

***Case No COMP/M.3772 -  
AVIVA / RAC***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 03/05/2005

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.05.2005

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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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.3772 – AVIVA/RAC  
Notification of 29.03.2005 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 29.03.2005, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 (“the Merger Regulation”) by which the undertaking Aviva plc (“Aviva”, United Kingdom), belonging to the Aviva group, acquires control of the whole of the undertaking RAC plc (“RAC”, United Kingdom) by way of public bid announced on 9 March 2005.
2. After examination of the notification, the Commission has concluded that the operation falls within the scope of Council Regulation (EC) No 139/2004 and does not raise serious doubts as to its compatibility with the common market and the EEA agreement.

**I. THE PARTIES**

3. Aviva is active primarily in the life and non-life insurance sector. Other businesses include long term savings and fund management. Aviva is present worldwide. In the UK, it conducts its business under the Norwich Union (“NU”) brand.
4. RAC provides a range of motoring and vehicle related products and services to individual and business customers. Its core activities are roadside assistance (and

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

related car repair services), driving tuition, vehicle leasing and fleet management. RAC has activities in the UK, Ireland and France.

## **II. THE OPERATION**

5. Aviva has announced a recommended cash and share offer for the entire issued and to be issued share capital of RAC. As a result of the transaction, Aviva will acquire sole control of RAC.

## **III. CONCENTRATION**

6. The operation concerns the acquisition by Aviva of sole control over RAC. The proposed transaction therefore constitutes a concentration within the meaning of Article 3(1)(b) of Council Regulation (EC) No 139/2004.

## **IV. COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup>. Each of Aviva and RAC has 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.

## **V. COMPETITIVE ASSESSMENT**

8. The parties have overlapping activities in the non-life insurance market and in the roadside assistance services market.

### **Insurance market**

#### *Product market*

9. Pursuant to past Commission decisions, the provision of insurance products may be subdivided into life insurance, non-life insurance and reinsurance. Further, from a demand side perspective, both life and non-life insurance can, in principle, be divided into as many product markets as risks covered because of their distinct characteristics, purposes and premiums and there is typically no substitute for the consumer among the different risks insured.<sup>3</sup>
10. Given that the activities of the parties either do not overlap or their overlap does not exceed 15%, irrespective of market definition, the product market definition may in this case be left open.

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<sup>2</sup> 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).

<sup>3</sup> See Case IV/M. 759 Sun Alliance/Royal Insurance and Case IV/M. 1043 BAT/Zürich.

### *Geographic market*

11. The Commission has generally considered that the geographical definition of the market in life and non-life insurance business is national in scope.<sup>4</sup>
12. However, given that the activities of the parties either do not overlap or their overlap does not exceed 15% irrespective of market definition, the geographic market definition may be in this case left open.

### **Roadside assistance services**

#### *Product market*

13. The parties have submitted that there is a separate market for the provision of roadside assistance services. The Commission already analysed this market in the *CVC/Permira/AA* case<sup>5</sup> but left open the exact product market definition. However, the Commission referred to the 1999 UK Monopolies and Merger Commission report (the MMC report) published on this issue. The MMC report concluded that the supply of insured breakdown services for light vehicles constitutes a single economic market<sup>6</sup>.
14. In their submission, the parties consider that *ad hoc* roadside assistance services provided to uninsured drivers should be excluded from the product market definition. The parties further consider that the roadside assistance services market should only take into account the sales of stand alone roadside assistance services, therefore excluding services bundled with motor insurance policies, given that in the latter case the predominant purpose of the contract is motor insurance. Additionally, the parties also submit that the product market definition should include both direct sales to individuals by operators that have their own fleet or which use an independent network of affiliated but independently owned and operated assistance vehicles, and indirect sales, through intermediaries which purchase in bulk from a supplier with a fleet or network and sell it on to end-user customers.
15. The market investigation indicated that as far as *ad hoc* services are concerned, many consider that such services should be excluded from the product market but that both direct and indirect sales should be included. Further, the replies to the market investigation seem to suggest that both bundled and stand alone services should be considered as part of the roadside assistance services market.
16. As far as a possible sub-segmentation of the market on the basis of customer preferences and demands is concerned, the parties have suggested that the market could be further divided into services provided to (i) consumers who purchase contracts on an individual basis and (ii) corporate customers who purchase roadside assistance services to cover their own fleet or to resell such services to their own

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<sup>4</sup> See Case IV/M. 1043 BAT/Zürich and Case M. 2491 Sampo/Storebrand.

<sup>5</sup> Case No COMP/M. 3517 *CVC/Permira/AA*.

<sup>6</sup> Cendant Corporation and RAC Holding Limited, February 1999.

customers, often bundled with another product<sup>7</sup>. During the market investigation it was also suggested that a distinction could be made between customers who buy services based upon brand strength and reassurance and those who buy purely on price and view the service as a commodity.

17. However, for the purposes of the present case, the exact definition of the product market can be left open because in all alternative market definitions, the proposed transaction would not significantly impede effective competition (see further below).

