

***Case No COMP/M.3104 -
COMPASS /
CREMONINI / JV***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 06/05/2003

*Also available in the CELEX database
Document No 303M3104*



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06/05/2003

SG (2003) D/229626 - D/229627

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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 parties

Dear Sir/Madam,

**Subject: Case No COMP/M.3104 – COMPASS / CREMONINI / JV
Notification of 28 March 2003 pursuant to Article 4 of Council Regulation
No 4064/89¹**

1. On 28 March 2003 the Commission received a notification of a proposed concentration by which the undertaking Compass Group PLC (“Compass”, UK) and Cremonini Spa (“Cremonini”, Italy) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the companies Moto Spa (“Moto”, Italy) and Autoplose Ges.mbH (“Autoplose”, Austria), both of them currently wholly controlled by Compass, by way of purchase of shares.
2. After examining the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and that does not raise serious doubts as to its compatibility with the common market.

I. THE PARTIES

3. Compass is active in the foodservice sector, including contract foodservices, concession foodservices in transport-related locations, retail, stadia and leisure venues, on-train foodservices and foodservice concessions in motorway service areas.
4. Cremonini is active in the meat processing, snacks, ready meals and canned food and wholesale of fresh, dry and frozen food products. In the concession foodservices it operates

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), the “Merger Regulation”.

mainly in railway stations, airports, sport venues and on-train services. It is also active in the commercial restaurant sector.

5. Moto and Autoplose are active in the motorway foodservices and the motorway fuel station services in Italy and Austria respectively.

II. THE OPERATION AND THE CONCENTRATION

6. The operation consists of the acquisition by Cremonini of 50% of the share capital of both Moto and Autoplose. Compass will retain the remaining 50% in each company, which will be jointly controlled because either of the parents will be able to veto the other's proposals.
7. Both Moto and Autoplose are already stand alone businesses. After the operation they will continue to operate independently and will have their own dedicated management and full commercial autonomy. They will therefore be full function joint ventures constituting a concentration (the "JV").

III. COMMUNITY DIMENSION

8. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion². Each of Compass and Cremonini have a Community-wide turnover in excess of EUR 250 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.

IV. COMPETITIVE ASSESSMENT

Relevant product markets

9. The JV will be active in the provision of motorway concession foodservices and in the provision of fuel on motorways and Cremonini is active in a related upstream market, i.e. the beef production and wholesaling market.
10. Concession and contract foodservices have been defined by the Commission in earlier decisions³ as separate relevant product markets. The question of any further segmentations of these markets has been left open.
11. Regarding further distinctions between concession foodservices in general and motorway concession foodservices, the parties state that there are features in common (in both cases operators compete for the award of the concession and the type of activity, i.e. supply of food, is essentially the same), but there are also other features that could distinguish them from each other, i.e. motorway foodservices usually offer a wider range

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 Case COMP/M.1972 Granada/Compass of 26 June 2000, Case No COMP/M.2373 - Compass/Selecta of 8 May 2001 and Case No COMP/M.2639 - Compass/Restorama/Rail Gourmet/Gourmet Nova of 26 February 2002.

of products and over a longer period of time (24 hours/day). In any event, this question can be left open since the present concentration does not give rise to competition concerns under any of the possible market definitions.

12. With respect to the market for the supply of fuel on motorways, the Commission has stated⁴ that the retail sales of motor fuels constitutes a relevant product market and that, in some countries, motorway fuel stations can be considered a relevant product market distinct from the fuel stations in ordinary routes. In this case the question can be left open since the present concentration does not give rise to competition concerns under any of the possible market definitions.
13. In the upstream market Cremonini is active in the production and wholesaling of beef. Cremonini is also active in other food related activities such as cured meat, snacks, gastronomic specialities and as wholesaler of fresh, dry and frozen food products. Whether beef production and wholesaling constitutes a separate relevant product market or whether it belongs to a wider market can be left open since the present concentration does not give rise to competition concerns under any of the possible market definitions⁵.

Relevant geographic markets

14. The JV will be active only in Italy and Austria. Previous geographic market definitions taken by the Commission for both the concession foodservices⁶ and the fuel station services⁴ have confirmed that these markets were national. In any case, were the relevant geographic market to be considered as Italy and Austria together, the operation would not give rise to competition concerns.
15. With regard to the upstream market of beef production and wholesaling, [30-50%] (in value) of Cremonini sales are made outside Italy, which suggest that this market could be wider than national. However, the final definition can be left open since the operation would not give rise to competition concerns under the narrowest geographic market.

Assessment

16. The operation will not lead to the creation of any affected markets. The combined market share after the concentration in the concession foodservice market in Italy will be [0-10%] [...]. Should the motorway foodservice segment to be considered as a separate market, there would be no overlap since only Compass is active in this market through Moto and Autoplose, and the JV would have a market share of [0-10%].
17. In relation to the supply of fuel on motorways in Italy, the JV will have a market share of [0-10%]. Neither Compass nor Cremonini are otherwise active in this market.
18. The parties' activities with regard to the relevant product markets in Austria is marginal. Cremonini is not present at all and in the concession foodservice market the market

⁴ Case No IV/M.1383 – Exxon/Mobil

⁵ The production/wholesale of beef in Italy as been considered by the Italian Antitrust Authority (case IAA No C 5117 – Realfood 3 / Ramo d'azienda Realfood of 14 March 2002) as the narrowest market definition.

⁶ Case No COMP/M.2373 - Compass/Selecta of 8 May 2001 and case No COMP/M.1972 – Granada/Compass of 26 June 2000.

shares are less than [0-10%] for Compass and [0-10%] for the JV. In the market for the supply of fuel on motorways, only the JV is active with a market share of [0-10%].

Vertical integration

19. The downstream markets consist of the end-users, the general public, so there can be no question of downstream vertical integration. Compass has no activities upstream of the JV. Cremonini is active upstream in the following markets: (i) beef production and wholesaling, the main customers being super- and hypermarkets, discount stores, food industries, restaurant and catering chains (such as Autogrill, Compass or McDonalds) and traditional retail. Its market share in Italy is 18%, and (ii) food distribution, the main customers being restaurants, hotels, caterers, fast food operators and wholesalers. Its market share at the narrowest geographic market, i.e. regional level (north of Italy), is [0-10%].
20. Some of the Cremonini's customers in the beef production and wholesaling markets mentioned above are currently Cremonini's competitors. However, this situation does not give rise to competition concerns. Cremonini's market share in the beef production and wholesaling market in Italy is 18%, and a maximum of [10-20%] of its sales in this market are made to restaurants and catering chains. On this basis the market share of Cremonini would be [5-15%] if restaurants and catering chains in Italy were considered as a separate relevant product market (the narrowest scenario). Other competitors include Coop Italia, Gruppo Unibon or Macello Cooperativo Lavorazione which constitute valid procurement alternatives to the JV's competitors.
21. In the light of the above, since the operation will not lead to the creation of affected markets, either horizontally or vertically, it can be concluded that the operation does not give rise to competition concerns.

V. CONCLUSION

22. 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

Mario MONTI
Member of the Commission