

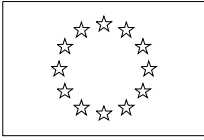
***Case No COMP/M.1789 -
INA / LUK***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 22/12/1999

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.12.1999

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.1789 – INA / LUK

Notification of 19.11.1999 pursuant to Article 4 of Council Regulation No 4064/89

I. THE PARTIES AND THE OPERATION

1. The German company INA Holding GmbH & Co KG (INA Holding) is the ultimate holding company of the INA Group (INA). INA develops, produces and sells precision components for the automotive and other industries, including engine components, anti-friction bearings and so-called linear technique products.
2. The companies belonging to the LuK Group ('LuK') manufacture engine components, including clutches, brake bands, power steering pumps, vacuum pumps and torque converters. The parent company LuK GmbH & Co is ultimately owned by two holding companies, in each of which Valeo Deutschland GmbH has a 50% shareholding. Valeo Deutschland GmbH in turn belongs to the company Valeo SA.
3. INA and Valeo SA presently each indirectly hold 50% of LuK. Through the concentration, INA will acquire the 50% share capital held by Valeo Deutschland GmbH and thus acquire sole control over LuK.

II. CONCENTRATION

4. The operation will lead to a shift from joint control by INA and Valeo SA over LuK, to sole control by INA, and it therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. COMMUNITY DIMENSION

5. The combined aggregate world-wide turnover of INA and LuK exceeds € 2 500 million (aggregate world-wide turnover: €[...] million). Each of INA and LuK have an aggregate Community-wide turnover in excess of € 100 million (INA and LuK

have a Community-wide turnover of respectively €[...] million and €[...] million), but they do not realise more than two thirds of their aggregate EU-wide turnover in one and the same Member State. The combined aggregate turnover of INA and LuK exceeds €100 million in each of at least three Member States (€[...] million in [...], €[...] million in [...] and €[...] million in [...]). In these same Member States each of INA and LuK have an aggregate turnover in excess of €25 million. The notified operation therefore has a Community dimension within the meaning of Article 1(3) of the Merger Regulation. It does not constitute a co-operation case under the EEA agreement.

IV. COMPATIBILITY WITH THE COMMON MARKET

6. INA and LuK do not supply overlapping products. However, there are certain products (four in total) for which there is a vertical relationship between the parties, i.e. where INA supplies LuK. These products are: dual-mass flywheels, for which INA delivers deep-groove ball bearings as an input to LuK, as well as release bearings, valve train actuation products and tension pulleys, which are delivered by INA to LuK for distribution as spare parts on the after market.

Relevant Product Markets

7. For automotive components, the Commission generally makes a distinction between the sale on a so-called OEM/OES basis, that is sales to Original Equipment Manufacturers (OEM), in this case motorvehicle industry, and sales to those same clients of spare parts (OES), and sales of spare parts on the (independent) after market (IAM or AM sales). In line with previous decisions¹, the same distinction applies in this case.
8. The products referred to above can be described as follows:

Dual-Mass Fly Wheels

9. Dual-mass flywheels correspond to a specific type of flywheel. Together with clutches, flywheels represent the link between the engine and the transmission and allow the transfer of the engine torque to the wheels of the vehicle. Conventional solid flywheels can substitute dual-mass flywheels. According to the parties, the relevant product market comprises dual mass and conventional solid flywheels.

Release Bearings

10. Bearings are designed to reduce friction. There are two main kinds of bearings: the antifriction (as roller bearing and ball bearing) and the sliding type. The release bearing purchased by LuK from INA is an angular contact ball bearing and is designed to enable rotational movement and to support radial and axial movement on the gearbox guiding tube. LuK resells these products only as part of a complete clutch repair set which it sells on the after market. In the view of the parties different types of

¹ See for example the Commission Decisions of 28 January 1998, ECIA/Bertrand Faure, IV/M.1093; 22 July 1997, Lear/Keiper, IV/M.937; 18 December 1996, Textron/Kautex, IV/M.861; 11 July 1996, Lucas/Varity, IV/M-768; 9 April 1996, Bosch/Allied Signal, IV/M.726.

release bearings such as deep groove ball bearings or angular contact ball bearings are substitutable, and all these different ball bearings belong to a single product market.

Valve Train Actuation Products (Valve Lifters)

11. Valve train actuation devices are units that make contact between the so-called valve stem and the camshaft. The valve lifters (a valve train actuation product) which INA supplies to LuK for after market sales, according to the parties, are part of the market for valve actuation devices since they can be substituted by different kinds of valve actuating systems, such as rocker arms and finger follows.

Tension Pulleys

12. Tension pulleys are devices used in belt drive lines of cars, by putting pressure on them or by guiding them. Pulleys can be either statically or adjustably fixed to the engine front. In the opinion of the parties, tension pulleys form a distinct product market.
13. As explained, the information provided by the parties suggests that the products described above may form part of larger product markets. However, even if the individual products are considered as belonging to distinct product markets, the operation does not raise competition concerns. The exact delineation of the product markets can therefore be left aside.

Relevant Geographic Market

14. In previous decisions² the Commission has found the relevant geographic market for the OEM/OES sales to be EEA-wide and it has stated that in relation to sales to the after market clients, the market may be national. However, as in previous cases, the geographic definition of the after market can be left open since even on the basis of a national market, the operation does not raise competition concerns.

