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C(2014) 4066 final

<p>In the published version of this decision, some information has been omitted, pursuant to articles 24 and 25 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, concerning non-disclosure of information covered by professional secrecy. The omissions are shown thus [...].</p>	<p style="text-align: center;">PUBLIC VERSION</p> <p>This document is made available for information purposes only.</p>
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Subject: State aid SA.36754 (2014/NN) – Hungary
LIP - Aid for AUDI HUNGARIA MOTOR Ltd.

Sir,

The Commission wishes to inform Hungary that, having examined the information supplied by your authorities on the aid measure referred to above, it has decided to initiate the procedure laid down in Article 108(2) of the Treaty on the Functioning of the European Union (hereinafter "TFEU").

1. PROCEDURE

- (1) By electronic notification registered on 16 September 2013, corrected by communication of 25 September 2013, the Hungarian authorities notified pursuant to paragraph 65 of the Guidelines on national regional aid for 2007-2013¹ (hereinafter RAG 2007-13) their intention to grant regional aid for a large investment project by AUDI HUNGARIA MOTOR Ltd. in Győr.
- (2) By letter of 8 November 2013 (2013/110546), 24 January 2014 (2014/008416) the Commission requested supplementary information which was submitted by letter registered at the Commission on 6 December 2013 (2013/123254), and on 20 February 2014 (2014/019421). As Hungary had already granted part of the aid in violation of its obligations under Article 108(3) TFEU, the case was transferred to

¹ Guidelines on national regional aid for 2007-2013, OJ C 54, 4.03.2006, p. 13. On 28 June 2013 the Commission adopted the Guidelines on Regional State Aid for 2014-2020, in which it extended the period of application of the RAG 2007-13 until 30 June 2014 (paragraph 186); OJ C 209, 23.01.2013, p.1.

the register of non-notified aid, and Hungary was informed thereof by letter of 26 March 2014, to which Hungary submitted comments on 16 April 2014.

2. DESCRIPTION OF THE PROJECT AND THE AID MEASURE

- (3) The Hungarian authorities intend to promote regional development by providing regional aid in the form of a direct grant and a corporate tax allowance to AUDI HUNGARIA MOTOR Ltd. (hereinafter "AHM") for investments on AHM's existing site in Győr, situated in the region of Western Transdanubia (Nyugat-Dunántúl). The Western Transdanubia region is an assisted area, eligible for regional aid pursuant to Article 107(3)(a) of the TFEU, with a standard regional aid ceiling for large enterprises of 30% Gross Grant Equivalent (GGE) according to the Hungarian regional aid map 2007-2013².

2.1. The beneficiary

- (4) The beneficiary of the aid is AHM, a wholly owned subsidiary of AUDI HUNGARIA SERVICES Zrt. AUDI HUNGARIA SERVICES Zrt. is a subsidiary of AUDI AG, which itself is a member of the Volkswagen Group. The seat of the Volkswagen Group is in Wolfsburg and its business is divided into two divisions, the Automotive Division and the Financial Services Division. The Automotive Division comprises two business areas: "passenger cars" and "commercial vehicles, power engineering".
- (5) The Volkswagen Group is made up of twelve brands: Volkswagen, Audi, ŠKODA, SEAT, Bentley, Porsche, Bugatti, Lamborghini, Ducati, Volkswagen Commercial Vehicles, Scania and MAN. Each brand has its own character and operates as an independent entity on the market. The Volkswagen Group manufactures cars ranging from low-consumption small cars to luxury and commercial vehicles.
- (6) The Volkswagen Group operates a total of 100 factories in 19 European countries and eight additional countries in America, Asia and Africa. In 2012 it delivered 9.3 million cars to customers in 153 countries, corresponding to a 12.8% share of the passenger car market in the world. In 2012 its revenue totalled to EUR 192.7 billion and it counted 549,763 employees³.
- (7) The Hungarian authorities confirm that the submitted market share data include the sales data of all joint ventures of the Volkswagen Group with the purpose of manufacturing passenger cars.
- (8) In 2012, the AUDI Group⁴ reached the revenue of EUR 48,771 million and employed an average of 67,231 persons worldwide. It delivered 1.45 million cars of the Audi brand to customers globally⁵.

² State Aid N 487/2006 – Hungary- Regional State aid map 2007-2013 (OJ C 256, 24.10.2006) and prolonged by State aid No. SA.36879 (2013/N) – Hungary- Prolongation of the Regional aid map 2007-2013 until 30 June 2014 (OJ C 69, 07.03.2014).

³ Volkswagen Group Annual Report 2012
http://www.volkswagenag.com/content/vwcorp/info_center/en/publications/2013/03/Y_2012_e.bin.html/bin_arystorageitem/file/GB+2012_e.pdf

⁴ AUDI Group consists of AUDI AG, AUDI Brussels SA, AUDI HUNGARIA MOTOR Ltd., Automobili Lamborghini S.p.A, Volkswagen Group Italia S.p.A., Ducati Motor Holding S.p.A.

- (9) AHM is a wholly owned subsidiary of AUDI HUNGARIA SERVICES Zrt, which is fully owned by AUDI AG. By the end of 2012 AHM employed 8663 persons and its revenue reached EUR 5,536 million. AHM assembles Audi TT Coupé, Audi TT Roadster, Audi A3 Cabriolet. AHM also produces engine components and engines for passenger cars and boats.

