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*Case No IV/M.220 -
BIBBY / FINANZAUTO*

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 29.06.1992

*Also available in the CELEX database
Document No 392M0220*

MERGER PROCEDURE
ARTICLE 6(1)b DECISION

PUBLIC VERSION

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To the notifying party

Dear Sirs,

Subject: Case No. IV/M.220 - Bibby / Finanzauto
Your notification of 25.5.92 pursuant to Article 4 of
Council Regulation No. 4064/89

1. The notified operation is a public bid by J. Bibby and Sons PLC for the shares of Finanzauto SA which are quoted on the Spanish Stock Exchange. Finanzauto is primarily concerned with the distribution of earth moving equipment in Spain and Portugal.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of Council Regulation No. 4064/89 and does not raise serious doubts as to its compatibility with the common market.

Concentration

3. If Bibby succeeds in acquiring a majority of the shares of Finanzauto, thereby acquiring control of the company, the operation will constitute a concentration within the meaning of Article 3 of the Regulation.

Community Dimension

4. Bibby is controlled by Barlow Rand Ltd, a South African conglomerate, which had a worldwide turnover in 1991 of ECU 9 105 million. Finanzauto had a worldwide turnover of ECU 402 million all of which was realised in the Community. The Community-wide turnover of Bibby was ECU 624 million. The parties did not achieve more than two-thirds of their Community-wide turnover within one and the same Member State and consequently the concentration has a Community dimension.

Compatibility with the Common Market

5. Finanzauto's main business is the sale and leasing of earth moving equipment, fork-lift trucks and industrial motors, and the sale of spare parts and accessories and maintenance and technical assistance in connection with these products. Its business is concentrated in Spain and, through Stet, a 58.9% owned subsidiary, in Portugal. Finanzauto distributes and services Caterpillar earth moving equipment and fork-lift trucks in both countries.
6. Bibby is an international diversified group of manufacturing and distribution companies whose principal activities are the manufacture and distribution of hospital, laboratory, optical and scientific equipment; paper making and converting; the manufacture and supply of animal feeds and farm seeds, and the distribution and servicing of materials handling equipment. It achieved over 85% of its turnover in the United Kingdom in 1991. Bibby distributes and services Hyster fork-lift trucks and, to a significantly lesser extent, fork-lift trucks of other manufacturers, in the UK, Belgium and the USA. Barlow Rand, inter alia, distributes both Caterpillar earth moving equipment and Hyster fork-lift trucks, principally in South Africa. It has no involvement in these sectors (except through Bibby) in the Community.
7. There is therefore, some overlap in the activities of the parties but they are operating in different countries. Under the terms of the parties' agreements with the manufacturers of the earth moving equipment and fork-lift trucks, they are not able to actively market and sell the products outside their allocated national territory. In the absence of any significant volume of passive sales by the parties into each others territories, it follows that the concentration does not result in any increase in the parties' market shares in any of the Member States in which they are operating. Even if the product markets are narrowly defined as earth moving equipment and fork-lift trucks respectively, neither of the parties achieved a market share of more than 25% in any of the relevant Member States. The proposed operation does not involve any vertical relationships or conglomerate considerations which would adversely affect competition in the Community. The concentration will therefore not create or strengthen a dominant position as a result of which effective competition will be significantly impeded in the common market or in a substantial part of it.

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

For the Commission,

**TEXTE RECONSTITUÉ ÉLECTRONIQUEMENT / ELECTRONICALLY RE-CREATED
TEXT / ELEKTRONISCH NACHGEBILDETER TEXT**