

***Case No COMP/M.5347 -
MAPFRE / SALVADOR
CAETANO / JV'S***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 20/04/2009

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.4.2009
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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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 6(1)(b) DECISION

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.5347 – Mapfre/ Salvador Caetano / JVs
Notification of 11/03/2009 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 11.3.2009, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 by which the undertakings Mapfre S.A ("Mapfre", Spain) and Grupo Salvador Caetano SGPS, S.A. ("Salvador Caetano", Portugal), acquire within the meaning of Article 3(1)(b) of the Council Regulation joint control of the undertakings Choice Car-Comércio de Automóveis, S.A. ("Choice Car", Portugal), Finlog-Aluguer e Comércio de Automóveis, S.A. ("Finlog", Portugal), Guerin-Rent-A-Car (Dois), Lda ("Guerin", Portugal), and Luso Assistência – Gestão de Acidentes, S.A. ("Luso", Portugal), currently owned by Salvador Caetano, by way of purchase of shares.

I. THE PARTIES

2. Mapfre is a holding company of Mapfre Group, which mainly provides insurance products, including car insurance worldwide.
3. Salvador Caetano is a parent company of the Salvador Caetano Group, which mainly carries out car retail and repair services in Portugal and Spain.
4. Choice Car, Finlog, Guerin and Luso (altogether "the JVs") are wholly owned subsidiaries of Salvador Caetano, active in second-hand light car retailing (Choice Car), fleet

¹ OJ L 24, 29.1.2004 p. 1.

management services (Finlog), short term car rental services (Guerin),² and services ancillary to car accident management (Luso).

II. THE OPERATION

5. The envisaged operation involves two interdependent transactions: (i) the purchase by Mapfre, via its wholly-owned subsidiary Mapfre Automóviles Sociedad Anonima de Seguros y Reaseguros, from Choice Car-SGPS, S.A. (Salvador Caetano) of a 51% stake in Finlog; the remaining 49% of shares will be retained by Choice Car-SGPS, S.A. (Salvador Caetano)³ (ii) the purchase by Mapfre and Salvador Caetano, via their jointly controlled undertaking Ibericar, Sociedad Ibérica del Automovil, S.A.,⁴ from Choice Car-SGPS, S.A. (Salvador Caetano) of 100% of the share capital of Choice Car, Guerin and Luso.⁵ As a result of the second transaction, Mapfre will indirectly hold 49% and Salvador Caetano 51% of Choice Car, Guerin and Luso's share capital.

III. CONCENTRATION

6. According to contractual arrangements,⁶ both parties will have joint control over the JVs, since (i) both parties will have equal voting rights on the strategic decisions of the business policy of Finlog, and (ii) both parties will unanimously decide strategic business decisions of Choice Car, Guerin and Luso.
7. Based on the above, the notified operation leads to the acquisition of joint control and constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

IV. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion⁷ [Mapfre EUR 12,310.5 million, Salvador Caetano EUR 1,293 million]. Each of them have a Community-wide turnover in excess of EUR 250 million [Mapfre EUR [...] million, Salvador Caetano EUR [...]million], 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 therefore has a Community dimension.

² Via its subsidiary Island Rent, Aluguer de Automóveis, S.A., Guerin is also active in car rental services and children collective car transport services.

³ Share Sale and Purchase Agreement between Mapfre Automóviles Sociedad Anónima de Seguros y Reaseguros and Choice Car-SGPS, S.A. of [...] (hereinafter "Finlog SPA").

⁴ On 18.8.2006 the Commission cleared the creation of a joint venture, now Ibericar, Sociedad Ibérica del Automovil, S.A., in case M.4283 Fogeca/Mapfre/JV.

⁵ Share Sale and Purchase Agreement between Ibericar, Sociedad Ibérica del Automovil, S.A. and Choice Car-SGPS, S.A. of [...] (hereinafter "Choice Car, Guerin, Luso SPA").

⁶ [...].

⁷ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25).

V. COMPETITIVE ASSESSMENT

1. Horizontal overlaps

(1) Relevant product and geographic markets

9. The Commission has found in previous decisions that it may be appropriate to distinguish between short-term (e.g. for business and leisure trips) and long-term (e.g. with a rental period of more than one year) car rental services⁸. It may also be possible to divide the car rental market according to customer groups, namely, corporate car rentals and leisure car rentals⁹. The Commission has further suggested that there may be a replacement rentals segment, in which rental companies settle their accounts with car insurance companies.¹⁰ With regards to vehicle category, it may also be possible to distinguish between passenger cars and industrial vehicles, i.e. trucks¹¹.
10. The Commission has also, *inter alia*, indicated that a market for retail sale of used passenger cars and light commercial vehicles could be one of a number of markets related to manufacturing and supply of new vehicles.¹²
11. In previous cases, the Commission has left open whether the car retailing market is national or European-wide in scope,¹³ whereas the relevant geographic market for car rental may be national in scope.¹⁴
12. However, for the purpose of the proposed transaction it is not necessary to conclude on the relevant product and geographic market definitions as irrespective of the precise definition the proposed transaction would not lead to competition concerns.