2.2. The investment project

- (10) The existing activities are the production of engines and engine components, as well as assembly of cars on a platform-based approach (only car models using the same platform, normally cars belonging to the same market segment can be produced).
- (11) The notified investment project consists of two sub-projects:
- (12) The first sub-project ("Investment I") has three objectives: increased flexibility and diversification in the assembly production, increased output, and vertical integration of the production process.
- (13) The first objective is to increase the flexibility of the assembly operation by replacing the current platform-based technology by the so-called module-based manufacturing process (Modularer Querbaukasten, hereinafter MQB) technology. Whereas the platform-based technology used in Győr allowed only the assembly of cars using the same platform (mainly of the same or similar length, frequently belonging only to one segment), the MQB technology to be installed allows the assembly of cars of different lengths and belonging to a range of segments (in this case the A and B segments and[...] * to the A0 segment,[...]) on the same manufacturing line. The new technology will be installed in a new plant, and the old platform-based assembly activity will be completely phased out in[...]. The whole production will be based on the MQB technology. The old assembly line will be dismantled and removed. The MQB technology is based on the principle of modularity (standardization of the components of different models, belonging to different market segments), allowing for major cost savings. [...]The new plant will allow the manufacturing of several models of Audi passenger cars: the new generations of the earlier models (Audi TT Coupé, TT Roadster and A3 Cabriolet) and a completely new member of the A3 model family with a four-door body (A3 Sedan). The successor models will be subject to various changes regarding design and technical improvements.[...] ⁶. According to POLK classification⁷, Audi TT Coupé and TT Roadster will remain in segment B, while A3 Cabriolet will remain in segment A and the new A3 Sedan will also be listed in segment A.

⁵ AUDI Group Annual Report 2012: http://www.audi.com/content/dam/com/EN/investor-relations/financial_reports/annual-reports/2012_audi_annual_report.pdf

* Business secret

⁶ R. L. Polk & Co. (also referred to as POLK) is a globally integrated organisation and a major market information and analytics provider in the automotive industry. On July 16, 2013, IHS Inc., the leading global source of critical information and analytics completed its acquisition of R. L. Polk & Co. With the addition of POLK, IHS Automotive provides expertise and predictive insight across the entire automotive value chain.

⁷ POLK differentiates the car market along segments A000, A00, A0, A, B, C, D and E, where segment A000 means urban small cars and segment E is the ultra luxury category. From segment A000 to E, the average price, size and the average engine performance of passenger cars gradually increase.

- (14) The second objective of the sub-project is to increase the installed capacity for assembly. It is expected that AHM will increase its overall technical capacity (net capacity increase after phasing out of production in the old plant) in Győr from the current assembly capacity of [60,000-110,000] to a production capacity of [130,000-180,000] passenger cars per year. It is envisaged to use on average [...]% of the planned capacity for manufacturing cars of the A segment and [...]% for manufacturing cars of the B segment. This capacity increase is not only due to the additional product (A3), but also to a higher volume of assembly of the successor models.
- (15) The third objective of the sub-project aims at deepening the vertical integration of the production activities in Győr. To that end, the assembly operation will be transformed into a fully integrated production plant for passenger cars. The investment into the new assembly plant will be accompanied by the construction of a new body shop and a new paint shop which will serve the production of the above models.
- (16) However, it is planned that up to [...]% of the capacity of the AHM's new body shop and paint shop will be delivered, in the form of bodyshells, to other car manufacturing plants of the Volkswagen Group outside the EEA. Therefore, the theoretical car manufacturing capacity of the Győr plant must be deemed reduced by the amount corresponding to this [...]%, since the cars will be manufactured elsewhere.
- (17) The second sub-project ("Investment II") involves building a new press shop, including relevant infrastructure investments in AHM's new plant in Győr. About [...]% of the body parts manufactured in the new press shop will be utilised to manufacture cars in Győr. The remaining [...]% of the body parts produced in Győr will be delivered to other production sites of the Volkswagen Group, which will use them in the assembly of vehicles belonging to the POLK B-segment.
- (18) As the majority of these body parts will be utilised in Győr and since Investment I and Investment II are to be carried out in the same location within the same period of three years, the Hungarian authorities consider that Investment I and Investment II constitute a single investment project within the meaning of paragraph 60 of the RAG.
- (19) Work in the investment project started in February 2011 and the planned completion date is 31 December 2014. The timeline is represented in the table below.

Table I: Timing of the investment project

	<i>Start of project</i>	<i>End of project</i>
<i>Investment Projects</i>	<i>10.02.2011</i>	<i>31.12.2014</i>
<i>Investment I</i>	[...]	[...]
<i>Investment II</i>	[...]	[...]

2.3. Costs of the investment project

- (20) The project involves investments in buildings, machinery and equipment. Costs of investment in intangible assets are not foreseen.
- (21) The investment project's total eligible investment costs in nominal value amount to HUF 342,936 million (EUR 1,144 million⁸). In present value⁹ this amount is HUF 355,550 million (EUR 1,186 million). Table II provides a breakdown of the total eligible costs.

Table II: Eligible investment costs in nominal value (HUF million)

Years	2011	2012	2013	2014	Total
Building	[...]	[...]	[...]	[...]	[...]
External equipment	[...]	[...]	[...]	[...]	[...]
Machinery / equipment	[...]	[...]	[...]	[...]	[...]
Intangible assets	[...]	[...]	[...]	[...]	[...]
TOTAL	[...]	[...]	[...]	[...]	342 936

- (22) The Hungarian authorities confirm that no aid will be requested for costs related to used equipment and that no such equipment is included in the eligible expenditure.

2.4. Financing of the investment

- (23) The Hungarian authorities confirm that the own contribution by the beneficiary, free of any public support, exceeds 25 % cent of the eligible costs.

