

***Case No IV/M.1196 -
JOHNSON
CONTROLS / BECKER***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 24/06/1998

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24.06.1998

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject: Case No IV/M. 1196 - Johnson Controls/Becker

Notification of 19.05.1998 pursuant to Article 4 of Council Regulation N° 4064/89

1. On 19 May 1998 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 ("the Merger Regulation") by which Johnson Controls, Inc. ("JCI") will acquire sole control of The Becker Group, Inc. ("Becker").
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and does not raise serious doubts as to its compatibility with the common market and the EEA Agreement.

I. The Parties and the operation

3. JCI is a public company incorporated in the USA which operates mainly in two sectors: automotive components and control systems used in buildings (e.g. electric and electronic devices providing energy management, temperature and ventilation control). Its automotive components activity has two primary business divisions, namely the automotive seating and interior systems market and the lead-acid automotive batteries. [...] ¹
4. Becker is a privately held US company which manufactures and supplies automotive interior components and systems, notably automotive instrument panels, door panels, sun visors and centre floor consoles. Becker is not active in the control systems market and in the automotive seating systems or batteries segments.
5. The operation involves JCI's acquisition of all the outstanding shares of Becker.

II. The Concentration

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6. The acquisition by JCI of sole control over Becker constitutes a concentration within the meaning of Article 3.1(b) of the Merger Regulation.

III. Community Dimension

7. The joint world-wide turnover of the undertakings concerned exceeds ECU 5,000m (ECU 9,535.7m for JCI and [...] ² for Becker in 1997). Each of the undertakings has a Community-wide turnover in excess of ECU 250 m [...] ³ and they do not achieve more than two-thirds of their aggregate Community -wide turnover within one and the same Member State. The notified operation has therefore a community dimension in accordance with Article 1(2) of the Merger Regulation.

IV. Compatibility with the common market

A. The Relevant Product Market

8. As seen below, the only overlapping activities of the parties are in automotive sun visors and door interior panels. In addition the transaction might have some minor vertical effects on headliner substrates.
9. Sun visors are mounted on the driver and front passenger sides of an automotive interior at the point where the headliner substrates meets the front wind screen. They consist of a substrate manufactured from different materials such as hard board, blow-moulded plastic or expanded polypropylene, which is covered by vinyl or leather and which also may have different fitted features such as illuminated mirrors or covers.
10. Door panels. Interior door panels are made of a substrate of injection moulded plastics or wood fibres and a textile cover and on which there are mounted other pieces such as armrests, handles and switches. Suppliers generally provide the OEMs (“Original Equipment manufacturers”) with complete door panels which they assemble near the OEMs’ plant. They usually make all the pieces of the panels although they also purchase various components from third parties.
11. Headliner substrates. A headliner substrate is the interior covering for the roof of an automobile. It is usually made of polyurethane and it is combined with other roof components such as grab handles and sun visors to produce a complete overhead panel module. Headliner substrates are complementary products to sun visors since both are components of overhead panels.
12. In general, automotive components tend to be manufactured centrally at a small number of facilities, while the warehousing and/or final assembly of these components is done at facilities located near the OEMs’ plants. Suppliers take care of distribution instead of resorting to independent distributors. The party submits that brand loyalty and product differentiation play a relatively minor role in the automotive components markets. Competition focuses on high quality and low prices. It is enhanced by the competitive bidding procedures which are used by the clients to award their supply contracts (see below).

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B. The Relevant Geographic Market

13. According to the notification the geographic market for automotive components and systems is at least the EEA since there are no technical standards or other regulatory barriers to trade within its territory. European OEMs award supply contracts further to bidding procedures at a European level. Transport costs and the requirement for just in time delivery do not prevent suppliers from tendering competitively regardless of the geographic location of their manufacturing facilities. Due to the time period between conclusion of the contract and delivery they can establish the necessary manufacturing, assembly and/or distribution infrastructure to supply the OEMs' plants in different European countries. The parties have facilities in Europe where they manufacture virtually all the products supplied in the EEA; their imports from North America are negligible. A European definition of the geographic dimension of the market is in line with the position taken by the Commission on the relevant geographic market in previous decisions for automotive systems and components.⁴ The operation is, therefore, assessed on an EEA level.

C. Competitive assessment

14. Sun visors. Becker is the market leader with an estimated EEA market share of [...] ⁵. JCI has a negligible market share of [...] ⁶. As such the acquisition will add very little to Becker's market power. There are a number of competitors such as Meritor with an estimated market share of [...] ⁷, Saturno with [...] ⁸, Magna with [...] ⁹, FICO with [...] ⁹ and Wardle Storeys with [...] ⁶. Moreover, automotive OEMs are vertically integrated firms which are generally larger than the majority of automotive components suppliers. They have considerable bargaining power over components suppliers. In particular, the threat to meet internally the whole or part of their components requirements is a powerful bargaining tool to gain cost or other concessions from components suppliers.
15. Door panels. There are a large number of door panel producers operating in Europe. Becker is the fourth largest European player with an estimated market share of [...] ¹⁰ % while JCI has a negligible market share of [...] ¹¹ . Therefore the transaction will not increase significantly Becker's market position in the competitive EEA market characterised by the strong countervailing power of the OEMs.
16. Headliner substrates. JCI is the largest supplier of headliner substrates in the EEA market. Its market share is approximately [...] ¹² . Becker does not supply this product. However Becker has been recently awarded a contract to supply complete overhead panel systems to [...] ¹³. To this end Becker purchases headliner substrates from [...] ¹³ and assembles them together with other components into complete

⁴ See e.g. case IV/M.666 Johnson Control/Roth Freres.

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overhead panel systems. The notifying party estimates that Becker's sales of overhead panel systems to [...] ¹³ represents [...] ¹⁴ of the total European market. Although JCI has an EEA headliner substrates market share of [...] ¹⁵, this market will not be affected by the acquisition. Becker does not purchase headliner substrates in the merchant market, but uses only those manufactured by [...] ¹³ to assemble its overhead panels. Therefore the transaction will have no effects on the commercial relationship between Becker and [...] ¹³. In addition there will be no significant foreclosure effects on the headliner substrates market since Becker is not an active commercial player in that market.

V. Ancillary restraints

17. The parties intend to enter into an agreement under which the sellers for a period of [...] ¹⁶ following the completion of the proposed transaction will provide consultation services and not compete with JCI. The consulting and consequently the non-competition clauses are justified by the fact that the transferred business involves significant know how in addition to goodwill, of which the sellers in their role of senior managers of the sold business have extensive knowledge. Because the transfer will involve know how and goodwill, the duration of [...] ¹⁶ acceptable. The two clauses are directly related and necessary to the implementation of the concentration and therefore they are covered by the present decision.
18. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission,

¹⁴ Deleted for publication : between 0 and 5 %

¹⁵ Deleted for publication : between 20 and 25 %

¹⁶ Deleted for publication : up to five years