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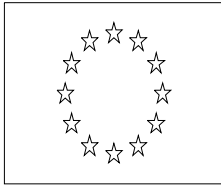
*Case No COMP/M.3081 -
MICHELIN / VIBORG*

Only the English text is available and authentic.

REGULATION (EEC) No 4064/89
MERGER PROCEDURE

Article 6(1)(b) NON-OPPOSITION
Date: 07/03/2003

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

Brussels, 07/03/2003

SG (2003) D/228870

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.3081 - Michelin / Viborg
Notification of 6th February, 2003 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 6th February 2003, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EEC) No 4064/89 (Merger Regulation) by which the French undertaking Euromaster, through its holding company Eurodrive Services and Distribution N.V. (Eurodrive, Netherlands), both belonging to the Michelin Group, acquires within the meaning of Article 3(1)(b) of the Council Regulation control of the tyre distribution and retreading business (Viborg) from the Denmark established Viborg Gruppen Holding A/S by way of purchase of shares.
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 with the EEA Agreement.

I. THE PARTIES TO THE OPERATION

3. Euromaster is active in the distribution and retreading of replacement tyres for a variety of vehicle types in a number of European countries. It is part of the French Michelin group, a leading manufacturer and supplier of tyres.

¹ OJ L 395, 30.12.1989 p. 1; corrigendum OJ L 257 of 21.9.1990, p. 13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9. 7. 1997, p. 1, corrigendum OJ L 40, 13.2.1998, p. 17).

4. Viborg is an independent distributor of replacement tyres in Austria, Denmark, France, Germany, the Netherlands, Sweden and Switzerland. Furthermore it operates in-house retreading facilities in Denmark and Germany.

II. THE OPERATION

Concentration

5. The transaction is the acquisition of Viborg by Euromaster through Eurodrive. After the completion of the acquisition, Viborg will be owned and controlled solely by Euromaster. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

Community dimension

6. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion² (Michelin €15,775 million, Viborg €571 million). Each of the companies have a Community-wide turnover in excess of EUR 250 million (Michelin € [...] million, Viborg €[...] million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

III. COMPETITIVE ASSESSMENT

7. Both Euromaster and Viborg distribute replacement tyres, provide ancillary maintenance services and are active in the retreading of tyres.

A. Distribution of replacement tyres

Relevant Product Markets

8. The Commission has reviewed the tyre supply markets in the past³, making a distinction between the original equipment manufacture (OEM) tyre segment and the replacement tyre segment.
9. OEM tyres are typically sold directly by the tyre manufacturer to the vehicle manufacturer for installation on newly manufactured vehicles without passing through an intermediary. Although manufacturers can supply major accounts with replacement tyres directly, the vast majority of replacement tyres are sold through a large number of specialised outlets or tyre dealers who obtain their supplies from the manufacturer through its wholesale operations. Viborg is not active upstream of replacement tyres. As such, the markets for manufacturing and OEM supply are only considered with regard to vertical effects.
10. Whilst a certain degree of supply substitutability exists, from a demand-side point of view the market for supply of replacement tyres can be divided into at least six separate

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.

³ E.g. M.1470 – Goodyear/Sumitomo and COMP/36.041 - PO/Michelin

product markets⁴: (1) car and van tyres; (2) truck and bus tyres; (3) agricultural tyres; (4) earthmoving vehicle tyres and (5/6) motorised and non-motorised two-wheel vehicles. This market delineation has largely been confirmed by the market investigation. Additional, niche replacement tyre markets may exist, but in the light of the present transaction, it is not necessary to conclude on this.

11. The market for the distribution of replacement tyres follows the delineation concluded for the supply of these tyres from a demand-side view. As to the supply-side, the structure of distribution is different for the respective replacement tyre markets. For replacement car and van tyres, the distribution is diversified, ranging from automotive service centres and specialist dealers to supermarkets. Replacement truck and bus, agricultural and earthmoving tyre distribution is carried out by specialised distributors. Automotive service centres and supermarkets are virtually absent from these markets. The same specialist dealers distributing truck and bus tyres also distribute replacement agricultural tyres and earthmoving vehicle tyres. As for replacement tyres for motorised and non-motorised two-wheel vehicles, markets on which Euromaster and Viborg are almost absent, these are distributed through specialised shops.
12. Along with the retailing of tyres, the distributors often offer supplementary services to end users. The type of services provided, ranging from removal and mounting operations to balancing services, depends on the requests of each particular customer. These services are performed by the same dealers selling the tyres and form part of such sale. In addition, distributors also carry out other repair works and ancillary services such as road services, monitoring of condition of the tyres, vehicle follow-up or fleet maintenance services if so required by the client. As these services are ancillary to the distribution of tyres and are of minor importance to the turnover of the parties, it is not necessary to analyse these as distinct markets.