2.5. Legal basis

- (24) The indicated national legal basis for the financial support to AHM under existing aid schemes is the following:
- The grant will be provided on the basis of the aid scheme XR 47/2007¹⁰ which is exempted from notification pursuant to Commission Regulation (EC) No 1628/2006¹¹ (hereinafter: "RAG BER"). This scheme has as its legal basis "Government Decree 8/2007 (I.24.) of the Minister of Economy and Transport on Investment Subsidies Granted by Individual Government Decision".
 - The tax allowance will be granted on the basis of the scheme "Development Tax Benefit" N 651/2006¹². This scheme was established by "Act LXXXI of 1996 on

⁸ Figures expressed in EUR are given in this decision on the basis of an exchange rate of 299.67 HUF/EUR, applicable at the time of notification.

⁹ The present values in this decision are calculated on the basis of a discounting rate of 5.62 %, applicable at the time of notification. The base year for discounting purposes is 2013, i.e. the year of notification.

¹⁰ The summary information sheet on the scheme XR 47/2007 (A Kormány egyedi döntésével megítélhető támogatás) was published in OJ C 180, 02.08.2007, p. 6.

¹¹ Commission Regulation (EC) No 1628/2006 of 24 October 2006 on the application of Articles 87 and 88 of the Treaty to national regional investment aid, OJ L 302, 01.11.2006, p. 29.

¹² Commission decision of 10.05.2007 in case N 651/2006 concerning the Development tax benefit (amendment of N 504/2004), OJ C 152, 06.07.2007, p. 2. and modified by Commission decision of 30 April 2008 (N 646/2007, SA.24441), of 17 June 2008 (N 735/2007, SA.24683), of 6 May 2010 (N 132/2010, SA.30728) and of 23 February 2011 (N 685/2009, SA.29994).

Corporate Tax and Dividend Tax” and by "Government Decree 206/2006 (X.16.) on Development Tax Allowance".

2.6. Incentive effect of the aid

- (25) AHM applied for discretionary investment subsidies (direct grants) on 5 March 2010 for both Investment I and Investment II, i.e. before the start of works on the investment project. On 26 March 2010, the Hungarian authorities confirmed that the investment project is in principle eligible for the aid applied for.
- (26) The Hungarian authorities made an aid offer relating to the direct grant for Investment I on 8 September 2010, which was accepted by AHM on 1 October 2010. The Hungarian authorities made an aid offer relating to the direct grant for Investment II on 27 April 2011, which was accepted by AHM on 4 May 2011.
- (27) The application for tax allowance (for which a legal entitlement subject to Commission approval exists) was presented by the beneficiary to the Hungarian authorities on 29 October 2010 for Investment I and on 27 January 2011 for Investment II, i.e. before the start of works on the investment projects.

2.7. Aid amount

- (28) The total nominal aid amount is HUF 44960 million (EUR 150.03 million). The Hungarian authorities plan to pay out the aid for the investment projects between 2013 and 2016. This results in an aid amount in present value of HUF 39952 million (EUR 133.3 million). Table III below presents a breakdown of the aid amount by aid instrument in nominal and present values.

Table III: Aid amount in nominal and present values (HUF million)

Aid instrument	Nominal value	Present value
Direct grant	[...]	[...]
Development tax allowance	[...]	[...]
Total	44 960	39 952

- (29) The Hungarian authorities confirm that neither the approved maximum aid amount in present value nor the approved aid intensity will be exceeded if the amount of eligible expenditure deviates from the estimated amount.
- (30) The Hungarian authorities also confirm that the aid for the project will not be combined with aid received for the same eligible costs from other local, regional, national or EU sources.
- (31) AHM received investment aid for earlier investment activities at Győr. However, these are not relevant for this decision since the aided investments started before 2003 and in 2006.

¹³ In 2013 and 2014 the Hungarian authorities plan to pay out only up to the aid amount that remains below the threshold for which a Commission approval is needed,

2.8. Maintenance of the investment

- (32) Both the direct grant and the tax allowance are granted under the condition that the beneficiary will maintain the investment in the assisted region for a minimum period of five years after the completion of the investment project.

2.9. Contribution to regional development

- (33) The Hungarian authorities indicate that AHM will directly create 1,800 new jobs due to Investment I (of which [...] % in assembly, [...] % in the body shop, and [...] % in the paint shop), and an additional 300 new jobs due to Investment II. More than [...] % of the newly hired employees will have a college or university degree.
- (34) The investment project is expected to induce further investments at the level of AHM's suppliers. The Hungarian authorities explained that, according to the CAR study¹⁴, the total number of jobs created as a consequence of one job created in the automotive industry amounts to 4.7 new jobs in total (2.5 jobs at the suppliers and 2.2 jobs created as a result of the spending of the suppliers' employees). Thus, creation of 1,800 direct jobs by Investment I and 300 direct jobs by Investment II will have a significant impact on the labour market, which results in the creation of 9,870 additional indirect jobs in Győr, in the Western Transdanubia region and elsewhere, mainly in Hungary.
- (35) AHM will also extend its research and development cooperation with several universities (Miskolc, Óbuda, and Széchenyi Universities).
- (36) The Hungarian authorities undertook to submit to the Commission:
- within two months of granting the aid, a copy of the relevant acts concerning this aid measure;
 - on a five-yearly basis, starting from the approval of the aid by the Commission, an intermediary report (including information on the aid amounts being paid, on the execution of the aid contract and on any other investment projects started at the same establishment/plant);
 - within six months after payment of the last tranche of the aid, based on the notified payment schedule, a detailed final report.

3. ASSESSMENT OF THE AID MEASURE

3.1. Existence of aid

- (37) The financial support in the form of a direct grant and a corporate tax allowance will be given by the Hungarian authorities and is financed through the general budget of the state. The support is thus given by a Member State and through State resources within the meaning of Article 107(1) of the TFEU.
- (38) As the aid is granted to a single company, AHM, the measure is selective.

