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*Case No COMP/  
M.1827 – Hanson /  
Pioneer*

Only the English text is available and authentic.

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

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Article 9(4)a  
Date: 24/03/2000



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 24/3/2000 – C(2000)878

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 9(4)(a) DECISION

**Decision relating to the referral of the case No COMP/M. 1827 – Hanson / Pioneer to the United Kingdom Competition Authorities, pursuant to Article 9 of Regulation 4064/89**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No. 4064/89 of 21 December 1989, on the control of concentrations between undertakings<sup>1</sup>, as amended by Council Regulation (EC) No 1310/97 of 30 June 1997<sup>2</sup> (together, ‘the Merger Regulation’), and in particular article 9(3) thereof,

Having regard to the notification made by Hanson PLC on 10 February 2000, pursuant to article 4 of the said Regulation,

Having regard to the request of the United Kingdom Competition Authorities of 7 March 2000,

Whereas:

1. On 10 February 2000 the Commission received a notification of a proposed concentration by which Hanson PLC will acquire sole control of Pioneer Limited.
2. By a letter dated 7 March 2000, the United Kingdom requested the referral to the competent United Kingdom competition authorities of the proposed concentration

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<sup>1</sup> OJ L 395, 30.12.1989, p.1; corrected version OJ L 257, 21.9.1990, p.13

<sup>2</sup> OJ L 180, 9.7.1997, p.1; corrigendum OJ L 40, 13.12.1998, p.17

with a view to assessing it under United Kingdom national competition law, pursuant to article 9(2)(a) of the Merger Regulation (“the request”).

## **I THE PARTIES**

3. Hanson PLC (“Hanson”) is a UK company involved in the production and supply of aggregates – sand, gravel and crushed rock, ready mixed concrete, cement, concrete products, mortar, and asphalt in the UK and USA. It also operates in various parts of the world, including France, Belgium, the Netherlands, and Belgium, where it is involved in the manufacture of clay bricks.
4. Pioneer Limited (“Pioneer”) is an Australian company. Its principal activities are the production of aggregates, asphalt, cement, ready mixed concrete and the manufacture of concrete products. In the EU it has operations in the UK, Germany, Spain and the Netherlands. Outside the EU, Pioneer has operations in Australia, the USA and elsewhere.

## **II THE OPERATION**

5. The operation will be effected by means of a cash and shares offer by which Hanson will acquire all the issued share capital of Pioneer.

## **III CONCENTRATION**

6. The proposed concentration is an acquisition of sole control for the purposes of article 3(1)(b) of the Merger Regulation.

## **IV COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover in excess of € 5,000 million (Hanson. € 2,837 million, Pioneer. € 2,421.6 million). Each of them has a Community-wide turnover in excess of € 250 million (Hanson c. € 1,233.8 million, Pioneer c. € 639.1 million)<sup>3</sup> and only Hanson achieves more than two-thirds of its Community-wide turnover within one of the same Member State- the UK. Therefore, the notified operation has a Community dimension in accordance with article 1(2) of the Merger Regulation.

## **V RELEVANT MARKETS**

### **Introduction**

8. The request is for the referral of the proposed concentration, on the grounds that it threatens to create or strengthen a dominant position on certain markets within the UK which present all the characteristics of distinct markets (article 9(2)(a) Merger Regulation), namely the markets for aggregates, asphalt, and ready-mixed concrete where both parties are active in the UK. As detailed below, the concentration does not threaten to create or strengthen any dominant positions in countries other than the UK.

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<sup>3</sup> all figures calendar year 1998

