought new games and [X] per cent of those that had bought pre-owned games said that they would have bought the pre-owned version.

TABLE 3 Whether customers are likely to buy new or pre-owned at the expected price of a new game, when the pre-owned price is £25

*per cent*

Likelihood of buying new*	Previous buying experience		All
	Bought new in the last year	Bought pre-owned in the last year	
New			
Pre-owned			
Don't know			
Total		✂	
Base			

Source: The parties' RLO survey. CC calculations.

\*If the pre-owned or used game was priced at £25 and the new version at ..., which would you buy?

Note: Unweighted data. Based on those who could give a price for a new game.

38. However, Table 4 shows that the responses depended upon the consumer's estimate of the price differential, such that those who were likely to buy new thought that the price differential was £[✂], while those likely to buy pre-owned thought that the price differential was £[✂].

TABLE 4 Whether customers are likely to buy new at the expected price of a new game, when the pre-owned price is £25

Estimated price of a new game	Likelihood of buying new*		
	Pre-owned	New	Don't know
Median (£)			
Median price differential (£)		✂	
Base			

Source: The parties' RLO survey. CC calculations.

\*If the pre-owned or used game was priced at £25 and the new version at ..., which would you buy?

Notes:

1. Unweighted data.
2. Based on those who could give a price for a new game and bought new or pre-owned games in the year.

39. Having stated whether they would buy new or pre-owned at their expected price differential, consumers were then asked whether they would be likely to buy new or pre-owned if the price difference were to decrease by £2, which was expressed as the price of the pre-owned game increasing from £25 to £27, an 8 per cent increase. Table 5 shows the reactions of those who were purchasers of pre-owned games during the year and who opted initially for pre-owned. As noted above, on average,

they expected the price difference to be £[§] and so an increase in the pre-owned price would make the price difference £[§]. The table shows that, if this were the case, [§] per cent of these consumers said that they would definitely switch their choice and buy new and [§] per cent said that they would be much more likely to buy the new version. As with any hypothetical question, some respondents may have had difficulty in predicting their behaviour with certainty, and the responses indicated that some respondents may have had difficulties in understanding or answering this question; for example, of those who did not know whether they would buy mint or pre-owned before the price rise, many indicated the price rise in pre-owned would make them more likely to buy pre-owned.

TABLE 5 Whether pre-owned purchasers are likely to buy new when the pre-owned price increases from £25 to £27

Likelihood of buying new*	%
I would definitely not buy a new version	<div style="font-size: 2em;">[</div> <div style="font-size: 2em;">]</div>
I would be a little more likely to buy the new version	
I would be much more likely to buy the new version	
I would definitely buy the new version	
Total	
<i>Base</i>	

Source: The parties' RLO survey. CC calculations.

\*If the price of that pre-owned or used game increased by £2 from £25 to £27, while the mint price stayed the same at ..., would you be more likely to buy the new version of the title instead of the pre-owned one?

Notes:

1. Unweighted data.
2. Based on those who bought pre-owned games in the year and were likely to buy a pre-owned game, so that the median expected price differential changes from £[§] to £[§].

### Internal documents

40. We studied various internal documents provided by the parties, mostly reports/presentations by their strategy consultants.<sup>11</sup> We did not find explicit price or other comparisons between mint and pre-owned gaming products. Where there were references to other retailers, either mint prices or pre-owned prices were compared in separate analyses. Only on one slide in strategy document [§] did we find an explicit reference to the use of pre-owned gaming products and trade-in as a competitive

<sup>11</sup>[§]

instrument. However, no additional information on price-sensitivity was included. The parties told us that their pre-owned pricing matrix (see Appendix C) was evidence that they set pre-owned prices in relation to mint prices. The parties claimed that pre-owned prices were systematically set as a discount to mint.

### *Supply-side substitution*

41. In addition to the demand-side considerations discussed above, we considered the feasibility and likelihood of alternative suppliers switching into the supply of mint (pre-owned) games in response to an increase in prices of mint (pre-owned) games by 5 per cent by a hypothetical monopolist. Supply-side substitution occurs when a price rise prompts other firms to start supplying, at short notice, an effective substitute to the product in question. Supply-side substitution occurs in the short run with little or no investment required. Longer-term or most costly entry and expansion is considered in Appendix F.
42. If it were found that such supply-side substitution was feasible and likely, mint and pre-owned games would need to be considered as part of the same relevant market.
43. The parties maintained that switching supply from mint to pre-owned products, or vice versa, is a relatively easy proposition.

### *Supply-side substitution from pre-owned to mint software*

44. It appears feasible for retail suppliers of pre-owned games to switch supply to mint games—possibly through a wholesale distributor such as EUK which also offers ancillary services such as organizing charts and promotional displays in store. However, we have been told by the parties and by software publishers [X] and [X] that gross margins on pre-owned games are higher than those earned on mint

games. [REDACTED]<sup>12</sup> This substantial difference in margins may imply that, even though supply-side substitution may be feasible in practical sense, a SSNIP by a hypothetical monopolist in mint games may not sufficiently incentivize retail suppliers of pre-owned games to switch supply to mint games. The parties told us that cash margins were more important than percentage margins. [REDACTED] These cash margins and the increases that would result from a 5 per cent price rise could provide an incentive for supply-side substitution.

45. Whether or not it would be profitable for retail suppliers of pre-owned games to switch supply to mint games also depends on the differences in costs associated with supplying pre-owned and mint games.