Competitive assessment

Dual-mass flywheels

15. INA currently supplies deep groove ball bearings as an input to LuK for its dual-mass flywheels. Given this vertical relation between INA and LuK, the Commission assessed has the (potential) effects of the merger both on the upstream market for deep groove ball bearings as well as on the market for dual mass flywheels.
16. LuK currently holds approximately [more than 90%] of the market for dual mass flywheels according to its own information. Given that situation, the question has arisen whether the merger leads to possible foreclosure effects on other suppliers of deep groove ball bearings, because of their dependency on LuK as a source of demand.
17. Firstly, deep groove ball bearings have a number of applications for other equipment, for example for machine tools, electrical motors, etc. Approximately [...] % of the deep groove ball bearings produced by INA are sold for these other applications This

² See previous footnote.

implies that suppliers of deep groove ball bearings are not economically dependent on sales to LuK or to dual mass flywheel producers in general.

18. Furthermore, the investigation has pointed out that LuK's market share for dual mass flywheels is likely to erode significantly within the next 3-5 years. Competitors of LuK for dual mass flywheels have successfully entered the market in recent years based on their own technology: Mannesmann (since 1999) and Valeo (since 1994). It is noted that after the operation, Valeo will become independent from LuK as a source of supply fully independent from LuK. The company [...] is expected to launch a product in the year 2000. All these competitors have contracts or are expected to enter into contracts with major OEM customers. Given these developments, it is probable that LuK will lose considerable market share to its competitors in the next years. The market investigation has confirmed this trend. This means that for suppliers of deep groove ball bearings other sources of demand will become available, insofar as these competitors require deep groove ball bearings in their dual mass flywheels.
19. Two other relevant circumstances can be mentioned. Firstly, LuK has historically purchased all of its deep groove ball bearings from INA, even though it was not bound by any obligation to do so. This means that post-merger the situation of third-party suppliers will not be different. Secondly, LuK has stated that due to technical innovations, it will [...].
20. As regards supplies of dual mass flywheels, in so far as they use deep groove ball bearings, it is noted that a number of other suppliers exist for this product and INA has a share of [below 10%] on an EEA basis. Moreover, it makes clear that producers of dual mass flywheels have sufficient other sources of supply available. The Commission's investigation supports these conclusions.
21. As a result of the above circumstances, and in spite of the current high market share for dual mass flywheels, the operation will neither lead to foreclosure effects on the deep groove ball bearings market, nor on the dual mass flywheel market.

Release bearings

22. The Commission has investigated whether any foreclosure effects could occur as a result of the merger, for release ball bearing sold to OEM/OES as well as for after market sales of such products. For the reasons below, it found that sufficient competition is present, both for release bearings as well as on the after market, so that such effects will not occur.
23. No publicly available data on the market size and markets shares are available, but the Commission's investigation has confirmed that INA is amongst four large suppliers of release ball bearings on an EEA level: other suppliers with considerable market shares (more than 15%) are SNR, Mannesmann-Sachs and SKF. The overall share of INA in the EEA (i.e. OEM/OES and AM sales combined), according to the parties' estimates, is at [between 15-25%].
24. The supply of release ball bearing of INA to LuK is only in relation to the after market of complete clutch repair sets (one clutch repair sets contains a release bearing, a clutch cover and a clutch driven plate). On the after market (for clutch repair sets), LuK's share of sales is at about [between 10-20%] on an EEA basis. On a national basis, the market share of LuK does not exceed [between 20-30%] in any EEA

country. Therefore, competing suppliers of release ball bearings have sufficient possibilities for selling their products to competing suppliers of LuK.

Valve Trains

25. Valve train actuation products (valve trains) and tension pulleys also represent two vertically affected markets to the extent that both are produced by INA and sold by LuK on the after market. The Commission has therefore investigated the same issues as for clutch release bearings.
26. For valve trains, INA has an estimated share of some [between 40-50%] in the EEA (OEM/OES and AM sales combined). However, a number of other sources of supply are available to sellers on the after market, such as the companies Eaton and Mahle with an estimated [between 10-20%] and [between 10-20%] on an EEA basis.
27. After market sales of INA to LuK represent only a marginal proportion of total sales of valve trains. Valve train sales of INA to LuK were less than €[...] and amount to [...] % of INA's total sales of these products. The market share of LuK on the general after market segment for automotive components is estimated to be at below [5%] on an EEA basis and below [5%] in any EEA country.
28. As a result of the above market structure, the operation is not expected to lead to foreclosure effects on the after market for valve train actuation products.

Tension pulleys

29. As regards tension pulleys, Litens, Gates, Dayco and SKF are examples of competitors active in the tension pulleys market. The overall market share of the parties for tension pulleys is estimated to be of around [between 20-30%] on an EEA basis. Sales of tension pulleys for INA to LuK are very small (€[...]). At the level of after market distribution LuK's position is below [5%] on any national market, as outlined above.
30. As a result of the above market structure, the operation is not expected to lead to foreclosure effects on the after market for tension pulleys.

V. ANCILLARY RESTRAINTS

31. The parties have notified one clause as an ancillary restraint and that is a non-solicitation clause that contains the obligation for Valeo (the seller) not to solicit employees, agents or advisors of LuK for a five-year period. That restraint is considered to guarantee INA the full value of its investment and may therefore be considered as ancillary to the operation.

VI. CONCLUSION

32. For the above-mentioned reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,