

Case No COMP/M.6748 - MAGNA/ IXETIC

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

Article 6(1)(b) NON-OPPOSITION
Date: 29/11/2012

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EUROPEAN COMMISSION

Brussels, 29/11/2012

C(2012)8934

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.6748 - MAGNA/ IXETIC
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 23.10.2012, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Magna International Inc. ("Magna", Canada) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of ixetic Verwaltungs GmbH ("ixetic", Germany) by way of purchase of shares². Magna is designated hereinafter as the "Notifying Party". Magna and ixetic are designated hereinafter as the "Parties".

(1) THE PARTIES

2. **Magna International Inc.** ("Magna", Canada) is a diversified global automotive supplier. It develops, manufactures and supplies automotive systems. Its products and services are sold to original equipment manufacturers ("OEMs") of cars and light trucks in North and South America, Europe, Asia and Africa. Magna is also active in complete

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.

² Publication in the Official Journal of the European Union No C 332, 30.10.2012, p.12.

vehicle engineering and assembly for OEM customers.³ Magna is active in the supply of pumps through its subsidiary Magna Powertrain.⁴

3. **ixetic Verwaltungs GmbH** ("ixetic") is a German company active as an automotive supplier of solutions for hydraulic and vacuum pumps mainly for OEMs in Europe. ixetic primarily supplies hydraulic pumps for use in transmissions, steering systems and active chassis as well as vacuum pumps for brake systems for the automotive industry.

(2) THE CONCENTRATION

4. Pursuant to the Purchase Agreement dated 28 September 2012, Magna will acquire 100% of the shares in ixetic and, thus, will acquire sole control over the whole of ixetic by ownership.
5. In view of the above, the proposed transaction constitutes a concentration within the meaning of Article 3 (1) (b) of the Merger Regulation.

(3) EU DIMENSION

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁵ (Magna: EUR 20,665 million; ixetic: [...]). Each of them has an EU-wide turnover in excess of EUR 250 million (Magna: EUR 8,638 million; ixetic: [...]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State. The notified operation therefore has an EU dimension.

(4) COMPETITIVE ASSESSMENT

Relevant product markets

Vacuum pumps

7. Vacuum pumps are used in the brake systems of the engines that are unable to create sufficient low pressure so that the braking system can support the brake force on its own (such as diesel engines and some petrol engines).
8. The Parties indicate that there is no Commission precedent concerning the market of vacuum pumps.
9. Since both Parties supply vacuum pumps for passenger cars and light commercial vehicles only, they consider appropriate to define the relevant product market as the market for vacuum pumps for passenger cars and light commercial vehicles (as opposed to pumps for heavy commercial vehicles).⁶

³ The Parties indicate that Magna is not active in the independent aftermarket ('IAM') as it does not sell vacuum pumps to repair or maintenance service providers.

⁴ The Parties indicate that Magna has entered into an agreement with its joint venture partner SHW Automotive GmbH to purchase the remaining 50% interest in STT Technologies Inc., a supplier of transmission and engine related oil pumps serving the North American automotive market.

⁵ Turnover calculated in accordance with Article 5 of the Merger Regulation.

⁶ The Parties submit that such distinction is relevant also in view of the Commission case practice, which has distinguished in the past between automotive products supplied for passenger cars and light commercial vehicles and products supplied for heavy commercial vehicles. (Case COMP/M.4785 *Russian Machines/Magna*, Case COMP/M.2832 *General Motors/Daewoo Motors*.)