*Supply-side substitution from mint to pre-owned software*

46. In relation to pre-owned software, third parties (HMV, Woolworths) have indicated that a viable sales operation of pre-owned gaming products requires a distribution network (to maintain similar stock levels across retail outlets in different geographic locations), considerable marketing investment and specialized staff with product and process knowledge. The parties disagreed with this view (see Appendix F). In addition, switching supply from mint to pre-owned games would naturally involve costs associated with price setting, write-offs of damaged and unwanted trade-ins, and staff time to handle trade-in and assess stock quality. The parties claimed that the need for a distribution network is minimal—in the case of GAME, [REDACTED] per cent of traded-in games were recalled from stores.<sup>13</sup> Gamestation currently redistributes about [REDACTED] per cent of its games. The parties also claimed that even if such a network was needed, the cost would be small. Both parties use the distribution network they have in place for the distribution of mint products to their stores; Gamestation

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<sup>12</sup>CC analysis of financial information provided by GAME.

<sup>13</sup>Around [REDACTED] per cent is distributed immediately and a further [REDACTED] per cent is redistributed following reclamation. [REDACTED] per cent is shelved (to be redistributed at a later stage) and a further [REDACTED] per cent are shelved after reclamation. A further [REDACTED] per cent are disposed of if it is not possible to reclaim.

estimated that the redistribution and repair of pre-owned products cost £[redacted], or [redacted] per cent of revenue. The parties said that given the size of these numbers, it was hard to believe that high street chains could not do something similar.

47. HMV and Woolworths have both trialled sales of pre-owned games, but decided not to continue these activities. HMV, who trialled pre-owned game sales from November 2004 to May/June 2005 in 34 stores, indicated that requirements for the supply of pre-owned games were knowledge of the pre-owned market, store space availability, considerable marketing investment and stock management (including a national redistribution network, which HMV currently does not have). HMV decided that it was not economical to continue pre-owned game sales, but told us that that decision was under constant review.
48. Woolworths carried out a trial of pre-owned games with 820 stores accepting trade-in and 98 such stores additionally selling pre-owned stock. Woolworths decided that the trial, conducted between September 2006 and September 2007, would not be continued due to a number of factors including higher business priorities in relation to use of available store space. It should be noted that Woolworths did not do any external marketing, but limited marketing efforts to in-store banners, leaflets, etc. Although the parties pointed at press articles relating to Woolworths' expansion plans, [redacted].
49. GAME told us that the business model used by Woolworths to trial pre-owned games was over-complicated and therefore likely contributed to the failure of the trial. GAME stated that instead of adopting a local supply model (as predominantly operated by the parties and independents), Woolworths' trial was set up so that every traded-in SKU was recalled centrally to be restickered before being redistributed to stores that were selling pre-owned. GAME said that this business model would have hindered

the development of a pre-owned business, making it slow to build and cumbersome to operate.

50. Gamestop told us that, like itself, the parties operated a unique business model that combined mint and pre-owned gaming products. Retail metrics that work well for the sales of new products, such as just-in-time delivery, stock management and quality control, would apply differently in the pre-owned business model. Switching supply from mint to pre-owned gaming products would be like creating a whole new business.

51. It thus appears that supply-side substitution from pre-owned to mint games may be more feasible than vice versa.

#### *Gaming hardware (consoles)*

52. The parties' hardware sales consist mainly of mint consoles. Mint hardware sales accounted for approximately [X] per cent of GAME's revenue and approximately [X] per cent of Gamestation's total sales revenue in 2006, whereas pre-owned hardware sales account for only around [X] per cent of GAME's revenue and approximately [X] per cent of Gamestation's revenue in 2006.

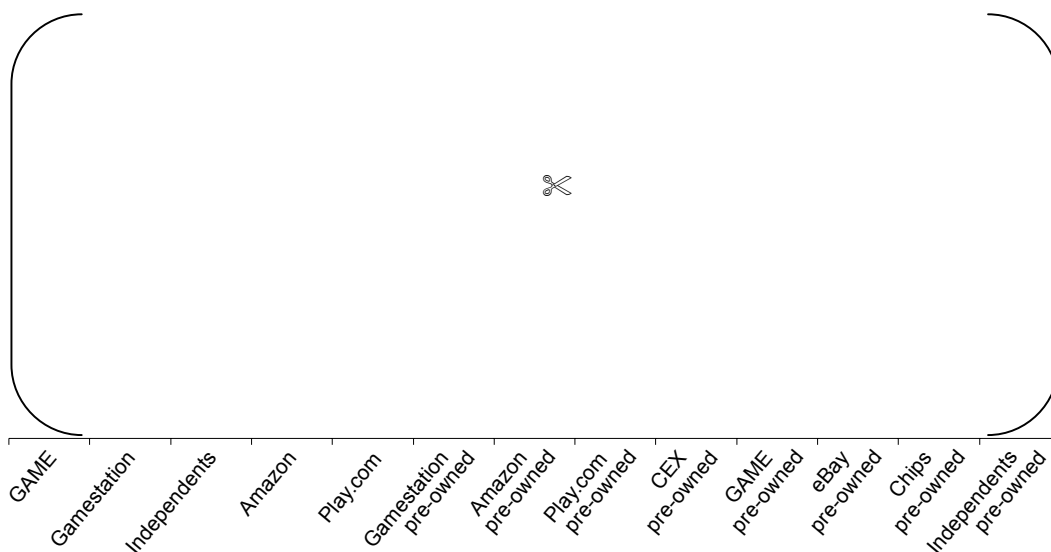
53. As with software, the parties submitted that mint and pre-owned hardware should be considered in the same market.

54. Hardware transactions differ from software transactions in the sense that, per customer, they occur less frequently and involve greater one-off monetary values. Customers may therefore be more price sensitive in relation to hardware than in relation to software. It is therefore likely that customers will be at least as sensitive to the relative prices of mint and pre-owned for hardware as for software.