## **Product Markets**

### *Aggregates*

9. The request treats all three main aggregate types (sand, gravel and crushed rock) as a single product market. This approach is in accordance with the view taken in previous Commission decisions in merger cases concerning aggregates<sup>4</sup> and with the views of the notifying party in its Notification of the present case, and generally confirmed by the Commission's enquiries of third parties.
10. Both parties, and their main competitors, produce all three aggregate types. Although there is some variation in ex-works prices of aggregates as between the different main types, there is considerable scope for demand-side substitution between them, especially for concrete production, which according to the parties accounts for over 80% of total aggregate consumption by the construction industry in the UK, and for road building. Since transport costs account for a substantial proportion of the total price of all aggregates (for Hanson, transport cost represent on average 25% of delivered revenues ; at a 30 mile radius, transport costs represent over 40% of delivered revenues, and at 50 miles, are just over 50%) this tends to reduce the impact of variations in the ex-works price for the different types of aggregates.
11. According to information provided to the Commission, most customers choose sources of aggregates principally on the basis of their distance from the point of use rather than the type of material. Moreover, due to local geological conditions – sand and gravel are alluvial or marine-sourced products, crushed rock is obtained from various, mainly harder, rock types (e.g. granite, quartzite, limestone) – customers in some areas will not have a source of more than one type of aggregate within an economic distance.
12. If the relevant product markets should be narrower than in the request, then it is likely that substantial market shares and increments, indicative of the existence of a threat of the creation or strengthening of a dominant position, would also arise in certain areas within the UK on that basis. It is accordingly not necessary, for the purposes of the present decision, to consider further subdividing the aggregates product market. It is nevertheless important to note that there may also be a separate product market for high polished stone value (“high PSV”) which may cause competition concerns on further investigation. Compared to other aggregates, high PSV is a hard-wearing, skid-resistant stone. It is therefore mainly used for top layers of roads and is not used for the full range of other, more general uses for which aggregates are used. In addition, the geographic market may be different because high PSV can only be found in relatively few locations. The possibility that high PSV may be a separate relevant product market is highlighted in the request.

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<sup>4</sup> case no. IV/M 1030, Lafarge/Redland, referral to France, at page 3; case n° IV/M 1157 Skanska/Scancem, at paras. 32 and 33; also case n° IV/M 1779 Anglo American/Tarmac, referral to the UK, at page 3.

13. The notifying party suggests that ‘secondary aggregates’ – colliery and china clay waste, slate, power station ash, slag and demolition/construction wastes – should be regarded as substitutes for aggregates used in construction, and more specifically in a wide variety of concreting applications. These materials accounted for some 13-18% of all aggregates production in the UK in 1997 but there are no detailed data maintained in respect of production volumes, usage and pricing of recycled and secondary aggregates in particular geographic markets.
14. It is however clear from the Notification that secondary aggregates are not fully substitutable for primary aggregates across the whole range of applications. Therefore they will not constrain prices in all of them. The extent to which they will constrain prices in the applications for which they can in principle be substituted will also vary between localities according to availability and transport cost/distance. Nevertheless, it is not necessary to decide whether secondary aggregates should be included in the relevant product market for the purpose of the present decision. This is because according to the available information, there would still be a threat of the creation or strengthening of a dominant position, even on a generous estimate of secondary aggregates’ impact on the various relevant geographic aggregate markets.

#### *Asphalt (coated stone)*

15. “Asphalt” is the main product used for surfacing roads. According to the notification, road building and maintenance account for more than 71 per cent of the UK’s asphalt usage.
16. Although the notifying party suggests that other types of surfacing (notably concrete, paving stones and stone chippings) are effective substitutes for asphalt in its main use, it treats asphalt as a distinct market product.
17. This is in accordance with previous decisions under the Merger Regulation.<sup>5</sup>

#### *Ready-mixed concrete*

18. Previous decisions under the Merger Regulation<sup>6</sup> have confirmed that ready-mixed concrete is, as stated in the request, a distinct product market. No information to suggest otherwise has come to light in the present case.

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<sup>5</sup> *ibid*

<sup>6</sup> *cf* Lafarge/Redland and Skanska/Scancem as above; also IV/M 460 Holdercim/Cedest (article 9 referral to France).

## **Geographic markets**

### ***Aggregates***

19. The request states that the relevant geographic markets for aggregates are local, due principally to the impact of transport costs, with an effective maximum distance of c.50 km from the source of supply. This is consistent with the previous Commission decisions already referred to and with the view of the notifying party who stressed that the definition of geographic markets is not clear-cut, depending, for example, on the transport infrastructure and the availability of supply. Aggregates markets in the UK will in any event not be wider than national, even if several local markets were found to give rise to a chain of substitution across a larger area. Imports into the UK by sea are technically feasible but practically non-existent, partly no doubt due to the additional cost of transshipping them for onward transport (usually by road). No contrary indications have come to light in the Commission's investigation of the present case. Aggregates can therefore, as in the request, be regarded as a distinct market (or markets) within the UK (Article 9(7) Merger Regulation).

