

***Case No COMP/M.1761 -
TOYOTA MOTOR /
TOYOTA FRANCE***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 30/11/1999

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

Brussels, 30.11.1999

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 COMP/M. 1761 – Toyota Motor/Toyota France

Notification of 26.10.99 pursuant to Article 4 of Council Regulation No 4064/89

1. On 26.10.1999, 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 wholesale distributor in France, Toyota France S.A. (“TFR”).
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, TFR is the exclusive wholesale distributor of Toyota automobiles and parts in France (the retail activities of TFR were sold off on 30th June 1999).

4. The proposed operation consists of the acquisition by TMC of sole control over TFR through the acquisition of 100 % of the stock capital. Prior to the current transaction, TFR was jointly controlled by TMC and Walter Frey Holding AG (“WFH”) ¹.

II. Concentration

5. The operation constitutes an acquisition by TMC of sole control over TFR, and is therefore a concentration within the meaning of Article 3.1.b. of the merger Regulation.

III. Community Dimension

6. TMC and TFR have a combined aggregate worldwide turnover in excess of EUR 5,000 million (TMC, EUR² 87138 million; TFR, EUR 530 million). Each of them as a Community-wide turnover in excess of EUR 250 million (TMC, EUR 58570 million; TFR, EUR 530 million). TMC and TFR 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.

IV. Assessment

7. The operation consists essentially of the complete vertical integration in TMC of its wholesale distribution of automobiles and parts in France.
8. TMC is not currently active in the wholesaling of motor vehicles in France, except through its joint control of TFR. The proposed concentration will result in no additional market foreclosure. TFR’s distribution network was only available for TMC cars prior to this transaction, and will remain so following the acquisition of sole control by TMC.
9. There are no horizontally or vertically affected market in the sense of the Merger regulation involved in the present transaction. TMC’s share of the automobile vehicle market in the EU is less than 4% overall and does not exceed 25% for any individual vehicle segment in the Member State involved, that is France.
10. In view of the above, the operation will not lead to the creation or strengthening of a dominant position.

¹ See decision IV/M.326 of 1st July 1993.

² Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

V. Ancillary Restraints

11. Under the Share Purchase Agreement, for a period of three years from the Closing Date, the vendor WFH shall not without prior consultation with TMC, engage directly or indirectly in the activity of distribution of motor vehicles in France except for the wholesale distribution of Daihatsu and Subaru vehicles and except for the retail sale of motor vehicles. This non-compete obligation is intended to guarantee the acquirer the full value of the assets transferred. The Commission considers the clause directly related and necessary to the implementation of the concentration.

VI. Conclusion

12. 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,