55. The total range of available hardware SKUs in the market is relatively limited and the majority of mint hardware SKUs seems to be sold by various retailers. Retail supply of pre-owned hardware seems to be characterized by fewer suppliers. In relation to pre-owned hardware sales, the parties argued that sales on eBay were substantial (see paragraph 91).
56. We have received very limited evidence on retail supply of gaming hardware. GAME provided price index figures for mint and pre-owned hardware sales for various retailers, on the basis of price comparisons from ‘a rolling basket’ of PS3, Xbox360, Nintendo Wii, Nintendo DS Lite and PS2 hardware between April and July 2007. The results of this analysis are reproduced in Figure 4.

FIGURE 4

**Difference between mint and pre-owned hardware prices**



Source: Parties' initial submission.

57. For Gamestation, the picture that emerges is much the same as that in relation to software. The differences between Gamestation's pre-owned price and the cheapest mint alternative is [✂] per cent. However, if online retailers are excluded from the analysis then the price difference rises to [✂] per cent. However, as with software, we also need to take into account non-price factors.

58. The gap between the cheapest mint alternative (Play.com) and GAME's pre-owned hardware price is [X] per cent. If online retailers are excluded from the analysis, this difference rises to [X] per cent. It should also be borne in mind that pre-owned hardware sales constituted only [X] per cent of Game's revenues in 2006.
59. The price data in Figure 4 are averages based on a 'rolling basket' of hardware. We do not have specific evidence on customers' price sensitivity in relation to mint and pre-owned hardware.

### *Gaming peripherals and accessories*

60. Mint peripherals and accessories sales account for just [X] per cent of GAME's total sales value and [X] per cent of Gamestation's total sales value in 2006. Pre-owned peripherals and accessories sales are minimal, representing less than [X] per cent of GAME's total sales value and [X] per cent of Gamestation's total sales value in 2006.
61. As with hardware, we have received very little information on gaming peripherals and accessories. Compared with software, it seems that some retailers may be somewhat closer competitors to the parties in the supply of peripherals and accessories. Range information provided by GAME, reproduced in Figure 5, for example, suggests that GAME offers the largest range of peripherals and accessories, and that [X] offer a substantially larger range than Gamestation. The ranges reported for the online retailers include consoles, but taking these into account, the range offered by online retailers will be greater than that offered by the parties.

FIGURE 5

### **Mint peripherals and accessories range per retailer, PS2, PC and GBA**

[X]

Source: GAME.

## **Distribution channel**

62. The parties are predominantly ‘bricks and mortar’ retailers, ie they supply gaming products through physical stores on the high street.<sup>14</sup> One of the relevant questions for market definition is whether bricks and mortar retailers such as the parties are constrained by online retailers such as Amazon and Play.com, both with regard to mint and pre-owned gaming products. We discuss software, hardware and accessories in turn.

## **Gaming software**

63. We considered differentiation between retailers, the parties’ internal documents and the parties’ own Internet strategy, customer survey results and the scope for supply-side substitution. Where relevant, we distinguish between mint and pre-owned software. We were unable to use trend data on prices and volumes for Internet retailers as we were unable to collect such data from Internet retailers.

## **Differentiation between retailers**

64. In addition to the price differences discussed above, we noted differences between retailers in relation to non-price aspects, such as location, range, knowledgeable staff and store environment. These differences need to be taken into account in considering closeness of competition between the parties and other retailers.

65. In particular, in paragraphs 6.50 to 6.60 of the provisional findings we consider whether Internet retailers form a competitive constraint on the parties given the differences in their retail model compared with specialist bricks and mortar retailers.

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<sup>14</sup>Both parties also sell mint gaming products through their respective websites (GAME operates Game.co.uk and Gameplay.co.uk; Gamestation operates Gamestation.co.uk). For GAME, Internet sales account for just [§<] per cent of its total sales; for Gamestation, Internet sales account for [§<] per cent of its total sales.

66. The parties have indicated that they monitor online retailers and trading places such as [REDACTED]. In addition, GAME provided us with a table that contains quotes from internal emails that refer to promotions and prices by online retailers.
67. GAME has further indicated that it monitored other bricks and mortar retailers as well as online retailers. However, the evidence provided suggests that GAME monitors other bricks and mortar retailers to analyse the relative performance (in terms of price and customer service) of its own bricks and mortar stores—and monitors online retailers to analyse the relative performance (in terms of price) of its own online channel, ie its websites Game.co.uk and Gameplay.co.uk. We have not seen evidence that shows that GAME monitors online retailers to assess the relative performance of its bricks and mortar stores.
68. GAME disagreed with our interpretation of its internal documents—that GAME does not monitor online retailers to assess the relative performance of its bricks and mortar stores. It said that GAME’s regular price benchmark material covered bricks and mortar competitors for its bricks and mortar stores and online competitors for its online channel. However, GAME said that it monitored the SKU-by-SKU margin performance of its bricks and mortar business relative to its online channel on a daily basis. GAME stated that as buying terms were equivalent across GAME’s bricks and mortar and online businesses, this enabled GAME to monitor price implicitly within a competitive context across both channels. GAME told us that consequently it was clear to it when online and bricks and mortar prices were moving out of line with each other. Further to this, it said that the [REDACTED] clearly demonstrated that GAME considered online retailers a threat to its bricks and mortar stores: [REDACTED].

69. Gamestation submitted evidence that shows that it compares its performance across its store and Internet proposition with that of competitors, including online retailers such as [REDACTED].