Relevant geographic market

13. The notifying party submits that the manufacturing and supply of tyres ought to be considered as at least EEA-wide since Europe-wide tyre sales are assured by only a few plants, tyres are governed by common regulation on a European level and there are no significant (non)- tariff barriers or transportation costs to trade within the EEA. On the other hand, the Commission observes that the market positions of tyre manufactures are not homogeneous, which may result from specific strong brands or OEM relations on a national level. In any case, with regard to the present transaction which does not lead to horizontally affected markets. For tyre manufacturing and supply, the exact geographical scope of these markets can be left open as such would not materially affect the assessment of the notified transaction.
14. The notifying party considers that the geographical market for the distribution of replacement tyres is national in scope. The market investigation has generally confirmed this, indicating that the competition conditions do not significantly differ within a Member State. In most EEA countries nation-wide chains of replacement tyre distributors exist which compete for business at a national level. In the case of truck and bus replacement tyres and earthmoving vehicle replacement tyres, customers are often fleets that are active at least throughout the country, and it is not uncommon for distributors to travel to the customer to replace tyres. Although it is unlikely that the geographic scope of these markets is narrower than national, tyre distributors that operate on a nation-wide

⁴ ibidem

basis also face competition from local distributors, as customers generally prefer to deal with distributors that are within the customer's proximity.

15. Some respondents have pointed to the increasing pan-European character of the distribution markets as customers increasingly source on the basis of EU-wide supply arrangements and as tyre retailers are sometimes of a European dimension through international networks or franchised outlets. Whether this internationalisation trend is already sufficiently important to affect the national character of these distribution markets can be left open as such would not materially affect the assessment of the notified transaction.

Competition effects

16. Distributors can be independent or vertically integrated into tyre manufacturing. The distribution varies from individual outlets to networks, with the latter either under direct control of the distributor, through franchise agreements or voluntary networks. Michelin is far more than any other tyre manufacturer, vertically integrated into both manufacturing and distribution. However, Euromaster does not exclusively distribute the Michelin brands. Other tyre manufacturers also rely on Euromaster to bring their products to the market. Viborg has, as Euromaster, a trans-national distribution network but is not active in the upstream production market.

Horizontal overlaps

17. The combination of Euromaster and Viborg does not lead to affected markets for car and van or two-wheel vehicle replacement tyres. If the transaction were to be analysed on an EEA-wide basis, the combination of Euromaster's and Viborg's distribution activities would not lead to affected markets. The most important overlap would be for Truck and bus replacement tyres where the combined entity would have a market share of [10% - 20%].
18. To a large extent, Euromaster's and Viborg's distribution activities complement each other on a geographical level. Viborg is strongest in countries where Euromaster is either not active (such as Austria or Denmark) or has a very small market share (such as Germany). Where the proposed transaction gives rise to affected markets (on the basis of national markets), the increments are generally small, with the exception of the Netherlands.

Table 1: Horizontally affected markets

Replacement truck and bus tyres			
	Viborg	Michelin	Total
Denmark	[20% - 30%]	[< 10%]	[20% - 30%]
France	[< 10%]	[20% - 30%]	[20% - 30%]
Netherlands	[10% - 20%]	[10% - 20%]	[30% - 40%]
Sweden	[<10%]	[10% - 20%]	[10% - 20%]
EU	[<10%]	[10% - 20%]	[10% - 20%]
Replacement agricultural tyres			
France	[<10%]	[10% - 20%]	[10% - 20%]
Netherlands	[<10%]	[20% - 30%]	[20% - 30%]
EU	[<10%]	[<10%]	[10% - 20%]
Replacement earthmoving vehicle tyres			
Denmark	[50% - 60%]	[<10%]	[50% - 60%]

Netherlands	[<10%]	[<10%]	[10% - 20%]
Sweden	[<10%]	[10% - 20%]	[10% - 20%]
EU	[<10%]	[<10%]	[<10%]