#### *Geographic market*

18. Aviva submits that the market for contracted roadside assistance services is national in scope. In *CVC/Permira/AA* the Commission referred to the MMC report which concluded that the market was national, on the basis that there were no indications that the market conditions varied between different parts of the UK. However, the Commission left open the exact geographic market definition.
19. The market investigation confirmed the definition of a national market. In the present case, however, the exact geographic market definition can be left open because the transaction would not raise any competition concerns in any possible alternative geographic markets.

#### **Assessment**

##### Horizontal overlaps

20. The proposed transaction will lead to overlaps in the parties' activities for the provision of non-life insurance products and roadside assistance services.

##### *Non-life insurance*

21. As regards the insurance market, the parties' activities only overlap in the non-life insurance segment in the UK. According to the parties' estimates, in the UK Aviva's market share in the non-life insurance market is estimated to be around [5-15%]. RAC's market share is below [5%] (around [<5%]), all attributed to the underwriting of legal expenses insurance, a segment where Aviva is not present. In the distribution of non-life insurance by third parties in the UK, Aviva's market share is estimated to be below [5%] whilst RAC's market share is estimated to be below [5%]. Given the parties' limited combined market share irrespective of market definition, the proposed transaction does not raise any competition concerns regarding non-life insurance products.

##### *Roadside assistance services*

22. In the UK, Aviva (through NU) provides contracted roadside assistance services on the basis of [...] <sup>8</sup> relationship with RAC under which RAC provides the underlying services that NU sells under the "NU Rescue" brand, without any mention of RAC as a

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<sup>7</sup> Corporate customers mainly comprises vehicle fleet owners, car manufacturers, larger retailers and insurers who buy the services in bulk and either resell these services to their own customers or pass on the benefit to individual employees or customers.

<sup>8</sup> Deleted business secrets.

service provider. NU Rescue is sold by NU both as a stand-alone product or bundled with NU's insurance products. The parties combined market share for the overall roadside assistance services market is below 25%. In the segment for services to consumer end users, the combined market share is below 15%.

23. The only market where the parties have a significant market share is in the segment for services to corporate customers where RAC has a market share of [30-40%]. This market share includes NU contracts won in competition with other motor insurance providers where the roadside assistance part of the policy is provided by RAC (representing [ $<5\%$ ] of the segment). The parties argue that the transaction will not create any competitive concern given that RAC faces strong competition from companies such as AA ([30-40%]), Mondial ([10-20%]) and Green Flag ([0-10%]) as well as from recent entrants such as Europ Assistance ([0-10%]). Further, NU does not sell standalone services to corporate customers but only services bundled with motor insurance where NU competes for the motor insurance contract and not for the provision of roadside assistance services.
24. The answers to the market investigation have confirmed the parties' view of the current situation of competition in the market. Most of RAC's competitors consider the market to be "healthy" and "competitive". The market investigation has also confirmed that there have been new entries into the market (e.g. NCI Vehicle Rescue). Moreover, it is generally considered that further entry will take place.
25. In **Ireland**, RAC's leading competitors are Ireland Assist and AA with market shares of around [50-60%] and [20-30%] respectively in the overall contracted roadside assistance market. According to information provided by the parties, their combined market share would not exceed 25% in any possible market segmentation. RAC's market share in the overall market is well below 15% (around [0-10%]). As far as the consumer end user segment is concerned, RAC's market share is [0-10%] whilst it has a lower market share ([0-10%]) in the corporate segment. Aviva is active in Ireland through its subsidiary Hibernian. However, Hibernian provides roadside assistance services bundled with its motor insurance contracts to corporate customers only. The roadside assistance element of Hibernian's insurance is currently provided by Ireland Assist and not by RAC. The policies sold by Ireland Assist to Hibernian and then resold by Hibernian to end users bundled together with motor insurance represent around [10-20%] of the overall market and [10-20%] of the corporate segment. Given the parties' limited presence in any possible market segmentation and that they face a number of significant competitors the proposed operation does not raise any competition concerns as regards the Irish market either.

#### Vertical assessment

26. Concerns have been raised as to whether the non-insurance market, and more specifically the motor insurance segment, will be affected by the proposed operation given that Aviva will benefit from access to RAC's customer base and could use it to cross sell its own insurance products to these customers. However, the information submitted by the parties shows that in the UK, Aviva faces strong competition in the motor insurance segment where Aviva's market share is below 15% in the UK and below 25% in Ireland. Therefore, the risk of foreclosure is very limited. Moreover, some of RAC major competitors are also vertically integrated companies with insurance companies (e.g. Green Flag and Direct Line belongs to the Royal Bank of

Scotland Group, More Than is owned by Royal Sun Alliance Insurance Group and Mondial is owned by Allianz).

## **VI. CONCLUSION**

27. 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 (EC) No 139/2004.

For the Commission  
[signed]

Neelie KROES  
Member of the Commission