*Parties' own Internet strategy*

70. GAME submitted that its online business is operated as an additional and separate sales channel. The online prices on its Gameplay website are lower than in-store prices, 'with a view to being in line with other online retailers'. GAME also considers that price competition is particularly fierce in 'the online sector'.
71. GAME submitted that its pre-owned range online<sup>15</sup> was significantly smaller than in-store and there was no trade-in capability. Pre-owned stock was provided via recall from store, although quantities were minimal (representing approximately [REDACTED] per cent of total pre-owned sales for the year to date). Equally, Gamestation's online business represents only [REDACTED] per cent of its total sales; within that, pre-owned sales comprise only [REDACTED] per cent (ie [REDACTED] per cent of total business sales). Gamestation's online business does not have a trade-in facility either.

*Customer surveys relating to substitution between Internet and bricks and mortar retailers*

72. The parties have provided several survey results that suggest that, for the majority of customers, there are no barriers to switching between bricks and mortar retailers and online retailers, in relation to both mint and pre-owned gaming products. This evidence shows that customers may use both online and bricks and mortar retailers, which is consistent with, but not conclusive of, customers switching between these distribution channels in response to price changes:

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<sup>15</sup>On its Game.co.uk website; there is no pre-owned product offering under the Gameplay.co.uk brand.

- GAME provided a chart that shows that [X] per cent of consumers who subscribed to online games (in a survey by MyVoice with 919 respondents in July 2007) shopped with both bricks and mortar retailers and online retailers for gaming products. In a different survey by MyVoice, in April 2007, [X] per cent of 972 respondents indicated that they shopped with both bricks and mortar retailers and online retailers for gaming products.
- GAME provided a chart based on an online survey of 1,278 respondents by MyVoice in April 2007 that shows that, in relation to pre-owned gaming products, [X] per cent of 800 respondents who buy pre-owned gaming products use the online channel for this ([X] per cent use bricks and mortar retailers and [X] per cent use informal routes such as swapping and car boot sales).
- In an online survey of 919 online respondents by MyVoice in July 2007, respondents were asked about their likely future use of online retailer eBay. [X] per cent of the 564 respondents that answered this question agreed, and [X] per cent strongly agreed, with the statement 'In the future I see myself using eBay more for buying/selling games'.
- The parties told us that results from an online survey of 1,278 respondents by MyVoice in April 2007 show that [X] per cent of respondents use the online channel to buy mint gaming products. Online retailers Amazon, eBay and Play.com are most popular among this group of customers. Results from the same survey show that [X] per cent of respondents indicated that they shop online for pre-owned gaming products, whereby eBay is the most popular online trading place, followed by Amazon. The parties noted that the MyVoice survey in July 2007 showed that [X] per cent of respondents indicated that they shop online for pre-owned gaming products.
- GAME also provided survey results that suggest that [X] per cent of 800 respondents used eBay most frequently for buying pre-owned gaming products in the last year. [X] per cent had used GAME most frequently, and [X] per cent had

used Gamestation most frequently. In total, [X] per cent of respondents had used eBay to shop for pre-owned gaming products in the last year, while [X] per cent had used GAME and [X] per cent had used Gamestation. Of the 273 respondents who had used GAME in the last year to shop for pre-owned gaming products, [X] per cent had also used eBay, [X] per cent had also used Gamestation and [X] per cent had also used Amazon.

- Gamestation provided a table that showed a number of purchasing criteria and the percentage of respondents citing each criterion as 'important' or 'very important'. Gamestation claimed that this showed that Internet purchasing criteria closely mirrored those for bricks and mortar shops, but due to limited data availability a direct comparison was possible on only [X] (and in only [X] cases were the quoted percentages similar).
- Gamestation also provided a chart based on Gamestation 'Adult U&A research' carried out in October 2006, which suggests that eBay is the overall favourite platform for buying pre-owned games, followed by GAME's and Gamestation's bricks and mortar stores, in turn followed by Amazon and Blockbuster.

73. The parties told us that the GAME offline survey of reward card holders (February March 2006) found that multi-sourcing was very common: (excluding hardware) [X] per cent of respondents used high street outlets only; [X] per cent used high street and online; [X] per cent used high street, online and supermarkets; and [X] per cent used high street and supermarkets. The parties told us that the Gamestation online survey of 1,006 male gamers aged 16 to 34 years of age (which would account for around [X] per cent of Gamestation's customers) found that these on average used [X] stores for new games and [X] Internet sites in the previous year; [X] per cent of mint buyers used stores and sites; [X] per cent of pre-owned buyers used stores and sites. The favourite store or site for pre-owned games was

eBay ([redacted] per cent), compared with GAME ([redacted] per cent) and Gamestation ([redacted] per cent).

74. The parties told us that a recent survey of independents commissioned by GAME was consistent with the importance of the existence of a wide range of competitors for specialist games retailers. The parties said that the independents surveyed were typically specialist retailers and so were likely to have many customers in common with GAME and, in particular, Gamestation. The main competitors for mint cited were: GAME ([redacted] per cent), Gamestation ([redacted] per cent), Tesco ([redacted] per cent), Asda ([redacted] per cent), Woolworths ([redacted] per cent), Play.com ([redacted] per cent), Amazon ([redacted] per cent), eBay ([redacted] per cent), Blockbuster ([redacted] per cent), HMV ([redacted] per cent), Virgin ([redacted] per cent), other independents ([redacted] per cent) and Choices ([redacted] per cent). Further, [redacted] per cent stated that competition was stronger than three years ago (with only [redacted] per cent saying that it was weaker), with the increase in competition coming primarily from supermarkets ([redacted] per cent) and online retailers ([redacted] per cent).
75. The parties' GfK survey showed the variety of stores and websites that had been used by respondents interviewed at GAME, Gamestation and independent retailers' stores for mint or pre-owned games, and for trade-in—see Tables 6A, 6B and 6C.