¹⁴ Contribution of the motor vehicle supplier sector to the economies of the United States and its 50 states, prepared for the Motor and Equipment Manufacturers Association by Economics and Business Group, Center for Automotive Research, 2007.

- (39) The financial support will relieve the company from costs which it normally would have had to bear itself. Therefore, the company benefits from an economic advantage over its competitors.
- (40) The financial support will be given for an investment in the car sector, which is subject to intensive trade between Member States, and will partially replace supplies of intermediate goods from other Member States. Therefore, the measure affects trade between Member States.
- (41) The favouring of AHM and its production means that competition is distorted or threatened to be distorted.
- (42) Consequently, the Commission considers that the envisaged measure constitutes State aid within the meaning of Article 107(1) of the TFEU.

3.2. Legality of the aid measure

- (43) The Commission notes that the Hungarian authorities granted already part of the notified aid. The Commission regrets that the Hungarian authorities did not respect their obligation under Article 108(3) of the TFEU and the individual notification requirements laid down in Article 7(e) of the RAG BER and in Article 6(2) of the General Block Exemption Regulation¹⁵, and considers that the aid already granted was granted unlawfully. Where an aid project exceeds the applicable notification threshold, the notification requirement applies to the whole aid amount and not only to the aid amount exceeding the notification threshold.

3.3. Compatibility of the aid measure

- (44) As the measure relates to regional investment aid and as and as the Hungarian authorities took a legally binding commitment already before 1 July 2014 to award the aid in its entirety (subject to Commission approval), the Commission assessed it on the basis of the RAG, in particular on the basis of the provisions of section 4.3 of the RAG relating to large investment projects.

3.3.1. Compatibility with the general provisions of the RAG

- (45) The aid is granted in application of a block-exempted scheme (grant on the basis of the aid scheme XR 47/2007) and of an approved aid scheme (tax allowance on the basis of the aid scheme N 651/2006). Both schemes respect the standard compatibility criteria of the RAG.
- (46) The project to be supported is situated in Győr, in the region of Western Transdanubia (Nyugat-Dunántúl), an area eligible for regional investment aid, as defined by the Hungarian regional state aid map¹⁶.
- (47) There is no indication that the Volkswagen Group in general or AHM in particular would be a firm in difficulty within the meaning of the Community guidelines on

¹⁵ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Article 87 and 88 of the Treaty (General block exemption Regulation), OJ L 214, 9.8.2008, p. 3.

¹⁶ State Aid N 487/2006 – Hungary- Regional State aid map 2007-2013 (OJ C 256, 24.10.2006)

State aid for rescuing and restructuring firms in difficulty¹⁷. Therefore, the aid beneficiary is eligible for regional aid in accordance with paragraph 9 of the RAG.

- (48) The project comprises an initial investment within the meaning of paragraph 34 of the RAG. Initial investment is defined in paragraph 34 of the RAG as an investment in tangible and intangible assets relating to (i) the setting up of a new establishment, (ii) the extension of an existing establishment, (iii) diversification of the output into new additional products and (iv) a fundamental change in the overall production process of an existing establishment. The investment project concerns an investment in an existing establishment and involves elements of (1) fundamental change of the production process (replacement of the platform-based assembly technology by the MQB technology), combined with increased standardisation and vertical integration of the production process (fully integrated car manufacturing plant, instead of an assembly plant), (2) diversification of the output of the establishment (new A3 Sedan, body parts from Investment II), as well as (3) the extension of the assembly capacities.
- (49) In conformity with paragraph 40 of the RAG, AHM is obliged to maintain the investment in the region for a minimum of five years after completion of the project.
- (50) The beneficiary provides, in conformity with paragraph 39 of the RAG, a financial contribution of at least 25% of the eligible costs in a form which is free of any public support.
- (51) The formal incentive effect requirements, laid down in paragraph 38 of the RAG, are respected (see recital 25 to 27 of this decision).
- (52) The costs eligible for investment aid (see Table II above) are defined in line with the RAG, and the rules on cumulation are respected.
- (53) In agreement with the Hungarian authorities, the Commission considers that Investments I and II constitute a single investment project within the meaning of paragraph 60 of the RAG. Earlier investments fall outside the 3-year period defining a single investment project.
- (54) In view of these considerations, the Commission considers at this stage that the standard compatibility criteria are met.

3.3.2. Compatibility with the provisions for aid to large investment project

3.3.2.1. Aid intensity (point 67 of the RAG)

- (55) The planned total eligible expenditure in present value for the project is HUF 355,550 million (EUR 1,186 million) discounted to the date of notification. According to the scaling down mechanism laid down in point 67 of the RAG, this leads to a maximum allowable aid intensity of 11.24% GGE (Gross Grant Equivalent) for the project.
- (56) Since the intensity of the proposed aid (HUF 39952 million; EUR 133.3 million in present value) does not exceed the maximum allowable aid intensity, the proposed

¹⁷ OJ C 244, 1.10.2004, p. 2

aid intensity for the project complies with the RAG. Hungary confirmed that no other than the notified aid will be granted to support the investment project.