Source: The parties on the basis of Europool statistics

19. Indeed, when singling out the national markets where the overlap between both companies is significant whilst at the same time leading to combined market shares above 25%, only two markets in the Netherlands are concerned. These are Truck and Bus replacement tyres with [30% - 40%] ([10% - 20%] + [10% - 20%]), and agricultural replacement tyres with [20% - 30%] ([20% - 30%] + [<10%]).
20. Although the combined entity will have high market shares for the above mentioned markets in the Netherlands, it will continue to face significant competition from both distributors that operate on a national basis and local suppliers. Specifically for Truck and Bus replacement tyres in the Netherlands, there are five competitors with a national network (the current market leader PTC with [30% - 40%], Arc en Ciel with [<10%] and Borst, De Molen and Kicken with market shares between [<10%] and [<10%]) and several hundred of independent unaffiliated outlets.
21. For agricultural replacement tyres, the new entity will face competition from both local and national network distributors (such as the market leader PTC with [30% - 40%] and Molcon with [10% - 20%]).
22. The parties have also pointed to the strong countervailing power that fleet owners have, which would effectively counteract any independent behaviour of the new entity. Seen the importance of tyres as a cost factor (representing around 5% to 10% of the total operating cost), truck and bus companies are price sensitive and sophisticated customers, and such is more so as the fleet of the company in question is larger. The market investigation has shown that customers are knowledgeable about tyres and attach particular importance to buying a tyre from a certain brand. These customers will generally have specific preferences regarding brands, based on the recommendations of their own technical staff which will evaluate the different brands on their price, durability and lifetime cost. The bargaining ability of the customers can therefore be considered as a constraining element that keeps tyre distributors from behaving independently. The market investigation has shown that these customers voice little concern about the concentration.
23. A third party, competitor to Michelin, has complained that the acquisition of Viborg would increase Euromaster's geographic coverage, providing it with a strong distribution position throughout the EEA, as such allowing it to sell more tyres in each country individually. The existence of such cross-border effects on national markets has not been confirmed by the Commission's investigation. Firstly, the pan-European coverage of Euromaster is not unique as most truck tyre manufacturers have a presence throughout Europe for providing maintenance and repair services to customers. Secondly, the market investigation has shown that tyre distribution takes place on a local basis. No matter how far the trucks themselves may travel, truck fleets almost always satisfy their tyre requirements by purchasing from a distributor in the same Member State as the fleet itself is based. Thirdly, the market investigation has shown that the lack of a (inter) national network does not serve as a barrier to market entry and expansion. Indeed, a competitive presence can be achieved with only one outlet, as it is relatively easy for single outlets to join a national chain of independent distributors, where, despite working under a

common name, each distributor continues to determine its own commercial policy on an independent basis. Unaffiliated outlets exert competitive pressure upon competitors with an (inter)national network. Therefore, having a pan-European distribution coverage cannot be considered to constitute a competitive advantage that leads to higher sales in itself.

