

***Case No IV/M.1592 -
TOYOTA MOTOR /
TOYOTA DENMARK***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 23/07/1999

*Also available in the CELEX database
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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.07.1999

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 Sirs,

Subject: Case No IV/M.1592 – Toyota Motor/Toyota Denmark

Notification of 24.6.1999 pursuant to Article 4 of Council Regulation N/ 4064/89

1. On 24.6.1999, the Commission received the notification of a proposed operation by which the Japanese company, Toyota Motor Corporation (“TMC”) will acquire sole control over its exclusive distributor in Denmark, Toyota Danmark A/S (“TDK”).
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

I. The parties and the operation

3. TMC is inter alia engaged in the manufacture, sale, leasing and repair of motor vehicles, ships, aircraft and other transportation equipment, as well as the manufacture of industrial machinery. The target company, TDK, is the exclusive distributor of Toyota automobiles and parts therefor in Denmark. TDK is fully-owned by the Toyota Fonden (“TF”), a private trust.
4. The proposed operation consists of the acquisition by TMC of sole control over TDK through the acquisition of 100% of the stock capital of the latter company.

II. Concentration of a Community Dimension

5. The operation constitutes a concentration within the meaning of Article 3.1.b. of the Merger Regulation.
6. TMC and TDK have a combined aggregate worldwide turnover in excess of EUR 5,000 million (TMC, EUR 85,076 million; TDK, EUR 295.8 million). Each of them has a Community-wide turnover in excess of EUR 250 million (TMC, EUR 5,856.5 million; TDK, EUR 295.8 million). TMC and TDK do not both achieve more than two-thirds of their respective aggregate Community-wide turnovers within one and the same Member State. The notified operation has, therefore, a Community dimension.

III. Assessment

7. The operation consists essentially of the vertical integration in Toyota of its wholesale distribution for passenger cars and parts therefor in Denmark. From the information provided by the Toyota Motor Corporation to the Commission, it appears that the operation neither gives rise to any affected markets, nor presents any other competition concerns.
8. Hence, it is considered that the proposed concentration does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the EEA or any substantial part of that area.

IV. Ancillary Restraints

9. Under Section 10.1 of the Share Purchase Agreement, the vendor, TF, undertakes during a period of five years from the Closing Date, neither directly nor indirectly, to participate in or prepare for later implementation any business which is carrying out or otherwise involved in the sale, distribution or marketing of cars or vehicles of any type in Denmark (including Greenland and the Faroe Islands). This non-compete obligation is intended to guarantee the acquirer the full value of the assets transferred, which include goodwill and know-how. In the circumstances, the Commission considers the clause directly related and necessary to the implementation of the concentration.
10. Under Section 10.2, TF further undertakes for a period of twelve months from the Closing Date not to employ, except with the prior written consent of TMC, any key employee of TDK. This clause is intended to guarantee the acquirer the full value of the assets transferred, which include goodwill and know-how. Consequently, the Commission can consider the clause directly related to and necessary to the implementation of the concentration.

V. CONCLUSION

11. 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 (EEC) No 4064/89.

For the Commission,