3.3.2.2. Application of the filters for in-depth assessment laid down in points 68(a) and (b) of the RAG

- (57) The Commission may approve regional aid to large investment projects falling under point 68 of the RAG within the preliminary examination only if the thresholds laid down in this paragraph and triggering an in-depth assessment are not exceeded. These thresholds are exceeded if the aid beneficiary accounts for more than 25 % of the sales of the product(s) concerned on the market(s) concerned before the investment or will account for more than 25% after the investment (paragraph 68(a)-test); or if the production capacity created by the project is more than 5 % of the market measured using apparent consumption data for the product concerned, unless the average annual growth rate of its apparent consumption over the last five years is above the average annual growth rate of the European Economic Area's GDP (paragraph 68(b)-test).
- (58) Where these thresholds are exceeded, the Commission will carry out a detailed verification, following the opening of the procedure provided for in Article 108(2) TFEU, to be able to determine that the aid is necessary to provide an incentive effect for the investment and that the benefits of the aid measure outweigh the resulting distortion of competition and effect on trade between Member States.
- (59) Where an in-depth assessment is necessary, it will be carried out on the basis of the Communication from the Commission concerning the criteria for an in-depth assessment of regional aid to large investment projects¹⁸ (hereinafter IDAC).
- (60) To carry out the relevant tests under paragraphs 68(a) and (b) of the RAG, the Commission has to identify first the products concerned by the investment, and to establish appropriate product and geographic market definitions.

Product concerned

- (61) According to paragraph 69 of the RAG, the product concerned is normally the product covered by the investment project. However, when the project concerns an intermediate product and a significant part of the output is not sold on the market, the product concerned may be the downstream product.
- (62) The higher scope of vertical integration of the production process will lead to new intermediate products. The intermediate products produced on the basis of Investment I, i.e. those of the body shop and the paint shop in form of bodyshells, will not be sold on the market but will normally be used for the production of A- and B-segment cars in Győr. A small part of these body shells may be shipped to production sites of the Volkswagen Group outside the EEA, for intra-group production. The Commission considers that the car models into which these intermediate products are built in constitute the sole relevant product.
- (63) With the exception of the new A3 Sedan, the models that will be produced in the Győr plant on the basis of Investment I are the successors of existing models which were assembled in the past in Győr. The A3 Sedan and A3 Cabriolet will belong to the A segment and the TT Coupé and the TT Roadster will belong to the B segment

¹⁸ OJ C 223, 16.9.2009, p. 3–10

on the basis of the segmentation standards set by POLK. Due to the technical features of the new technology, it will also be possible to produce cars belonging to the A0 segment, [...].

- (64) Moreover, as a result of Investment II, body parts which are necessary for manufacturing the bodywork of passenger cars will be produced in the press shop. It is planned to use about [...] % of these body parts for the cars –of segment A, B and theoretically of A0 - manufactured in the Győr plant. The remaining [...] % of the pressed body parts will not be sold on the market, but will be used for vehicles belonging to the B segment produced in other production sites of the Volkswagen Group.
- (65) As a consequence, for the purposes of paragraph 68 of the RAG, the Commission considers motor vehicles, i.e. passenger cars belonging to segments A0, A and B, to be the product concerned of the investment projects.

Relevant product market

- (66) In accordance with paragraph 69 of the RAG, the relevant product market includes the product concerned and its substitutes considered to be such either by the consumer (by reason of the product's characteristics, prices and intended use) or by the producer (through flexibility of the production installations).
- (67) The Commission recognised in its merger decisions that, although the car market has traditionally been segmented on the basis of a number of objective criteria like engine size or length of car, the boundaries between segments are blurred by other factors. These factors include price, image and the amount of extra accessories. Therefore, until now all merger decisions left open the question whether, for the purposes of the competitive analysis, the passenger car segment should be considered as one product market or should be further subdivided.
- (68) The Commission notes that Prodcom codes¹⁹ are not relevant for a further segmentation in this case, among others because there are too many overlaps and the classification is not generally used in the industry to assess markets.
- (69) Several other classifications could be considered, such as the ones used by the European Association of Manufacturers (ACEA), the European New Car Assessment Programme (NCAP), the US department of energy, and other large car manufacturers on their website.
- (70) These classifications differ because they are used for different purposes (crash tests for example), because of geographic differences (the US market is more dominated by large cars) and because no generally agreed classification exists.
- (71) There are a number of service providers analysing the car market. Among the most renowned and acknowledged providers is IHS Inc, also due to its recently acquired subsidiary, POLK.
- (72) The Hungarian authorities have chosen POLK for the purpose of the notification, because the Volkswagen Group operates all its long-term strategic planning and

¹⁹ Prodcom provides statistics on the production of manufactured goods.
<http://epp.eurostat.ec.europa.eu/portal/page/portal/prodcom/introduction>

competitor analyses on the conceptual base of this data provider. The Commission is of the view, at this stage, that the POLK market classification can be considered as an appropriate and sufficiently detailed reference and applies this segmentation for the purposes of the assessment of the aid project at hand.

- (73) The Hungarian authorities are of the view that demand-side substitution at the margins of each relevant passenger car segment exists. Due to the demand-side substitutability between both A0 and B segment cars and A segment cars, the Hungarian authorities suggest to consider the segments A0, A and B as a combined segment group.
- (74) The Commission also notes that some limited possibility for demand-side substitution at the margins of each segment may exist, for example, between A segment and B segment cars, or between the luxury segments. However, it might be difficult to argue for the demand-side substitutability of vehicles at the extreme ends of the possible segmentations.
- (75) From the supply-side perspective, the ability to switch production from one segment to another, which is made possible due to the introduction of the MQB technology, means, according to the Hungarian authorities, that the effects of the aid can be felt in those segments for which the AHM is able to produce cars based on the new MQB- based technology. Therefore, the Hungarian authorities suggest that, from a supply-side perspective, the segments A0, A and B should be considered as a combined segment group.
- (76) Producers of passenger cars are generally present in many of the different segments. Producers can switch from one type of passenger car to another because many cars are based on the same platform.
- (77) At this stage, for the present case, the Commission leaves the precise definition of the relevant product market open and will consider all plausible alternative market definitions, including in particular the narrowest segmentation for which data are available. This approach is in line with the Commission's State aid decisions SA.30340 (Fiat Powertrain Technologies)²⁰, SA. 32169 (Volkswagen Sachsen)²¹, N 767/07 (Ford Craiova)²², N 635/2008 (Fiat Sicily)²³ and N 473/2008 (Ford Espana)²⁴.
- (78) As regards the subdivision into separate segments for Passenger Car Vehicles ("PCV") and Light Commercial Vehicles ("LCV"), the Hungarian authorities submitted that such market segmentation is not clearly defined and thus not conclusive. Vehicles with the same equipment are classified as "PCV" in some Member States, and as "LCV" in others; therefore it would be inappropriate to consider PCVs and LCVs as separate markets.