### ***Asphalt***

20. Essentially the same arguments and conclusion apply as for aggregates (see above) and ready mixed concrete (see below). Asphalt is a perishable product and needs to be transported in special heated containers to prevent it from setting before it can be delivered and laid. The request states that the geographic market are local markets extending to around 50 km from the point of production and that the maximum possible transport time (regardless of distance) is less than three hours. This is consistent with the Notification, and with previous Commission decisions<sup>7</sup> and no contrary indications have arisen in the course of the Commission's examination of the present case.

### ***Ready-mixed Concrete***

21. The request states that the relevant markets are local, with a maximum supply distance of c.15km from the production site. This is consistent with previous Commission decisions in the sector<sup>8</sup>, with the Notification, and with third party views in the present case, also with previous cases dealt with under UK national merger control law<sup>9</sup>. Ready-mixed concrete is highly perishable, because it sets quickly, and transport costs are high. Special containers (mixer trucks) are needed to transport it so that it does not set before being laid, and even then the maximum effective transport period is quite short (about one hour). Ready-mixed concrete can therefore be regarded as a distinct market within the UK for the purposes of article 9(7), Merger Regulation.

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<sup>7</sup> cf also IV/M 678, Minorco/Tilcon .

<sup>8</sup> cf cases in footnotes 4 and 5 above.

<sup>9</sup> eg, Lafarge/Redland

## VI COMPETITION ASSESSMENT

### Non-UK activities in the EU

22. In addition to their operations in the UK, both Hanson and Pioneer also operate in Germany and the Netherlands. Examination of the parties' activities in these two countries indicates that there are only very limited horizontal or vertical overlaps between the parties and that there are no competition issues that need to be addressed or investigated further.
23. In Germany, Hanson produces [1,5 - 2,5 million tonnes] of aggregates in the Thuringen region and Pioneer produces [< 0,5 million tonnes] of aggregates from a quarry in the Giessen region. Pioneer's quarry is located approximately 140 km from the nearest Hanson quarry. On the basis of geographical markets which extend to a radius of 50km from the site of production, there will be no direct horizontal overlap between Hanson's and Pioneer's aggregates activities.
24. There is a vertical overlap between Hanson's aggregates activities in Thuringen and the two Pioneer ready mixed concrete plants located in the same region, at Erfurt and Eisenach. Of these, the parties have argued that Hanson's aggregates activities could only economically supply the Erfurt plant. Taking a 20km radius, the Erfurt plant has an estimated market share of [5 -15%]. In addition, there are five quarrying companies in a 30km radius that could supply the Erfurt plant with aggregates. The vertical overlap will therefore not create any competition issues.
25. In the Netherlands, Hanson has a single sand and gravel plant in Amsterdam, processing UK dredged materials. This plant produces [0,5 - 2 million tonnes] of aggregates which it delivers to a trading company, BKV, under a five year supply agreement. The parties estimate that these supplies represent a [5 - 15%] share of primary aggregates produced within a 50km radius of the Amsterdam wharf. Pioneer supplies [< 0,5 million tonnes] of marine dredged ballast in Amsterdam via United Marine Dredging, a 50/50 joint venture between Pioneer and Tarmac, and a further [< 0,5 million tonnes] to the port of Rotterdam. This ballast has to be processed before being sold as aggregates. Even if Pioneer controlled the subsequent sale of the processed aggregates, the resulting horizontal overlaps with Hanson's activities do not raise competition concerns for the supply of aggregates.
26. Hanson produces no ready mixed concrete in the Netherlands. Pioneer has three concrete plants, in Amsterdam, Rotterdam and Utrecht. While there is a potential vertical overlap between the Amsterdam plant and Hanson's supply of aggregates to Amsterdam, since there appears to be no issue of dominance at the horizontal level, this vertical overlap does not create any competition concerns.

### *Aggregates*

27. On the basis of information provided by the parties in Form CO, the request identifies at least 18 local areas where the concentration threatens to create or strengthen a dominant position in aggregates. In each of these areas, the merger may restrict competition considerably in a 50 km radius as the parties will have a combined market share of over [25 - 35 %] in these areas with an increment of over 3%.

28. The table below details the 18 areas with the 8 first ones located in south west of England and the other 10 in Wales. In each of these areas, the parties' combined market share and the increment of market share arising from the merger are substantial; in terms of share of production, the combined shares and increments are as follows.