TABLE 6A GfK survey evidence on retailers used for purchase of mint games in the last year

Question—From which of the following retailers and websites have you bought new games from in the past 12 months?

	Total	Store			Activity today		
		GAME	Gamestation	Independents	Bought new	Bought pre-owned	Traded-in
Total number of responses	[			✂			]
							per cent
Amazon	[			✂			]
Argos							
Asda							
Asda.com							
Blockbuster							
CEX.co.uk							
Chips							
Chipsworld.co.uk							
Choices-UK							
ChoicesUK.com							
Computer Exchange							
Currys Digital							
Dixons.co.uk							
GAME							
Game.co.uk or Game.net							
Gameplay							
Gamestation							
Gamestation.co.uk							
HMV							
HMV.co.uk							
PC World							
Play.com							
Tesco							
Tesco.com							
Virgin							
WH Smith							
Woolworths							
Other supermarkets							
Other high street stores that sell games							
Other websites that sell games							

Source: GfK survey, Table 16.

TABLE 6B GfK survey evidence on retailers used for purchase of pre-owned games in the last year

Question—From which of the following retailers and websites have you bought used games from in the past 12 months?

	Total	Store			Activity today		
		GAME	Gamestation	Independents	Bought new	Bought pre-owned	Traded-in
Total number of responses	[			✂			]
							<i>per cent</i>
Amazon	)						
Blockbuster							
CEX.co.uk							
Chips							
Chipsworld.co.uk							
Choices UK							
Choicesuk.com							
Computer Exchange							
eBay							
GAME							
Game.co.uk/Game.net							
Gamestation					✂		
Gamestation.co.uk							
Play.com							
Other high street stores that sell computer games							
Other websites that sell computer games							
Bought from friends							
Car boot sales							
Don't know							
Not stated							

Source: GfK survey, Table 16a.

TABLE 6C GfK survey evidence on retailers used for trade-in and sale of games in the last year

Question—From which of the following retailers and websites have you sold/ traded-in or swapped games from in the past 12 months?

	Total	Store			Activity today		
		GAME	Gamestation	Independents	Bought new	Bought pre-owned	Traded-in
Total number of responses	[						]
							per cent
Amazon							
Blockbuster							
CEX.co.uk							
Chips							
Chipsworld.co.uk							
Choices UK							
Choicesuk.com							
Computer Exchange							
eBay							
GAME							
Game.co.uk/Game.net							
Gamestation							
Gamestation.co.uk							
Play.com							
Other high street stores that trade in games							
Other websites that trade in games							
Sell to friends							
Swap with friends							
Swap online							
Car boot sales							
Don't know							
Not stated							

Source: GfK survey, Table 25.

76. While these results show that GAME and Gamestation are the most popular channels for the purchase of mint and pre-owned games and for trading them in, they indicate that customers interviewed at GAME, Gamestation and independent specialist stores use a variety of channels. For mint, between [X] and [X] per cent of respondents used each of Amazon, Argos, Asda, HMV, Play, Tesco and Woolworths. For pre-owned, the proportion of respondents using retailers other than GAME and Gamestation were [X] per cent of respondents used each of Amazon, Blockbuster, CEX, Chips, Computer Exchange, eBay, and Play. For trade-in the outcome is similar to that for pre-owned: between [X] and [X] per cent of respondents used each of Blockbuster, CEX, Chips, Computer Exchange, and eBay.

77. The BMRB survey found that 38 per cent of customers who had most recently purchased pre-owned games from GAME, and 39 per cent of those from Gamestation, had also in the last 12 months purchased pre-owned from Internet suppliers. For those buying from other shops, the equivalent proportion was 41 per cent. These three outlets together give us the proportion of bricks and mortar customers who have also used the Internet in the last 12 months for buying pre-owned games—39 per cent.
78. BMRB asked a similar question for those who had traded-in games in the last 12 months. 28 per cent of customers using GAME had used another outlet to trade-in games. The equivalent proportions for Gamestation and other bricks and mortar outlets were 42 and 35 per cent respectively, giving an overall proportion for those using bricks and mortar outlets of 33 per cent. BMRB asked those customers who had used another outlet to trade-in games which other outlet they had used. 9 per cent of customers using GAME that had used another outlet to trade-in games had used the Internet to trade-in games. The equivalent proportion for Gamestation was 8 per cent. No customers using other bricks and mortar outlets that had used another outlet to trade-in games had used the Internet to trade-in games. These three groups together give an overall proportion for those using the Internet of 7 per cent. When weighted by the proportion of those who used other outlets to trade-in games, less than 3 per cent of those who traded-in games in bricks and mortar outlets during the last 12 months also used the Internet to trade-in games.
79. BMRB asked respondents whether they had compared prices before they bought their last pre-owned game. 29 per cent of GAME users had compared prices, as had 39 per cent of Gamestation customers and 30 per cent of customers of other bricks and mortar outlets, giving an overall proportion for customers of bricks and mortar outlets of 32 per cent. BMRB asked customers who had compared prices before

buying pre-owned games where they had compared prices—one option being the Internet. For GAME customers that had compared prices, 61 per cent also did so using the Internet. The equivalent proportions for Gamestation and other bricks and mortar were 40 and 64 per cent respectively, giving an overall proportion for customers using bricks and mortar outlets of 54 per cent. When weighted by the proportion of those who compared prices, 17 per cent of customers using bricks and mortar outlets also compared prices using the Internet.