10. The Parties claim that an overall market of pumps for automotive applications would be too wide. In fact, vacuum pumps shall be distinguished from hydraulic pumps as they are not interchangeable from a customer perspective. Also, from a technical point of view, hydraulic and vacuum pumps are very different. Vacuum pumps function with negative pressure, whereas hydraulic pumps function with positive pressure.
11. Moreover, the Parties maintain that contrary to other automotive components, the distinction between OEM and IAM market is not applicable to vacuum pumps. Since vacuum pumps generally endure throughout the complete lifetime of the vehicle, the Parties state that there is only a very limited independent aftermarket ("IAM") for vacuum pumps. Usually, IAM service providers are directly supplied with the required spare parts by the OEM, which in turn purchases the spare parts from Tier 1 suppliers, such as Magna and ixetic. For the purpose of the present case, since Magna does not sell any vacuum pumps to the IAM, the question whether the market for vacuum pumps shall be further divided into OEM and IAM segment can be left open.⁷
12. Finally, the Parties consider that by taking into account the underlying technology, the market for vacuum pumps could be further segmented in: (i) mechanical vacuum pumps; (ii) electrical vacuum pumps; and (iii) on-demand regulated pumps. Traditional mechanical vacuum pumps are linked to the engine, thus they generate constantly negative pressure while the engine is running, even when no brake forces are required (i.e. when the car is running). This results in a loss of efficiency for the engine. In order to meet the increasing demand of OEMs for energy efficient solutions, the new concepts of on-demand pumps⁸ and electrical pumps⁹ are being developed, so as to ensure that the vacuum pump only generates pressure in case it is required. However, for the purpose of the present case, the question whether electrical vacuum pumps and on-demand pumps belong to the same market of mechanical vacuum pumps can be left open since none of the Parties currently produces electrical pumps and/or on-demand pumps.¹⁰
13. The findings of the market investigation seem to confirm that vacuum pumps constitute a separate product market.
14. All the customers responding to the market investigation indicated that hydraulic or other type of pumps cannot be considered as substitutable to vacuum pumps.¹¹ From the supply-side, the majority of vacuum pumps suppliers recognized that the production of vacuum pumps and hydraulic pumps requires different know-how and manufacturing techniques.¹²
15. Finally, the investigation confirmed that as regards the supply of vacuum pumps, the distinction between OEM and IAM is not relevant, since the bulk of the business is with OEMs.¹³ All the respondents agreed that the life-cycle duration of vacuum pumps normally corresponds to that of an engine/vehicle.¹⁴

7 Currently ixetic has only one customer in the IAM, namely [...]. ixetic achieved [0-5%] of its sales of mechanical vacuum pumps on the IAM in 2011, [0-5%] in 2010 and [0-5%] in 2009.

8 On-demand pumps might in turn be distinguished between mechanical or electrical.

9 The electrical vacuum pump has the advantage that it is run by an electric motor and is thus independent from the engine as such. Its main disadvantage is that the electric motor of the vacuum pump will be more expensive than the single vacuum pump.

10 [...].

11 Replies to Question 5 and 6 of the Commission's Questionnaire to customers (Q2) of 25 October 2012.

12 Replies to Question 4 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

13 Replies to Question 7 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

14 Replies to Question 8 of the Commission's Questionnaire to customers(Q2) of 25 October 2012.

16. On the basis of the above and in particular the limited demand side substitutability, the Commission considers that vacuum pumps constitute a separate product market distinct from hydraulic pumps and other type of pumps. It can be left open whether the market for vacuum pumps has to be further subdivided as even on the narrowest possible market segment, i.e. mechanical vacuum pumps for passenger cars and light commercial vehicles, the transaction does not raise serious doubts as to the compatibility with the internal market.

Transmission oil pumps

17. Both Parties are active on the market for transmission oil pumps, which are used in hydraulically actuated automated transmission systems to regulate the oil flow for the switching operation. Transmission oil pumps are hydraulic pumps operating with positive pressure that provide fluid to lubricate the planetary gear set and continuous fluid to the torque converter.
18. The Parties indicate that there is no Commission precedent concerning the product market of transmission oil pump.
19. The Parties submit that transmission oil pumps constitute a separate product market.
20. The findings of the market investigation confirm that transmission oil pumps constitute a separate product market.
21. The majority of suppliers agreed that the know-how and manufacturing techniques required for the production of transmission oil pumps are different from those required for other pumps.¹⁵ Customers¹⁶ explained that transmission oil pumps could not be replaced by other type of pumps for use as input to their production.¹⁷ As for vacuum pumps, the market investigation confirmed that the distinction between OEM and IAM is not relevant in this market.¹⁸
22. In view of the above and the limited demand and supply side substitutability, the Commission therefore considers for the purpose of the present case the market of transmission oil pumps as the relevant distinct product market.