<b>50 km radius</b>	<b>Market share %</b>	<b>Increment %</b>
Tytherington	[35 – 45]	[< 5]
Avonmouth	[35 – 45]	[< 5]
Chipping Sodbury	[35 – 45]	[< 5]
Brayford	[35 – 45]	[5 – 15]
Drybrook	[35 – 45]	[5 – 15]
Whatley	[35 – 45]	[< 5]
Batts Combe	[35 – 45]	[< 5]
Long Ashton	[35 – 45]	[< 5]
Newport	[35 – 45]	[5 – 15]
Machen	[35 – 45]	[5 – 15]
Livox	[35 – 45]	[5 – 15]
Penhow	[35 – 45]	[5 – 15]
Craig Yr Hesg	[35 – 45]	[< 5]
Vaynor	[35 – 45]	[5 – 15]
Cardiff	[35 – 45]	[5 – 15]
Gelligaer	[30 – 40]	[5 – 15]
Forest Wood	[35 – 45]	[5 – 15]
Grove	[30 – 40]	[5 – 15]

29. The notifying party explains that the data must be interpreted with caution : they include the supplies to the parties' own manufacturing plants ; because the data is based on production, it is not possible to reflect accurately trade flows into centres of consumption ; and the data takes no account of the competition from secondary and recycled aggregates. It comments further that these figures, though the best the parties can provide, are likely to overstate the parties' position, since most of the long list of quarries are accounted for by quarries in the South West and Wales where Hanson has a number of quarries in relatively close proximity to each other, so that the market share in respect of any particular quarry principally represents multiple counting of the same tonnage production at other quarries in the same geographic area. In regard to South Wales for example, the high apparent market shares include important quarries which lie across the river Severn in the South West whereas there is in fact little movement of aggregates from South Wales into the south west, and vice versa, because of a charge of £12.70 levied on each tipper vehicle crossing the Severn Bridge, making this traffic largely uneconomic, according to the parties.
30. In the Commission's view, these issues can only be resolved by further detailed investigation. But, *prima facie*, they do not remove the threat of dominance. First of all, trade flows across regional boundaries will not affect shares or prices in the



more centrally-located relevant local markets. Second, as regards the impact of secondary aggregates, their partial substitutability with the more traditional aggregates is likely to overstate their effect, given that (as discussed above) their use, and local availability, are restricted. Third, as regards in-house consumption, even if, as claimed by the notifying party, vertical integration will not increase overall as a result of the merger, the operation is nevertheless likely to result in changes to the supply structure at the local level where competition takes place. Last, this result does not take into account either the marine dredged aggregates supplied by Hanson to other aggregate suppliers or, as is emphasised in the request, the parties' share of the market shares of their joint ventures. Both these factors would significantly enlarge both the scope of the threat of dominance and the number of areas threatened (the number of local markets affected may increase to over 30). The Commission believes that full and proper account should be taken of all the activities of the joint venture companies over which the parties have joint control.

31. Moreover, previous cases in this sector have highlighted the importance of entry barriers in aggregate supply. This is also likely to apply in the present instance. Not only are the resources themselves finite, scarce and to a large extent already in the possession of aggregate suppliers, but increasing environmental and logistic pressures will make effective expansion and entry more difficult still. Further barriers are created by the relatively static demand for aggregates and the significant level of concentration already present in the UK heavy construction materials sector as a whole.
32. Accordingly, on the basis of the information available, it can be concluded that the concentration would, as in the request, threaten to create or strengthen a dominant position in certain distinct markets for aggregates within the UK (Article 9(2)(a) Merger Regulation.)

## *Asphalt*

33. As in the case of aggregates, the request is made on the basis of certain local markets within the UK, which however can only be denominated precisely after further and more detailed investigation, but which are likely to be smaller than the areas in respect of which data has been supplied by the parties (84 km radius). The fifteen areas identified are in either the South West or Wales, and the shares and increments involved, on the basis of the information in the Notification, are as follows.

