



EUROPEAN COMMISSION

Competition DG

Policy and Strategic Support
Antitrust Policy and Scrutiny

OPINION

of the **ADVISORY COMMITTEE on CONCENTRATIONS**

given at its 149th meeting on 19 April 2007

concerning a draft decision relating to

Case COMP/M.4381– JCI/ VB/ FIAMM

1. The Advisory Committee agrees with the Commission that the notified operation constitutes a concentration within the meaning of Article 3 (1)(b) of Council Regulation (EC) No 139/2004 and that it has a Community dimension.
2. The Advisory Committee agrees with the Commission that for the purposes of assessing the present operation, the **relevant product markets** are:
 - a) the OE market for starter batteries for cars/LCV
 - b) the OE market for starter batteries for trucks/HCV
 - c) the Independent Aftermarket ("IAM") for starter batteries for cars/LCV
 - d) the Independent Aftermarket ("IAM") for starter batteries for trucks/HCV.
3. The Advisory Committee agrees with the Commission that for the purposes of assessing the present operation, the **relevant geographic markets** are:
 - a) EEA –wide in scope for the OE market for starter batteries for cars/LCV
 - b) EEA-wide in scope for the OE market for starter batteries for trucks/HCV
 - c) national in scope for the Independent Aftermarket ("IAM") for starter batteries for cars/LCV
 - d) national in scope for the Independent Aftermarket ("IAM") for starter batteries for trucks/HCV.
4. The Advisory Committee agrees with the Commission that the notified concentration would create a dominant position on the EEA-wide markets for OE starter batteries for cars / LCV and for OE starter batteries for trucks / HCV (non-coordinated effects).
5. The Advisory Committee agrees with the Commission that the notified concentration will impede effective competition in the Italian, Austrian, Czech and Slovak IAM markets respectively for car/LCV batteries and for truck/HCV batteries, in particular as a result of the creation of a dominant position.
6. The Advisory Committee agrees that the conditions of competition cannot be expected to deteriorate to the same extent absent the merger, even if this would lead to the liquidation of FIAMMSBB.
7. The Advisory Committee agrees with the Commission that absent appropriate remedial action by the parties, the likely effects of the merger would be significantly worse in the OE market than the effects likely to result in the liquidation scenario.
8. The Advisory Committee agrees with the Commission that absent appropriate remedial action, the effects of the merger are likely to be significantly worse in the IAM market than the effects of the non-merger scenario (i.e. liquidation).

9. The Advisory Committee agrees with the Commission that the improved remedies submitted on 29 March 2007 for the OE market are sufficient to reduce the deterioration of the competitive structure to a level which is at least comparable to that of the liquidation scenario and therefore the commitments are suitable for remedying the significant impediments to effective competition in the EEA-wide OE markets resulting from the proposed transaction.
10. The Advisory Committee agrees with the Commission that the commitments are suitable for remedying the significant impediments to effective competition in the Italian, Austrian, Czech, and Slovak IAM markets respectively resulting from the proposed transaction.
11. The Advisory Committee agrees with the Commission that the proposed concentration, as modified by the final commitments, does not create nor strengthen a dominant position as a result of which effective competition would be significantly impeded in the common market or in a substantial part of it and as a result it can be declared compatible with the Common Market in accordance with Article 8(2) of the Merger Regulation.
12. The Advisory Committee asks the Commission to take into account all the other points raised during the discussion.

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