²⁰ Decision of 9.2.2011, (C(2011)612) in the case of SA.30340, OJ C 151, 21.5.2011, p.5

²¹ Decision of 13.07.2011 (C(2011)4935) in the case of Sa.32169, OJ C 361, 10.12.2011, p. 17

²² Decision of 30.4.2008 (C(2008)1613) in the case N 767/2007, OJ C 238, 17.9.2008, p. 4.

²³ Decision of 29.4.2009 (C(2009)3051) in the case N 635/2008, OJ C 219, 12.9.2009, p. 3

²⁴ Decision of 17.6.2009 (C(2009)4530) in the case N 473/2008, OJ C 19, 26.1.2010, p.5

- (79) The Commission is of the opinion that PCVs and LCVs cannot be considered separately for the purposes of this decision, but should be allotted to the respective A0, A and B segments in their entirety.
- (80) Since AHM will produce cars as well as body parts for cars belonging to A and B segments, and since it could produce, theoretically, for cars belonging to segment A0, the Commission considers, at this stage, that these individual segments, as well as the combined segment A0 to B, should all be considered as relevant plausible product markets for this case.

Relevant geographic market

- (81) Point 70 of the RAG provides that, for the purposes of carrying out the tests under paragraph 68 of the RAG, markets should normally be defined at EEA level.
- (82) The Hungarian authorities suggest that the geographically relevant market for cars is definitely larger than the EEA. Based on the relevant indicators, such as production locations, distribution systems, patterns of trade flows and transportation costs, the Hungarian authorities argue that the global market appears to be the logical definition for the automotive industry.
- (83) In particular, the Hungarian authorities introduce the following arguments:
- The trade flows, the import and export quotas²⁵ of the EEA have reached a level which indicates that vehicle trading takes place in a global market.
 - Concerning the trade barriers, there is a trend over recent years of regulatory barriers falling, low trade barriers between many countries and the EEA, and a general movement toward a higher degree of harmonisation and integration.
 - Prices moving similarly across regions are an important indicator of integrated markets. The results of the analysis of price indices²⁶, based on pricing data for the EEA and the US, show that price indices for A and B segments move together and that the correlations between them are high. This allows the conclusion that at least the US and the EEA are part of the same geographic market.
 - The costs of establishing a global distribution network are so negligibly small that they do not constitute an obstacle to profitable global sales of vehicles.
 - As transport costs are decreasing, export and import levels of vehicles are continuously increasing. Every third car produced in the EU is exported and every fifth car is imported.
 - The Volkswagen Group is a global car manufacturer facing global competition with other original equipment manufacturers (hereinafter: "OEMs").

²⁵ Based on data provided in the preliminary economic analysis of [...], which shows that about [10%-20%] of the A segment cars and more than [20%-30%] of the B segment cars produced in the EEA between 2004 and 2010 were exported to other regions of the world. In terms of imports, more than [10%-20%] of A segment cars and more than [10%-20%] of B segment cars sold in the EEA were produced in other regions.

²⁶ Preliminary Economic Analysis of the Geographic Market, [...] (2011)

- The ten largest OEMs have a significant number of manufacturing sites all over the world. The Volkswagen Group operates 100 production plants, which are located in Europe, North America, South America, Africa and Asia. A high number of these production locations manufacture vehicles belonging to the A and B segments. The subsidiaries of large OEMs also compete internally for decisions regarding locations.
- (84) Based on the above, the Hungarian authorities suggest that the relevant market appears to be wider than the EEA and should cover at least the markets of all of Europe, North and South America and China.
- (85) In line with recent decisions regarding State aid for the car sector, the Commission is of the opinion that, from a supply-side perspective, production in the car sector is at least EEA wide.
- (86) From a customer perspective, which is mainly relevant at retail level, conditions of competition have significantly improved in the EU, in particular as regards technical barriers and distribution systems. Nonetheless, differences in prices and taxation systems are still limiting factors and penetration rates of major competitors differ across Member States and in particular continents.
- (87) In light of the above, for the purpose of assessing of the notified aid, the Commission considers that the relevant geographic market for the products concerned is at least EEA-wide. The Commission is however not in a position to confirm without doubts, on the basis of the arguments brought forward by the Hungarian authorities and within the preliminary examination phase, that the geographic market in the car sector, for the market segments concerned by the investment, is wider than the EEA market.
- (88) For the purpose of this preliminary examination, the definition of the relevant geographic market is left open, and the market shares for the car segments for the paragraph 68(a)-test are calculated at the EEA and at world-wide levels.