¹⁵ Replies to Question 3 of the Commission's Questionnaire to competitors - transmission oil pumps (Q3) of 26 October 2012.

¹⁶ Only one customer claimed that transmission oil pumps might be replaced by pumps based on different technologies. However, this customer also pointed out that such replacement would be disadvantageous from an efficiency standpoint.

¹⁷ Replies to Question 4 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

¹⁸ Replies to Question 5 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) and Question 5 of the Commission's Questionnaire to competitors- transmission oil pumps (Q3) of 26 October 2012.

Relevant geographic market

Vacuum pumps

23. Since there is no Commission precedent on vacuum pumps, the Parties refer to a number of previous decisions where the Commission has found that the geographic market for automotive components in the OEM market is at least EEA-wide, and in many cases probably global.¹⁹
24. The Parties maintain that trade within the EEA in relation to vacuum pumps is not generally significantly affected by transportation costs. This is evidenced by the fact that there is a significant cross-border flow of products between the countries. On the contrary, the Parties are not aware of any importation of vacuum pumps into the EEA.²⁰
25. Therefore, the Parties submit that the geographic market for vacuum pumps is EEA-wide.
26. The market investigation was not conclusive as to whether the geographic scope of the market for vacuum pumps is EEA-wide.
27. Whereas it emerged that most of the suppliers would be ready to serve vacuum pumps to customers regardless of their geographic location,²¹ as a matter of fact (i) all the EEA sales of vacuum pumps came from EEA production,²² and (ii) all suppliers agreed that geographical proximity to the customer represent a competitive advantage²³. Nonetheless, the majority of customers indicated that (i) the choice of a supplier does not depend on its geographic position,²⁴ and (ii) the geographic scope of their supply contract is usually worldwide²⁵.
28. For the purposes of this decision however, it is not necessary to conclude on the precise geographic scope of the market for mechanical vacuum pumps for passenger cars and light commercial vehicles (EEA-wide or worldwide), since it does not affect the competitive assessment of the proposed transaction.

Transmission oil pumps

29. In the absence of Commission precedents on this market, the Parties explain that OEMs normally organize tenders for transmission oil pumps on a regional basis, with regional suppliers only. Therefore, the Parties submit that the geographic scope of the market for transmission oil pumps should be EEA-wide.
30. The market investigation was not conclusive as to whether the geographic scope of the market for transmission oil pumps is EEA-wide.

¹⁹ Case COMP/M.2421 *Continental/Temic*, Case COMP/M.2901 *Magna/Donnelly*, Case COMP/M. 3433 *Hella/Behr/Plastic Omnium/JV.*, Case COMP/M.3436 *Continental/Phoenix*, Case COMP/M.3972 *TRW Automotive/Dalphi Metal España*, Case COMP/M.4878 *Continental/SiemensVDO*.

²⁰ Magna imports a marginal amount of mechanical vacuum pumps [...].

²¹ Replies to Question 9 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

²² Replies to Question 8 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

²³ Replies to Question 11 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

²⁴ Replies to Question 12 of the Commission's Questionnaire to customers (Q2) of 25 October 2012.

²⁵ Replies to Question 13 of the Commission's Questionnaire to customers (Q2) of 25 October 2012.

31. On the one hand, the majority of customers indicated that (i) bidding procedures for supply contracts are not organized on a regional basis but rather on a worldwide basis;²⁶ (ii) their selection of suppliers does not depend on the geographic position.²⁷ On the other hand, half of the customers claimed to rely on EEA-wide contracts on usual basis for the supply of transmission oil pumps.²⁸
32. As regards suppliers, they all agreed that customers are served regardless of their location,²⁹ and that there are no trade barriers³⁰ for exporting to the EEA market³¹. However, they also recognize that geographical proximity to the customer represents a competitive advantage for suppliers³².
33. For the purposes of this decision however, it is not necessary to conclude on the precise geographic scope of the market for transmission oil pumps (EEA-wide or worldwide), since it does not affect the competitive assessment of the proposed transaction.