Vertical overlaps

24. Unlike Viborg, Michelin is present in the upstream market for tyre manufacturing where it holds a leading position on an EEA level ([30% - 40%] for Truck and Bus replacement tyres and [20% - 30%] for agricultural replacement tyres). Although the manufacturing markets are likely to be wider than national in scope, the parties have identified vertically affected markets on a national basis. As such, the transaction would lead to vertically affected markets for Truck and Bus replacement tyres in France ([40% - 50%] for manufacturing and [20% - 30%] for distribution), the Netherlands ([30% - 40%] for manufacturing and [30% - 40%] for distribution), Denmark ([20% - 30%] for manufacturing and [20% - 30%] for distribution). For agricultural replacement tyres, the transaction would lead to vertically affected markets in Denmark ([30% - 40%] for manufacturing and [$<10\%$] for distribution), France ([30% - 40%] for manufacturing and [10% - 20%] for distribution) and the Netherlands ([20% - 30%] for manufacturing and [20% - 30%] for distribution). Finally, for earthmoving vehicles in Denmark, Michelin has a [10% - 20%] market share for manufacturing whilst the combined entity would hold a [50% - 60%] market share for distribution (all attributable to Viborg).
25. Apart from the fact that Michelin will strengthen its distribution activities only significantly in the Netherlands, all tyre distribution is multi-branded⁵. Indeed, all distributors carry a multi-branding policy, offering a broad range of different brands and/or private labels from the leading manufacturers, including Goodyear-Sumitomo, Michelin, Continental, Pirelli and Bridgestone. The market investigation has shown that for instance around [...] of Euromaster's truck –and bus replacement tyre sales are of non-Michelin brands, whereas approximately [...] of Viborg's current truck –and bus replacement tyre sales are of non-Michelin brands. As confirmed by both competitors and customers, offering a wide range of tyre brands covering all major tyre manufacturers is essential in order for a tyre distributor to be competitive.
26. A third party, competitor to Michelin, submitted that the acquisition of Viborg would put Euromaster in a position to push the Michelin brands and exclude competing brands from access to the market. As indicated above, such has not been confirmed by the market investigation. On an EEA basis, it is to be noted that Viborg represents [$<10\%$] of replacement tyres distributed whilst Euromaster has a market share of [10% - 20%]. In Denmark, the only country where Viborg has a distribution market share for replacement tyres of more than 25% ([20% - 30%] for truck and bus replacement tyres), Michelin has a manufacturing market share of less than 25% ([20% - 30%]). Apart from replacement tyres for truck and bus in the Netherlands, the transaction does not give rise to a substantial strengthening of Euromaster's distribution presence in a country where Michelin already holds leading market shares upstream.
27. In the Netherlands, the combination of Viborg's and Euromaster's distribution activities will lead to market shares above 25% for truck / bus and agricultural vehicle replacement tyres, markets on which Michelin holds manufacturing market shares of respectively

⁵ Euromaster offers over [...] brands. Its private label brand is produced by one of Michelin's competitors.

[30% - 40%] and [20% - 30%]. In these two markets, even assuming the hypothetical “worst case” scenario whereby, as a result of the transaction, Viborg were to sell in future the same proportion of Michelin tyres as Euromaster currently sells in the Netherlands, such would result in a (hypothetical) foreclosure level of less than [...] for truck and bus replacement tyres and less than [...] for agricultural vehicle replacement tyres. It is therefore unlikely that the transaction would restrict competitor’s access to the distribution channels or to lead Michelin to dominate the manufacturing market.

28. With regard to supply foreclosure, it is to be noted that, in almost all cases, Michelin sells more tyres to distributors than Euromaster and Viborg combined purchase in a given country. If Michelin were to adopt a policy of supplying Euromaster and Viborg exclusively, it would have to forfeit a large part of its business.
29. As such, it is unlikely that it would be in Michelin’s commercial interest to exclude selling competing brands in its distribution, or to limit its supply of tyres to the new entity. If it did so, this would be unlikely to result in foreclosure at either the supply or the distribution level.
30. In its market investigation, the Commission has also verified whether Michelin’s strong position for OEM sales (estimated to be around [30% - 40%] on an EEA basis) could strengthen its position for distribution. Apart from the fact that the transaction does not alter Michelin’s OEM supply position in itself, the Commission concluded that, especially for the tyre distribution markets affected, the OEM’s tyre selection does not significantly influence the customer’s choice for replacement tyres.

B. Retreading of Tyres and Retreading Services

Relevant Product Market

31. The notifying party considers that the market for retreading services, 95% of which is performed for truck and bus tyres, constitutes a distinct market from the manufacture of new replacement tyres, being an after sales service intended to increase the period of use of the tyres and as such to reduce its cost per kilometre. Retreaded tyres are characterised by generally perceived reduced reliability and are sold at a significantly lower price than new replacement tyres.
32. The notifying party proposes two possible product markets in connection with retreading: the market for the production process used for the treads by whatever service provider and the market for the retreading service itself. Euromaster and Viborg are active on both of these. However, for the purpose of the present decision, it is not necessary to finally define the product market, since under no alternative definition, the transaction would result in the creation or strengthening of a dominant position.
33. Retreading involves the use of "cases" of worn tyres (not necessarily the same tyres as those returned to the retreader by the customer) and regrooving them and adding a new layer of rubber for the running tread⁶. The processes used are that of "hot" or "cold" retreading, which are considered substitutable from demand point of view. In some cases retreading is performed by special facilities more akin to manufacturing facilities ("hot" retreading), sometimes in smaller (licensed) workshops operated by tyre distributors

⁶ The technical characteristics of this market were described in detail in case COMP/36.041 - PO/Michelin.