(2) Competitive assessment

13. The proposed transaction gives rise to the following market situation: (i) Salvador Caetano and Guerin will be active in the car rental services market and its possible narrower segmentations in Portugal; and (ii) Salvador Caetano and Choice Car will be active in the resale of second-hand passenger cars and light commercial vehicles in Portugal and in the EEA. However, the proposed transaction would lead to an affected market only in the segment of replacement car rentals in Portugal:

⁸ Commission decision of 20.4.2007 in case COMP/M.4613 Eurazeo S.A./Apcoa Parking Holdings GmbH, Commission decision of 18.2.2000 in case COMP/M.1810 VW/Europcar; Commission decision of 24.9.2001 in Case COMP/M.2510 Cendant/Galileo.

⁹ See Cendant/Galileo, para. 21.

¹⁰ See VW/Europcar, para. 9 and Cendant/Galileo, para. 19.

¹¹ Commission decision of 27.5.2003 in case COMP/M.3172 – Ferrovial/Amey, para. 16. See also Commission decision of 24.11.2005 in case COMP/M. 3987 – Fidis Renting/Leasys, para. 6 and Commission decision of 3.12.1999 in case IV/M. 1739 – Iveco/Fraikin, para. 8.

¹² Commission decision of 30.4.2004 in case M.3388 Ford Motor Company Ltd / Polar Motor Group.

¹³ Id. fn. 13.

¹⁴ Id. fn. 9.

Portugal (2007)	Salvador Caetano	Guerin	Choice Car	Combined
Short-term car rental services	[0-5]%	[10-20]%	-	[10-20]%
Corporate car rental services	[0-5]%	[5-10]%	-	[5-10]%
Leisure car rental services	[0-5]%	[5-10]%	-	[5-10]%
Passenger car rental services	[0-5]%	[5-10]%	-	[5-10]%
Replacement car rental services	[0-5]%	[10-20] %	-	[20-30]%
Resale of second-hand cars and light commercial vehicles	[0-5]%	-	[0-5]%	[0-5]%

14. The combined market share of Salvador Caetano and Choice Car in the resale of used cars in the EEA is significantly below 15%.
15. Although the combined market share in the replacement car rentals segment would be higher than 15%, the proposed transaction would not increase the market share of Salvador Caetano, as Guerin is currently Salvador Caetano's wholly-owned subsidiary.
16. In light of the above, the Commission considers that the proposed transaction does not give rise to competition concerns as regards a possible market for replacement car rentals in Portugal.

2. Vertical Links

17. The proposed transaction would result in minor vertical links between the parties in the markets for car insurance and car repair services in Portugal, which could be considered as downstream vertically related markets to the markets where the joint ventures are active: car rental, full fleet management services, and car retailing.

(1) Relevant product and geographic markets

18. In previous decisions, the Commission has distinguished between life and non-life insurance and indicated that each of them could be subdivided into as many markets as there are risks to be covered.¹⁵ Therefore, car insurance could be considered as a narrower segment of the non-life insurance market. In the past the Commission considered¹⁶ that the distribution of insurance products is an activity vertically related with the supply of insurance products. However, the Commission has always left the market definition for the distribution of insurance products open.

¹⁵ See e.g. Commission decision in case COMP/M.5075 Vienna Insurance Group/EBV.

¹⁶ See e.g. Commission decision in case COMP/M.4284 AXA / Winterthur and case COMP/M.3395 SAMPO / IF SKADEFÖRSÄKRING

19. In previous decisions,¹⁷ the Commission has also indicated that car repair and maintenance of automotive vehicles can be offered by three categories of operators: dealers of automotive vehicles, whether owned by vehicle manufacturers or franchised dealerships operating independently; fast fit centres specialised in repair and maintenance of automotive vehicles; and independent garages and other full service providers. A narrower market of the light repair and maintenance of motor vehicles (i.e. fast fit services) could be distinguished from such an overall market.
20. The relevant geographic market for car repair and maintenance, and car insurance may be national in scope.¹⁸
21. However, for the purpose of the proposed transaction it is not necessary to conclude on the relevant product and geographic market definitions as irrespective of definition the proposed transaction would not lead to competition concerns.

(2) Competitive assessment

22. Mapfre and Salvador Caetano are active in car insurance. In particular, a subsidiary of Mapfre, Mapfre Seguros Gerais, is active in the supply of insurance products, whereas a subsidiary of Salvador Caetano, Coral – Correctores de Seguros. S.A., distributes car insurance products in Portugal. These activities could be considered as vertically related to car rental services, full fleet management services, and car retailing services provided by the JVs.
23. However the proposed transaction will not lead to any competition concern due to these vertical links because regarding car insurance, the market share of Mapfre in the supply of car insurance products and of Salvador Caetano in the distribution of car insurance products, respectively, are well below 25% (Mapfre [0-5]% and Salvador Caetano [0-5]%).
24. In addition, Salvador Caetano is active in car repair and maintenance services market in Portugal (excluding fast fit services) that could also be considered as vertically related to car rental services, full fleet management services, and car retailing services provided by the JVs.
25. Notwithstanding, the proposed transaction will not lead to any competition concern due to these vertical links, as in the car repair services market, Salvador Caetano has a market share of [0-5]% in the wider car repair services segment, and [0-5]% in the narrower segment for car repair services, excluding fast fit services.

¹⁷ See e.g. Commission decision in case M.2948 CVC/KWIK-FIT.

¹⁸ Id. fn. 9.

VI. CONCLUSION

26. 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 (EC) No 139/2004.

For the Commission
(signed)
Neelie KROES
Member of the Commission