80. The parties provided us with information on the extent of shopping around. Mintel found that 65 per cent of consumers actively shop around for the best deal when buying games. MyVoice online survey found that before purchasing a gaming product, a large proportion, [X] per cent, of consumers conducted some research, while [X] per cent conducted detailed research or a fair amount of research. The GfK exit survey (see paragraph 33) found that [X] per cent of respondents checked the mint price at least sometimes when buying a pre-owned game and more than [X] per cent mostly or always checked the mint price.
81. The parties' RLO survey asked respondents when purchasing pre-owned games whether they first compared prices with high street stores and/or online retailers. [X] per cent said that they compared prices in other high street stores, [X] per cent online, [X] per cent made comparisons at both, but nearly half, [X] per cent, made no comparisons.<sup>16</sup>
82. We considered evidence on whether customers perceived problems with purchasing over the Internet. The parties' RLO survey found that just [X] per cent of respondents who had purchased used games from eBay had experienced problems, such as the game was faulty, it was slow to arrive or failed to arrive, or the game was

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<sup>16</sup>The parties noted that the survey also showed that a significant proportion of these customers still compared pre-owned prices to mint prices prior to purchase within the same retailer.

not genuine. Nonetheless, the great majority, [X] per cent, of past users said that they would use eBay again. Of pre-owned purchasers who had not used eBay, [X] per cent said they would consider it in the future and [X] per cent said they would not.

83. BMRB asked respondents where they were most likely to buy pre-owned games from if their chosen seller stopped selling pre-owned games. 35 per cent of those using GAME said the Internet. The equivalent proportions for Gamestation and other bricks and mortar outlets were 24 and 25 per cent respectively, giving an overall proportion for bricks and mortar outlets of 30 per cent. This proportion would fall to 10 per cent if weighted by those customers who compared prices.
84. BMRB asked a similar question on the most likely alternative retailer for trade-in. 22 per cent of those using GAME said the Internet. The equivalent proportions for Gamestation and other bricks and mortar outlets were 16 per cent each, giving an overall proportion for bricks and mortar outlets of 19 per cent.
85. The parties commissioned GfK to carry out two surveys—one using customers leaving shops (exit survey) and one carried out in customers' homes (RLO survey). GfK asked customers which outlets they would use if the outlet they used most often closed. The results from the exit survey for bricks and mortar customers are shown in Tables 7, 8 and 9.

**TABLE 7 Where customers would switch for new games**

*per cent*

*Where buys mint games most often*

<i>Alternative for mint games*</i>	<i>Game</i>	<i>Gamestation</i>	<i>Other bricks and mortar</i>
Game	(	)	)
Gamestation			
Other bricks and mortar			
Internet			
Would not buy elsewhere			
Don't know or not stated			
Total			
Base			

Source: GfK survey for the parties. CC calculations.

\*If the retailer or website you use most often was closed, where would you buy your new games instead?  
 Base: All that bought a new game in last year.

**TABLE 8 Where customers would switch for pre-owned games**

*per cent*

*Where buys pre-owned games most often*

<i>Alternative for pre-owned games*</i>	<i>Game</i>	<i>Gamestation</i>	<i>Other bricks and mortar</i>
Game	(	)	)
Gamestation			
Other bricks and mortar			
Internet			
Informal sources			
Would not buy elsewhere			
Don't know or not stated			
Total			
Base			

Source: GfK survey for the parties. CC calculations.

\*If the retailer or website you use most often was closed, where would you buy your pre-owned or used games instead?

**TABLE 9 Where customers would switch to trade-in games**

*per cent*

*Where trades-in most often*

<i>Alternative would trade-in with*</i>	<i>Game</i>	<i>Gamestation</i>	<i>Other bricks and mortar</i>
Game	(	)	)
Gamestation			
Other bricks and mortar			
Internet			
Informal sources			
Would not buy elsewhere			
Don't know or not stated			
Total			
Base			

Source: GfK survey for the parties. CC calculations.

\*If the retailer or website you use most often was closed, where would you sell, traded-in or swap your games instead?

86. Taking bricks and mortar outlets together, the tables show that [X] per cent of bricks and mortar customers would buy their mint games from the Internet if the bricks and mortar outlet they used most closed. The equivalent proportions for pre-owned games and trade-ins are [X] and [X] per cent. The results from the RLO survey are a little different from the exit survey. For mint games, [X] per cent of bricks and mortar customers would use the Internet (compared with [X] per cent from the exit survey). For pre-owned, [X] per cent would use the Internet (compared with [X] per cent from the exit survey; and for trade-in, [X] per cent would use the Internet (compared with [X] per cent from the exit survey).

### ***Supply-side substitution***

87. We considered that the scope for supply-side substitution from online retailers into bricks and mortar sales was limited, given the necessary investments in terms of monetary value and time.<sup>17</sup> Costs include identifying retail, lease of those premises, shop refurbishment and marketing. We were not aware of examples of online retailers who have switched to bricks and mortar retailing in the recent past.

88. In relation to the parties' online business, we considered that there may be scope for supply-side substitution from bricks and mortar retailers into online retailing.<sup>18</sup> This is illustrated by the number of bricks and mortar retailers who also sell gaming products through their company websites, for example HMV, Woolworths and Tesco.

### ***Gaming hardware***

89. As indicated above, we have received very little evidence on the retail supply of gaming hardware. However, (a) we understand that the margins on mint hardware are lower than on software, which is reflected in a lesser degree of price variation

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<sup>17</sup>Supply-side substitution occurs when a price rise prompts other firms to start supplying, at short notice, an effective substitute to the product in question.