Competitive assessment

Mechanical vacuum pumps for passenger cars and light commercial vehicles

34. The Parties submit that the market for mechanical vacuum pumps for passenger cars and light commercial vehicles is the only (horizontally) affected market of the proposed transaction.³³
35. The Parties submit that even on the basis of the narrowest geographic market definition, i.e. on an EEA-wide basis, the concentration will not lead to any anti-competitive effects on the market for mechanical vacuum pumps for passenger cars and light commercial vehicles. In particular, since Magna has limited activities in this market, the transaction will only lead to a small increment in market shares (see Table 1 -2).

²⁶ Replies to Question 9 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

²⁷ Replies to Question 7 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

²⁸ Replies to Question 8 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

²⁹ Replies to Question 6 of the Commission's Questionnaire to competitors- transmission oil pumps (Q3) of 26 October 2012.

³⁰ See - Reply to Question 15 of the Commission's Questionnaire to competitors - transmission oil pumps (Q3) of 26 October 2012.

³¹ Replies to Question 8 of the Commission's Questionnaire to competitors- transmission oil pumps (Q3) of 26 October 2012.

³² Replies to Question 11 of the Commission's Questionnaire to competitors - transmission oil pumps (Q3) of 26 October 2012.

³³ In view of their on-going R&D activities, the Parties indicate that in the future [...].

Table 1 – Market for mechanical vacuum pumps for passenger cars and light commercial vehicles (value) – world-wide market			
Worldwide	2009	2010	2011
Magna	[0-5%]	[0-5%]	[0-5%]
ixetic	[10-20%] – [20-30%]	[10-20%]	[10-20%]
Pierburg	[20-30%]	[20-30%]	[20-30%]
WABCO	[10-20%]	[10-20%]	[10-20%]
Bosch	[10-20%]	[10-20%]	[10-20%]
Others	[30-40%]	[20-30%] – [30-40%]	[20-30%]
Magna+ixetic	[10-20%] – [20-30%]	[10-20%] – [20-30%]	[20-30%]

Table 2 – Market for mechanical vacuum pumps for passenger cars and light commercial vehicles (value) - EEA-wide market			
EEA	2009	2010	2011
Magna	[0-5%]	[0-5%]	[0-5%]
ixetic	[30-40%]	[30-40%]	[30-40%]
Pierburg	[30-40%]	[30-40%]	[30-40%]
WABCO	[0-5%]	[0-5%]	[0-5%]
Bosch	[20-30%]	[20-30%]	[10-20%]
Joma	[0-5%]	[0-5%]	[0-5%]
Others	[0-5%]	[0-5%]	[0-5%]
Magna+ixetic	[30-40%]	[30-40%]	[30-40%]

36. Furthermore, the Parties argue that the merged entity would not be able to make business decisions (prices, volumes, qualities) independently from its competitors. In particular, strong players such as Bosch and Pierburg will continue to exert strong competitive pressure on the market.
37. In addition, the Parties indicate that as for most automotive components and assemblies, the market for vacuum pumps is a bidding market. OEMs set a target price and product specifications on the basis of which competing suppliers submit quotations. The price for the products is therefore chosen by OEMs.
38. Moreover, the Parties stress that the relationship between OEMs and automotive suppliers is characterized by the strong countervailing power of OEMs. The strength of OEM purchasing power is based primarily on the dependence of automotive suppliers on OEMs sourcing and the availability of multiple alternative suppliers for any given automotive component. Besides, the Parties indicate that it is quite common practice for OEMs to multi-source, so as to keep high competition between suppliers. Finally, automotive suppliers face a highly concentrated customer base, which consists of approximately ten major OEM customer groups or families, most of which have global or regional operations.
39. In line with the Parties' arguments, the findings of the market investigation confirm that the proposed transaction is not likely to raise any competition concern in the market for vacuum pumps.