Market shares

- (89) To examine whether the project is compatible with paragraph 68(a) of the RAG, the Commission has to analyse the market share of the aid beneficiary before and after the investment and check if the market share exceeds 25%.
- (90) The beneficiary's market share is assessed at group level in the relevant product and geographic markets. As the new investment project of AHM started in 2011 and full production is foreseen to be reached in 2014, the Commission will examine the market share of the Volkswagen Group (including all the brands belonging to the group) on the relevant markets between 2010 and 2015.
- (91) Considering significant differences in production costs and prices of different passenger car, as well as difficulties in obtaining reliable price estimates, volume data are commonly used in the sector to define markets and market evolutions. The Hungarian authorities provided the following market share data:

Table IV.: Market shares of the Volkswagen Group on the global market

Segment	2010	2011	2012	2013	2014	2015
A0	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%
A	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%

B	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%
Combined segment: A and B	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%
Combined segment: A0, A and B	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%

Table V.: Market shares of the Volkswagen Group on the EEA market

Segment	2010	2011	2012	2013	2014	2015
A0	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%	[<25]%
A	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%
B	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%
Combined segment: A and B	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%
Combined segment: A0, A and B	[<25]%	[>25]%	[>25]%	[>25]%	[>25]%	[>25]%

- (92) On the basis of the above figures, market shares in the individual and combined A and B segments in the EEA exceed the 25% threshold in all of the years concerned. In the combined segment of A0, A and B in the EEA it exceeds the 25% threshold starting from the year 2011.
- (93) As the aid beneficiary seems to account for more than 25% of the sales of the product concerned on the plausible market (individual segments A and B, and combined segment of A0, A and B in the EEA), the threshold laid down in paragraph 68 (a) of the RAG is considered to be exceeded at this stage.

Production capacity

- (94) The Commission also has to examine whether the investment project complies with paragraph 68(b) of the RAG. It needs to verify whether the capacity created by the project is less than 5% of the size of the market measured using apparent consumption data of the product concerned, unless the average annual growth rate of its apparent consumption over the last five years before the investment is above the average annual growth rate of the EEA's GDP.
- (95) The Commission should thus first assess if the market is underperforming in the EEA based on the average annual growth rate (CAGR) of the apparent consumption of the product concerned. Hungary submitted apparent consumption data regarding the individual segments A0, A and B, the combined segment of A0, A and B as well as the combined A and B segment in the EEA between the years 2005 and 2010, as required to be able to carry out the paragraph 68(b) test, which is presented in the table below:

Table VI.: CAGR of apparent consumption in the relevant product market in the EEA

All OEMs	2005	2010	CAGR
A0	4,895,120	4,659,782	-0.98%
A	6,845,161	5,694,185	-3.61%
B	3,384,734	2,274,712	-7.64%

A-B	10,229,895	7,968,897	-4.87%
A0-B	15,125,015	12,628,679	-3.54%

- (96) The average annual growth rate of GDP in the EU-27 in the same period is 1.72%. Therefore, the CAGR of the apparent consumption on the relevant product market in the EEA is below the average annual growth rate of the EEA GDP over the last five years before the investment.
- (97) The Commission considers that, for the application of the paragraph 68(b) test, the gross capacity increase approach should be used. Therefore, it does not share, at this stage, the view of the Hungarian authorities that a net increase approach²⁷ should be applied, on the basis of the consideration that the capacity for assembly of predecessor models of the vehicles concerned by the notified investment already exists. The net capacity increase approach would prevent the Commission from assessing the effect of state aid on markets in decline and suffering from structural overcapacities, whenever the assisted investment would not expand the existing capacity by more than 5% of the size of the market. However, the paragraph 68(b) test has been introduced with the very objective of identifying those situations where the market is in decline and the size of the assisted investment is having a major impact on competitors.
- (98) The total additional maximum gross capacity created by the investment of AHM in volume terms amounts to approximately [130,000-180,000] vehicles per year.
- (99) Table VII below shows that even if the whole gross capacity of [130,000-180,000] cars created by the project was attributed to a single of the plausible market segments defined, only in one situation the 5% threshold would be exceeded. The 5% threshold would only be exceeded if the total production capacity would be used for the manufacturing of B segment cars. As Hungary indicated that only some [...] % of the assembly capacity would be used for the manufacturing of B-segment cars (i.e. some [<5]% of apparent consumption of B-segment cars in the EEA), it is highly unlikely that the 5% threshold will be exceeded for any of the plausible market segmentations.

Table VII: Capacity created by the investment projects in the relevant segments in 2010

Segment	Maximum gross capacity increase per year after the investment	Apparent consumption (EEA 2010)	Maximum gross capacity increase in % of EEA consumption
A0	[130,000-180,000]	4,659,782	[<5]%
A	[130,000-180,000]	5,694,185	[<5]%

²⁷ Under a net capacity increase approach, the net capacity increase would be below 5% ([<5] % for the individual A0; [<5] % for individual A; [<5] % for individual B segment; [<5] % for the combined A0, A and B segment and [<5] % for the combined A and B segment) at maximum utilisation.