("cold" process). Michelin has "hot" retreading facilities in France, Spain, U.K., Germany and Italy, Euromaster has one in the Netherlands. In addition they have licenced the "cold" process to a number of third party workshops, in part operated by tyre distributors. Viborg operates the "cold" process in its retreading facilities in Denmark and Germany and the "hot" process at its facilities in Germany.

Relevant geographical Market

34. The notifying party considers the market for retreading services to be national. Competition conditions do not differ significantly within Member States and the services are usually performed in the country where the final customer and the distributor are located, although uniform standards for retreading facilities exist throughout the EU. In view of the local performance of this service, the market can be considered as national in scope. The above has been confirmed by the market investigation.

Competition effects

Retreading of truck and bus tyres			
	Viborg	Michelin	Total
Austria	[<10%]	[10% - 20%]	[10% - 20%]
Denmark	[10% - 20%]	[<10%]	[20% - 30%]
Germany	[<10%]	[10% - 20%]	[20% - 30%]
Sweden	[<10%]	[10% - 20%]	[10% - 20%]
EU	[<10%]	[30% - 40%]	[30% - 40%]

Source: The parties on the basis of Europool statistics

35. The transaction results in affected markets with limited impact in Sweden (market share addition of [<10%] to Michelin/Euromaster's [10% - 20%] share, resulting in a combined share of [10% - 20%]) and in Austria, where the market shares are [10% - 20%] for Michelin/Euromaster's and [<10%] for Viborg, resulting in a [10% - 20%] combined share. Kraiburg is the market leader in Sweden ([30% - 40%]) and Austria ([30% - 40%]). Bandag has market shares in these countries of respectively [10% - 20%] and [<10%].
36. In those countries where the overlap is substantial, i.e. Denmark (Michelin/Euromaster [<10%] and Viborg [10% - 20%], resulting in a combined share [20% - 30%]) and Germany (Viborg [<10%] and Michelin/Euromaster's [10% - 20%], resulting in a combined share of [20% - 30%]), the new entity will face competitors that have equal or larger market shares. These shares are based on the number of retreads produced by the Parties' proprietary retreading process and used by all retreaders (including the Parties themselves). Market shares calculated on the basis of a market definition considering retreading services performed are lower.
37. Specifically in Germany and Denmark, the combined entity will continue to face competition from independent tread producers (on the basis of retreads sold) like Kraiburg (respectively [10% - 20%] and [10% - 20%]), Bandag (respectively [20% - 30%] and [40% - 50%] market share), Marangoni ([10% - 20%] in Germany, absent in Denmark), and retreaders affiliated with manufacturers such as Goodyear, Bridgestone and Continental.
38. In France, the transaction only leads to overlaps on the basis of a market definition considering retreading services performed (and not on the basis of the number of retreads produced using the parties' processes for retreading by all service providers, where the

Parties' activities do not overlap). Michelin/Euromaster's share is [70% - 80%], but Viborg accounts for only less than [<1%] of services rendered⁷, leading to a combined market share of [70% - 80%]. Competitors in this market hold [10% - 20%] (Goodyear), [<10%] (Bandag), and [<10%] (Bridgestone). The market investigation has pointed to the low barriers to entry (investments necessary for opening a cold retreading facility are in the region of EUR 500.000 and non-Michelin/Viborg licenses of cold retreading technology are readily available on the market).

39. In other Member States, this alternative market definition results in lower market shares, except for Denmark, where the combined share is [30% - 40%] (Michelin [<10%] and Viborg [20% - 30%]). Competitors there are Pirelli, Goodyear, Bridgestone, Continental and Bandag, with similar market shares as in the market for retreading processes.
40. The transaction also creates a theoretical vertical affected market in the sense that Michelin would supply casings to Viborg and thereby foreclose competitor casing suppliers, such as Bandag, from access to Viborg. However, seen the limited presence of Viborg on the retreading market and the small amount of business it represents to casing suppliers other than Michelin, the effect of the transaction is not likely to be capable of foreclosing Michelin's retreading competitors or to lead Michelin to a dominant position on the retreading market.

IV. CONCLUSION

41. In light of the above, the Commission has concluded that the proposed transaction is not likely to 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.
42. 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

(signed)
Mario Monti
Member of the Commission

⁷ Viborg's market share of [<10%] relates to [...] tyres imported from Viborg's cold retreading facilities in Germany.