

***Case No COMP/M.6124 -
FERROVIE DELLO
STATO/ CUBE
TRANSPORT/ ARRIVA
DEUTSCHLAND***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 16/02/2011

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EUROPEAN COMMISSION

Brussels, 16.2.2011
SG-Greffe (2011)D/2263/2264
C(2011) 1086 final

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

SIMPLIFIED PROCEDURE

To the notifying parties:

Dear Madam(s) and/or Sir(s),

**Subject: Case No COMP/M.6124 - FERROVIE DELLO STATO/ CUBE
TRANSPORT/ ARRIVA DEUTSCHLAND
Notification of 18.01.2011 pursuant to Article 4 of Council Regulation (EC) No
139/2004¹
Publication in the Official Journal of the European Union No C 23, 25.01.2011,
p.33**

1. On 18 January 2011, the European Commission received a notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the undertakings Ferrovie dello Stato S.p.A. ("FS", Italy) and Cube Transport SCA ("Cube", Luxembourg), which is ultimately controlled by the French banking group BPCE, acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of Arriva Deutschland GmbH (Germany) and Arriva Grundstücksgesellschaft (Germany, together "Arriva Deutschland") by way of a purchase of shares.
2. The business activities of the undertakings concerned are:

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

- FS: holding company of the Italian railway operator and rail infrastructure manager. Active mainly in Italy in passenger rail and bus services, rail freight services, and the provision of rail infrastructure. In Germany, active in rail freight transport through TX Logistik AG.
 - Cube: subsidiary of Cube Infrastructure Fund, an investment fund specialized in infrastructure and public services.
 - BPCE: French banking group active in investment banking, retail and commercial banking, insurance and real estate services.
 - Arriva Deutschland: active in Germany in passenger transport services by bus and rail, freight transport services by rail and road, freight trans-shipment services as well as maintenance services.
3. After examination of the notification, the European Commission has concluded that the notified operation falls within the scope of the Merger Regulation and of paragraph 5(c) of the Commission Notice on a simplified procedure for treatment of certain concentrations under Council Regulation (EC) No 139/2004².
 4. For the reasons set out in the Notice on a simplified procedure, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission,
(signed)
Alexander ITALIANER
Director General*

² OJ C 56, 5.3.2005, p. 32.