

*Case No COMP/M. 4534*  
*– INCHCAPE /*  
*EUROPEAN MOTOR*  
*HOLDINGS*

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004**  
**MERGER PROCEDURE**

---

Article 4 (4)  
Date: 26/01/2007



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.01.2007  
**SG-Greffe(2007) D/200332**

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE ARTICLE  
4(4) DECISION

Dear Sir/Madam,

**Subject: Case No COMP/M.4534 – INCHCAPE/ EUROPEAN MOTOR HOLDINGS**  
**Reasoned submission pursuant to article 4(4) of Regulation No 139/2004 for referral of the case to the United Kingdom.**

**Date of filing: 21/12/2006**

**Legal deadline for response of Member States: 22/01/2007**

**Legal deadline for the Commission decision under Article 4 (4): 05/02/2007**

**I. INTRODUCTION**

1. On 21 December 2006, the Commission received by means of a Reasoned Submission a referral request pursuant to Article 4(4) of the Council Regulation (EC) No 139/2004 (“EC Merger Regulation”) with respect to the transaction cited above. The parties request the operation to be examined in its entirety by the competent authorities of the United Kingdom.
2. According to Article 4(4) of the EC Merger Regulation, before a formal notification has been made to the Commission, the parties to the transaction may request that their transaction be referred in whole or in part from the Commission to the Member State where the concentration may significantly affect competition and which present all the characteristics of a distinct market.
3. A copy of this Reasoned Submission was transmitted to all Member States on 21 December 2006.

4. By fax of 09 January 2007, the Office of Fair Trading (OFT) as the competent authority of the United Kingdom informed the Commission that the United Kingdom agrees with the proposed referral.

## **II. THE PARTIES**

5. Inchcape plc. (“Inchcape”) is an international automotive services group, primarily engaged in the import, distribution and retail of new and used motor vehicles and the provision of associated financial services. Within the UK, which is one of its core markets, it is also active in fleet solutions, the provision of outsourced services to manufacturers and direct sales generated through the internet.
6. European Motor Holdings plc (EMH) is a UK based company which operates motor vehicle retail franchises solely within the UK. The group also operates two car auctions and holds an import and distribution licence for the Perodua range. It is also engaged in the sale and servicing of vehicle washing equipment in the UK.

## **III. THE OPERATION AND CONCENTRATION**

7. The proposed transaction concerns the acquisition by means of a public bid by Inchcape of the entire issued share capital of EMH. As a result of the transaction, Inchcape would acquire sole control of EMH and thus constitutes a concentration within the meaning of Article 3(1) (b) of the Merger Regulation.

## **IV. COMMUNITY DIMENSION**

8. Each of the parties achieves more than €250 million in the EU and the parties combined turnover exceeds €5,000 million. EMH achieves all turn-over within the UK. Whilst Inchcape realises some 66.55% of its Community-wide turnover within the UK, it does not actually achieve more than two-thirds of its Community-wide turnover within that Member State (66.66%). Thus the concentration has a Community dimension within the meaning of Article 1(2) of the Merger Regulation.

## **V. ASSESSMENT**

### **A. Relevant product markets**

9. The relevant market in which the parties are active is retail distribution of passenger cars. Within this category, in previous decisions the Commission has considered nine further sub-categories to comprise namely: the mini car, small car, medium car, large car, executive car, luxury car, sports car, multi-purpose vehicles and sports utility vehicles. The parties consider that several of these segments should be aggregated into one relevant market due to the existence of chains of substitution.
10. According to the parties, in line with a recent decision taken by the Office for Fair Trading (OFT),<sup>1</sup> it is also possible to define an after-sales market for servicing and supply of spare parts by given brand.

---

<sup>1</sup> OFT decision in Pendragon/CD Bramall – 24 June 2004

## **B. Relevant geographic market**

11. As regards the market for the retail distribution of passenger cars, the Commission has considered in previous decisions that, although there has been a progressive harmonisation of the competitive environment within the EU with regard to technical barriers, differences in pricing, vehicle taxation and distribution systems still point towards national geographic markets.<sup>2</sup>
12. As regards after-sales servicing and supply of spare parts, when called upon recently to consider the issue,<sup>3</sup> the OFT considered the likely effects of a similar transaction by reference, inter alia, to the servicing of "nearly new" cars by authorised garages within a maximum 25-mile radius. It found that overlaps by local area may be important in that it would seem unlikely that customers travel long distances for their car to be serviced. In this case, the parties' activities overlap within two local catchment areas, the Welsh Marches and Gloucestershire.

## **C. Assessment**

13. On the basis of the information provided by the parties in the Reasoned Submission, the proposed transaction is an appropriate candidate for pre-filing referral from the Commission to the OFT in accordance with Article 4(4) of the EC Merger Regulation.
14. The transaction meets the legal requirements set out in Article 4(4) of the EC Merger Regulation. The transaction is a concentration within the meaning of Article 3 of the EC Merger Regulation, it has a Community dimension and it may significantly affect competition in distinct markets in the United Kingdom.

### *Additional factors*

15. Given that the likely focus of the competitive effects of the proposed transaction is confined to the United Kingdom, the OFT is well placed to examine the case. In addition, the OFT has recently examined the market for servicing, repair and supply of spare parts for new and second hand cars in local markets within the UK. On the basis of such market definition, the current operation could affect competition in these local markets by reducing the number of authorised dealers/repairers from 4 to 3 or even 2 to 1. The UK Competition Authorities therefore appear to be well suited to deal with this concentration in view of the local nature of the affected markets.

## **VI. REFERRAL**

16. On the basis of the information provided by the parties in the Reasoned Submission, the case meets the legal requirements set out in Article 4(4) of the EC Merger Regulation in that the concentration may significantly affect competition in a market within a Member State which presents all the characteristics of a distinct market. The Commission notice on case referral in respect of concentrations<sup>4</sup> (point 17) indicates that, in seeking a referral under Article 4(4), "*the requesting parties are ... required to*

---

<sup>2</sup> Case COMP/M.2832 – General Motors/Daewoo Motors

<sup>3</sup> OFT decision in Pendragon/CD Bramall – 24 June 2004

<sup>4</sup> [http://europa.eu.int/comm/competition/mergers/legislation/consultation/case\\_allocation\\_tru.pdf](http://europa.eu.int/comm/competition/mergers/legislation/consultation/case_allocation_tru.pdf)

*demonstrate that the transaction is liable to have a potential impact on competition in a distinct market within a Member State, which may prove to be significant, thus deserving close scrutiny”, and that “such indications may be no more than preliminary in nature...”. The Commission considers, on the basis of the information submitted in the Reasoned Submission, that the principal impact on competition of the concentration is liable to take place on distinct markets in the United Kingdom, and that the requested referral would be consistent with point 20 of the notice.*

## **VII. CONCLUSION**

17. For the above reasons, and given that the United Kingdom has expressed its agreement, the Commission has decided to refer the transaction in its entirety to be examined by the United Kingdom. This decision is adopted in application of Article 4(4) of Council Regulation (EC) No 139/2004.

For the Commission  
signed  
Philip LOWE  
Director General