B	[130,000-180,000]	2,274,712%	[>5]%
Combined segment A and B	[130,000-180,000]	7,968,897	[<5]%
Combined segment A0, A and B	[130,000-180,000]	12,628,679	[<5]%

- (100) With regard to the capacity created for the body parts in the press shop as a result of Investment II, the Commission considers the following. As described in recital 17 of this decision, it is planned that about [...] % of these body parts will be used for the cars—of segment A, B and theoretically of A0 - manufactured in the Győr plant. The remaining [...] % of the pressed body parts will not be sold on the market, but will be used for vehicles belonging to the B segment produced in other production sites of the Volkswagen Group. Therefore, applying the assumption that [...] % of the car production of the Győr plant will be used for B segment cars and the remaining [...] % of the press shop capacity will be used for B segment cars, the capacity increase by the investment of body parts for B segment cars would be [4.2%-4.9%]²⁸. Since the [...] % share assumption is indicative, the 5% threshold might be exceeded if the share of the B segment car production increases to [...] %. Therefore, the Commission leaves the question open whether the capacity created by Investment II exceeds 5% of the size of the market measured using apparent consumption data of the product concerned before the investment.
- (101) Since for the A and A0 segments the maximum capacity created by investment II remains [130,000-180,000], as the [...] % of products sold outside the Győr plant are body parts for segment B cars, the conclusion on maximum capacity increase in these segments does not change from what was established in recital 99 of this decision. In the combined segment of A0, A and B, as well as in the combined segment of A and B, the capacity increase remains far below the 5% threshold.
- (102) On the basis of the results of the paragraph 68(a) and (b) tests provided above, the Commission can neither confirm without doubt that the capacity increase test in an underperforming market does not exceed the threshold laid down in paragraph

²⁸ The production capacity of body parts for B segment cars is calculated on the basis of the following assumptions:

- Production capacity of B segment cars in the Győr plant by using body parts produced in the press shop of the Győr plant: Based on the information that about [...] % of the Győr production capacity will be used for the manufacturing of B segment cars, it can be assumed that [...] (i.e. [...] % of [130,000-180,000]) B segment cars per year will be manufactured from the body parts produced in the press shop of the Győr plant.
- Production capacity of B segment cars in other plants by using body parts produced in the press shop of the Győr plant: Since [...] % of the total press shop production can result into the manufacturing of [130,000-180,000] cars in the Győr plant, it can be assumed that in total a maximum of [...] cars will be supplied with body parts manufactured in the Győr plant. As [...] % of the press shop capacity will be sold to other entities within the Volkswagen Group for the production of B segment cars resulting into a production of [...] (i.e. [...] % of [...]) B segment cars per year in other Volkswagen Group plants.
- Thus, in total, the maximum capacity – of body parts manufactured in the press shop of the Győr plant to supply both the Győr plant and other plants for the production of B segment cars - created by Investment II for B segment cars will be [...]; which is [4.2%-4.9%] of the EEA apparent consumption data in the B segment in 2010.

68(b) of the RAG, nor can it affirm that the market share of the aid beneficiary does not exceed 25 % on the possible relevant product market. Therefore, the Commission is required under paragraph 68 of the RAG to open the formal investigation procedure in view of carrying out an in-depth assessment.

4. DOUBTS AND GROUNDS FOR OPENING THE FORMAL INVESTIGATION PROCEDURE

- (103) For the reasons set out above, the Commission, after a preliminary assessment of the measure, has doubts as to whether the notified aid can be considered not to exceed the thresholds laid down in paragraph 68 of the RAG.
- (104) Consequently, the Commission is under the duty to carry out all the required consultations and, therefore, to initiate the formal investigation procedure under Article 108(2) of the TFEU. This will give the opportunity to third parties whose interests may be affected by the granting of the aid to comment on the measure. In the light of both the information submitted by the Member State concerned and that provided by third parties, the Commission will assess the measure and will take its final decision.
- (105) In the event that the comments received within the prescribed period in reply to the opening of the formal investigation do not allow the Commission to conclude without any doubt that the thresholds laid down in the paragraph 68(a) and (b) tests are not exceeded, the Commission will carry out an in-depth assessment of the aid to the investment project on the basis of the Commission Communication on the Criteria for an In-Depth Assessment of Regional Aid to Large Investment Projects.²⁹
- (106) The Member State and interested parties are invited to provide in their comments to the opening decision all information necessary to carry out this in-depth assessment and to submit the appropriate information and documentation, as indicated in the Communication.
- (107) On the basis of the evidence submitted concerning the above mentioned factors, the Commission will perform a balancing exercise of the positive and the negative effects of the aid. The overall assessment of the impact of the aid will allow the Commission to take a final decision and close the formal investigation procedure.

5. CONCLUSION

- (108) In light of the foregoing considerations, the Commission, acting under the procedure laid down in Article 108(2) of the TFEU, requests Hungary to submit its comments and to provide all such information as may help to assess the aid measure, within one month of the date of receipt of this letter. It requests your authorities to forward a copy of this letter to the potential recipient of the aid immediately.
- (109) The Commission wishes to remind Hungary that Article 108(3) of the TFEU requires the Member State to suspend the implementation of the notified aid and would draw your attention to Article 14 of Council Regulation (EC) No 659/1999, which provides that all unlawful aid may be recovered from the recipient.

²⁹ Communication from the Commission concerning the criteria for an in-depth assessment of regional aid to large investment projects, OJ C 223, 16.09.2009, p.3.

- (110) The Commission warns Hungary that it will inform interested parties by publishing this letter and a meaningful summary of it in the Official Journal of the European Union. It will also inform interested parties in the EFTA countries which are signatories to the EEA Agreement, by publication of a notice in the EEA Supplement to the Official Journal of the European Union and will inform the EFTA Surveillance Authority by sending a copy of this letter. All such interested parties will be invited to submit their comments within one month of the date of such publication.

If this letter contains confidential information which should not be published, please inform the Commission within fifteen working days of the date of receipt. If the Commission does not receive a reasoned request by that deadline, you will be deemed to agree to publication of the full text of this letter. Your request specifying the relevant information should be sent by registered letter or fax to:

European Commission
Directorate-General for Competition
State Aid Greffe
B-1049 Brussels
Belgium
Fax (32-2) 296 12 42

Yours faithfully,
For the Commission

Joaquín ALMUNIA
Vice President