<b>84 km radius</b>	<b>Market share %</b>	<b>Increment %</b>
Chipping Sodbury	[35 – 45]	[5 – 15]
Tytherington	[35 – 45]	[5 – 15]
Barton Wood	[50 – 60]	[5 – 15]
Whitecleaves	[50 – 60]	[5 – 15]
Batts Combe	[35 – 45]	[5 – 15]
Whatley	[35 – 45]	[5 – 15]
Livox	[35 – 45]	[5 – 15]
Machen	[35 – 45]	[5 – 15]
Craig Yr Hesg	[35 – 45]	[5 – 15]
Penderyn	[35 – 45]	[5 – 15]
Vaynor	[35 – 45]	[5 – 15]
Builth Wells	[35 – 45]	[5 – 15]
Durnford	[35 – 45]	[5 – 15]
Westbury	[35 – 45]	[5 – 15]
Forest Wood	[35 – 45]	[5 – 15]

34. The merged company would be by some margin the largest supplier in each of these areas. Given also the effects of vertical integration (notably, because aggregates are an important input for asphalt production) and entry barriers (aggregate supply, environmental issues, and the need for a fleet of special-purpose vehicles) it can be concluded that as argued in the request, the concentration threatens to create or strengthen a dominant position in certain distinct markets within the UK for asphalt.

***Ready-mixed Concrete***

35. The request identifies, on the basis of the information available, at least 52 areas in which there are local markets giving rise to a threat of dominance post-merger (shares and increments as in Form CO), as the parties would have a combined market share of over [35 - 45 %] in local areas using a 16 km radius from production. The affected areas are listed in the following table.

<b>Hanson production centre (16 km radius)</b>	<b>Market share %</b>
Newhaven	[70 – 80]
Shoreham	[70 – 80]
Eastbourne	[60 – 70]
Gosport	[60 – 70]
Havant	[50 – 60]
Andover	[90 – 100]
Southampton	[40 – 50]
Hythe	[40 – 50]
Banbury	[50 – 60]
Littlehampton	[50 – 60]
Washington	[50 – 60]
Chichester	[70 – 80]
Newton Abbot	[50 – 60]
Plymouth	[50 – 60]
Exeter	[50 – 60]
Cheltenham	[40 – 50]
Lechlade	[70 – 80]
Bath	[40 – 50]
Swindon	[40 – 50]
Newport	[50 – 60]
Barford	[50 – 60]
Corby	[50 – 60]
Wellingborough	[50 – 60]
Filey	[70 – 80]
Risca	[40 – 50]
Machen	[50 – 60]
Newport	[40 – 50]
Swansea	[50 – 60]
Britton Ferry	[50 – 60]

<b>Pioneer production centre (16 km radius)</b>	<b>Market share %</b>
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Eastbourne	[50 – 60]
Bedford	[50 – 60]
Hailsham	[60 – 70]
Andover	[90 – 100]
Havant	[50 – 60]
Portsmouth	[50 – 60]
Southampton	[50 – 60]
Romsey	[40 – 50]
Ashford	[40 – 50]
Banbury	[50 – 60]
Shoreham	[50 – 60]
Chichester	[50 – 60]
Plymouth	[50 – 60]
Heathfield	[50 – 60]
Exeter	[50 – 60]
Fairford	[40 – 50]
Corby	[50 – 60]
Kettering	[50 – 60]
Rushden	[60 – 70]
Bridlington	[90 – 100]
Newport	[40 – 50]
Swansea	[50 – 60]
Pontypool	[60 – 70]

As with the other products mentioned, the parties would together be the largest player in these areas. Essentially similar issues of vertical integration and entry barriers as in aggregates and asphalt also arise in ready mixed concrete.

36. Consequently, it can be concluded that, as in the request, the concentration threatens to create or strengthen a dominant position in certain distinct markets for ready mixed concrete within the UK.

## VII CONCLUSION

37. From the above it follows that the conditions to request a referral under article 9(2)(a) are met. The Commission also considers that, given the local scope of the markets affected by the transaction, the United Kingdom national competition authorities are better placed to carry out a thorough investigation of the whole case, and that it is therefore appropriate for the Commission to exercise its discretion under article 9(3)(b) so as to grant the referral.
38. Accordingly, the Commission has adopted this decision :

## **Article 1**

The notified concentration resulting in the acquisition of control of Pioneer by Hanson is referred to the United Kingdom competition authorities, pursuant to article 9(3)(b) of Regulation 4064/89.

## **Article 2**

This decision is addressed to the United Kingdom.

For the Commission,

Mario MONTI  
Member of the Commission