<sup>18</sup>Note that this does not require a complete exit from bricks and mortar retailing, but rather a shift in retailers' sales mix from bricks and mortar sales to online sales.

between bricks and mortar retailers and online retailers, and (b) the parties put to us that eBay was a particularly strong competitor in relation to trade in pre-owned hardware.

90. Price differences between bricks and mortar retailers and online retailers are smaller for hardware than for software. Analysis of the average prices of mint and pre-owned software and hardware provided by the parties for a variety of different retailers suggests that the percentage difference between bricks and mortar retailers and online retailers is [redacted] for mint hardware (compared with mint software). This evidence even suggests that bricks and mortar retailers sell pre-owned hardware at a lower price than is typically available online (see Table 10).

TABLE 10 Percentage difference between bricks and mortar retailers and online retailers for mint and pre-owned hardware and software

	<i>per cent</i>	
	<i>Mint</i>	<i>Pre-owned</i>
Software Hardware	[redacted]	[redacted]

Source: CC analysis of price information provided by the parties.

Note: Price differences calculated by comparison of a simple average of the average selling prices for bricks and mortar retailers and Internet retailers quoted in [redacted] price comparison charts.

91. The parties emphasized that online retailers, particularly eBay, play a significant role in the retailing of pre-owned hardware: their calculations suggested that eBay has a market share in excess of [redacted] per cent in this segment. Consistent with this evidence, survey material provided by Gamestation from October 2006 suggests that customers' [redacted] preferred shop/site for purchasing hardware is eBay. Sales data from eBay suggest its pre-owned gaming hardware sales are [redacted].

### *Gaming peripherals and accessories*

92. We received very limited evidence in relation to peripherals and accessories and none regarding customers' price-sensitivity in relation to these products. This area

does not appear to have been a particular focus of interest to retailers but we have not received evidence to suggest that there are distinguishing market features or behaviour that are markedly different from that for consoles.

### Annex orders graphs by SKU

1. For each SKU the following graphs are given, comparing mint and pre-owned values for that title:
  - Comparison of volumes, mint and pre-owned.
  - Comparison of list prices, mint and pre-owned.
  - Comparison of mint volume and list price *relative* to pre-owned volume and list price respectively.
  - Comparison of pre-owned volume and list price *relative* to mint volume and list price respectively.
  
2. The following titles were used:
  - *Need for Speed Carbon*, PS2—example of a moderately high selling game.
  - *Tom Clancy's Rainbow 6 Vegas*, Xbox360—randomly selected from high selling games.
  - *Gears of War*, Xbox360—selected as an example of a special offer price which does not fall below the pre-owned list price.
  - *Pro Evolution Soccer 6*, PS2—example of an especially high selling game.
  - *Gun*, Xbox360—example of a low selling game (450<sup>th</sup> seller in its year).
  - *Soul Caliber 3*, PS2—example of a low selling game (400<sup>th</sup> in its year).
  
3. The sample was chosen to be as representative as possible.

#### Need for Speed Carbon, PS2

##### Volume



Source: GAME, CC analysis.

## List price



Source: GAME, CC analysis.

## Relative volume and price, mint to pre-owned



Source: GAME, CC analysis.

## Relative volume and price, pre-owned to mint



Source: GAME, CC analysis.

## Tom Clancy's Rainbow 6 Vegas, Xbox360

### Volume



Source: GAME, CC analysis.

### List price



Source: GAME, CC analysis.

## Relative volume and price, mint to pre-owned



Source: GAME, CC analysis.

## Relative volume and price, pre-owned to mint



Source: GAME, CC analysis.

## Gears of War, Xbox360

### Volume



Source: GAME, CC analysis.

### List price



Source: GAME, CC analysis.

### **Relative volume and price, mint to pre-owned**



Source: GAME, CC analysis.

### **Relative volume and price, pre-owned to mint**



Source: GAME, CC analysis.

## **Pro Evolution Soccer 6, PS2**

### **Volume**



Source: GAME, CC analysis.

### **List price**



Source: GAME, CC analysis.

### **Relative volume and price, mint to pre-owned**



Source: GAME, CC analysis.

### **Relative volume and price, pre-owned to mint**



Source: GAME, CC analysis.

## **Gun, Xbox360**

### **Volume**



Source: GAME, CC analysis.

### **List price**



Source: GAME, CC analysis.

### **Relative volume and price, mint to pre-owned**



Source: GAME, CC analysis.

## Relative volume and price, pre-owned to mint



Source: GAME, CC analysis.

## Soul Caliber 3, PS2

### Volume



Source: GAME, CC analysis.

### List price



Source: GAME, CC analysis.

## Relative volume and price, mint to pre-owned



Source: GAME, CC analysis.

## Relative volume and price, pre-owned to mint



Source: GAME, CC analysis.

## Price comparisons between retailers of gaming software

### Introduction

1. The purpose of this annex is to summarize the salient findings of a comparison between the mint and pre-owned gaming software prices offered by a selection of retailers. The analysis is based on cross-sectional price information based on a survey undertaken by the parties and provided by them in response to the request for additional information.
2. The price comparison was undertaken with the aim of displaying in more detail the data underlying the average data presented by the parties.

### Price comparison

3. The data is a cross-section of prices across 196 software SKUs on various platforms, for mint and pre-owned, across various retailers. Rather than aggregating the data, our analysis attempts to compare the prices offered by the parties with the corresponding prices offered by each retailer for each SKU. Thus we can show, for example, the proportion of all the SKUs offered by both GAME and, say, Tesco where the prices offered are the same, where GAME's price is higher, where GAME's price is lower by 5 per cent, and so on and so forth, rather than simply trying to compare average price across the board between retailers.
4. We made four sets of comparisons:
  - GAME's pre-owned prices against both mint and pre-owned prices offered by other retailers (Table 1).
  - GAME's mint prices against both mint and pre-owned prices offered by other retailers (Table 2).