40. The market investigation showed that there are several credible alternative suppliers to both ixetic and Magna on the market for vacuum pumps.³⁴ In the last 5 years competitors competed head-to-head with the parties for the award of supply contracts of vacuum pumps to OEMs³⁵ which confirms similar technical capabilities and know-how of the Parties and their competitors in relation to vacuum pumps.³⁶ As regards new fuel efficient solutions, the suppliers of vacuum pumps are already active or have plans to expand the production in either electrical pumps or mechanical on-demand pumps in the next 3-5 years.³⁷ In addition, the overwhelming majority of current players in the vacuum pumps market expect new entries in the market, also in view of the latest technological developments in relation to fuel-efficiency.³⁸
41. Finally, none of the respondents in the market investigation expressed any specific concerns in relation to the effects of the transaction.
42. In view of the above, the transaction does not raise serious doubts as to the compatibility with the internal market with respect to the market for mechanical vacuum pumps for passenger cars and light commercial vehicles.

Transmission oil pumps

43. The Parties indicate that the transmission oil pumps manufactured by Magna are only sold to customers located outside of the EEA. Since the market for transmission oil pumps is EEA-wide and Magna is not active in the EEA market, the Parties submit that the market for transmission oil pumps is not affected by the transaction.
44. The Parties indicate that under a worldwide definition of the market for transmission oil pumps, their combined market shares would amount to [30-40%]. However, on a worldwide market the Parties would face competitive pressure from a number of competitors with significant market shares including KYB ([10-20%]), Stackpole ([10-20%]) and JTEKT ([5-10%]) and TRW ([5-10%]).
45. Whereas the market investigation was not conclusive as to whether the market for transmission oil pumps should be EEA-wide in scope, it indicated that the proposed transaction is not likely to raise any competition concern in the market for transmission oil pumps regardless of the geographic market definition.
46. Competitors have been invited by OEMs to compete directly with ixetic and Magna for the supply of transmission oil pumps in the last 5 years.³⁹ Most of the competitors⁴⁰ do not see any major disadvantage vis-à-vis the Parties as regards their technical capabilities in transmission oil pumps.⁴¹

34 Replies to Question 17 of the Commission's Questionnaire to customers (Q3) of 25 October 2012.

35 Replies to Question 13 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

36 Replies to Question 14 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

37 Replies to Question 18 and 19 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

38 Replies to Question 20 of the Commission's Questionnaire to competitors (Q1) of 25 October 2012.

39 Replies to Question 10 of the Commission's Questionnaire to competitors – transmission oil pumps (Q3) of 26 October 2012.

40 See - Replies to Question 11 of the Commission's Questionnaire to competitors – transmission oil pumps (Q3) of 26 October 2012.

41 Replies to Question 11 of the Commission's Questionnaire to competitors – transmission oil pumps (Q3) of 26 October 2012.

47. Whereas few competitors mentioned that the new size and global footprint of the merged entity will give a special advantage to the merged entity as compared to smaller competitors, the majority of competitors indicated that Magna and Ixetic have complementary strengths in that Magna has a strong position in North America and Ixetic is stronger in Europe.⁴²
48. Customers confirmed that there are credible alternative suppliers to the parties (e.g. TRW).⁴³ A number of customers indicated that they usually multi-source the supply of transmission oil pumps⁴⁴ and none of them expressed any specific concern in relation to the transaction.⁴⁵
49. In view of the above, the transaction does not raise serious doubts as to the compatibility with the internal market with respect to the market for transmission oil pumps.

(5) CONCLUSION

50. For the above reasons, 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)
Joaquín ALMUNIA
Vice-President*

42 Replies to Question 14 of the Commission's Questionnaire to competitors - transmission oil pumps (Q3) of 26 October 2012.

43 Replies to Question 10 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

44 Replies to Question 11 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.

45 Replies to Question 12 and 13 of the Commission's Questionnaire to customers- transmission oil pumps (Q4) of 26 October 2012.