- Gamestation's pre-owned prices against mint and pre-owned prices offered by other retailers (Table 3).
  - Gamestation's mint prices against mint and pre-owned prices offered by other retailers (Table 4).
5. In addition we produced Tables 5 and 6, which expand some of the results from Tables 1 and 3. Tables 5 and 6 focus on the comparison of GAME's (Table 5) and Gamestation's (Table 6) pre-owned prices with the mint prices offered by other retailers.
  6. Thus Table 1 shows that there are [X] games that GAME sells pre-owned and Tesco sells mint. Of those [X] games, [X] had a higher pre-owned price at GAME than the mint price at Tesco. [X] of the games had the same pre-owned price at GAME as the mint price at Tesco, [X] per cent of games [X] had a pre-owned price at GAME that was less than 5 per cent lower than the mint price at Tesco, [X] had a pre-owned price at GAME that was 10 to 15 per cent lower than the mint price at Tesco and so on. The table also shows, for instance that there were [X] games available in pre-owned at GAME that could also be bought pre-owned from CEX. Of these, [X] per cent had a pre-owned price at GAME that was less than 5 per cent lower than the pre-owned price at CEX, and so on.
  7. Tables 2, 3 and 4 show the same analysis comparing GAME mint prices, Gamestation pre-owned prices, and Gamestation mint prices to other retailers' price respectively.
  8. Tables 5 and 6 show the pre-owned to mint comparisons of Tables 1 and 3 in more detail. Thus Table 5 shows that when looking at the [X] per cent of GAME's pre-owned prices that were higher than Tesco's mint price from Table 1, we see that

[X] per cent of pre-owned prices are only slightly higher than Tesco's mint prices; [X] per cent are substantially higher than Tesco's mint prices, and so on. Table 6 replicates the results of Table 5 for Gamestation.

TABLE 1 Comparison of GAME pre-owned prices to those offered by various retailers

GAME price is:	Mint										Pre-owned												
	Tesco		Asda		Amazon		Play.com		HMV		Gamestation		Amazon		CEX		eBay		Play.com		Gamestation		
	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	
Higher																							
Same																							
<5% lower																							
5–10% lower																							
10–15% lower																							
15–20% lower																							
20–40% lower																							
40–60% lower																							
60–80% lower																							
80–100% lower																							
Total																							
<b>Number of games</b>																							

Source: GAME price data, CC analysis.

TABLE 2 Comparison of GAME mint prices to those offered by various retailers

GAME price is:	Mint										Pre-owned												
	Tesco		Asda		Amazon		Play.com		HMV		Gamestation		Amazon		CEX		eBay		Play.com		Gamestation		
	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	
Lower																							
Same																							
<5% higher																							
5–10% higher																							
10–15% higher																							
15–20% higher																							
20–40% higher																							
40–60% higher																							
60–80% higher																							
80–100% higher																							
>100% higher																							
Total																							
<b>Number of games</b>																							

Source: GAME price data, CC analysis.

TABLE 3 Comparison of Gamestation pre-owned prices to those offered by various retailers

Gamestation price is:	Mint										Pre-owned												
	Tesco		Asda		Amazon		Play.com		HMV		GAME		Amazon		CEX		eBay		Play.com		GAME		
	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	
Higher																							
Same																							
<5% lower																							
5–10% lower																							
10–15% lower																							
15–20% lower																							
20–40% lower																							
40–60% lower																							
60–80% lower																							
80–100% lower																							
Total																							
<b>Number of games</b>																							

Source: GAME price data, CC analysis.

TABLE 4 Comparison of Gamestation mint prices to those offered by various retailers

Gamestation price is:	Mint										Pre-owned												
	Tesco		Asda		Amazon		Play.com		HMV		GAME		Amazon		CEX		eBay		Play.com		GAME		
	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	%	No	
Lower																							
Same																							
<5% higher																							
5–10% higher																							
10–15% higher																							
15–20% higher																							
20–40% higher																							
40–60% higher																							
60–80% higher																							
80–100% higher																							
>100% higher																							
Total																							
<b>Number of games</b>																							

Source: GAME price data, CC analysis.

TABLE 5 Comparison of GAME pre-owned prices to mint prices of other retailers

GAME price is:	Mint													
	Tesco		Asda		Amazon		Play.com		HMV		Gamestation			
	%	No	%	No	%	No	%	No	%	No	%	No		
80–100% lower														
60–80% lower														
40–60% lower														
20–40% lower														
15–20% lower														
10–15% lower														
5–10% lower														
<5% lower														
Same														
<5% higher														
5–10% higher														
10–15% higher														
15–20% higher														
20–40% higher														
40–60% higher														
60–80% higher														
80–100% higher														
>100% higher														
Total														
<b>Number of games</b>														

Source: GAME price data, CC analysis.

TABLE 6 Comparison of Gamestation pre-owned prices to mint prices of other retailers

Gamestation price is:	Mint													
	Tesco		Asda		Amazon		Play.com		HMV		GAME			
	%	No	%	No	%	No	%	No	%	No	%	No		
80–100% lower														
60–80% lower														
40–60% lower														
20–40% lower														
15–20% lower														
10–15% lower														
5–10% lower														
<5% lower														
Same														
<5% higher														
5–10% higher														
10–15% higher														
15–20% higher														
20–40% higher														
40–60% higher														
60–80% higher														
80–100% higher														
>100% higher														
Total														
<b>Number of games</b>														

Source: GAME price data, CC analysis.