

***Case No COMP/M.4241 -
BOEING / AVIALL***

Only the English text is available and authentic.

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

Article 6(1)(b) NON-OPPOSITION
Date: 18/08/2006

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18/08/2006

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

Dear Sir/Madam,

**Subject: Case No COMP/M.4241 – Boeing/Aviall
Notification of 12/07/2006 pursuant to Article 4 of Council Regulation
No 139/2004¹**

1. On 12/07/2006, the Commission received a notification of a proposed concentration pursuant to Article 4 and following a referral pursuant to Article 4(5) of Council Regulation (EC) No 139/2004, by which the undertaking The Boeing Company (“Boeing”, USA), acquires within the meaning of Article 3(1)(b) of the Council Regulation sole control over the undertaking Aviall, Inc. (“Aviall”, USA) by way of purchase of shares.

I. THE PARTIES

2. Boeing is a USA-based company, active in the large commercial aircraft, defence and space industries and related services. As a manufacturer of large commercial and military aircraft, Boeing also manufactures spare parts for its aircraft. Furthermore, it has activities in maintenance, repair and overhaul (hereinafter referred to as “MRO”) services for aircraft.
3. Aviall is a company based in the USA, active primarily in the distribution of spare parts, especially engine parts that require frequent replacement, to commercial airlines,

¹ OJ L 24, 29.1.2004 p. 1.

military air craft customers and MRO service providers. Aviall does not manufacture spare parts. It also performs modest MRO services. Finally, it operates an electronic marketplace for the trading of aerospace spare parts, equipment and services.

II. THE OPERATION

4. The envisaged transaction concerns the acquisition of all shares in Aviall by Boeing.

III. CONCENTRATION

5. Boeing acquiring sole control over Aviall, the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of Merger Regulation.

IV. COMMUNITY DIMENSION

6. In 2005, Boeing achieved a turnover of approximately €44.1 billion worldwide and € [...] Community-wide. Aviall had a worldwide turnover of € 1.04 billion and approximately € [...] of this was achieved within the Community. Consequently, the operation does not have a Community dimension within the meaning of Article 1 of the EC Merger Regulation.
7. However, on 21.06.2006 the notifying party informed the Commission in a reasoned submission that the concentration was capable of being reviewed under the national competition laws of at least three Member States, namely Austria, Germany, Ireland Malta and in one EFTA country, Norway and requested the Commission to examine it. None of the Member States competent to examine the concentration indicated its disagreement with the request for referral within the period laid down by the EC Merger Regulation. The case is therefore deemed to have a Community dimension pursuant to Article 4(5) of the EC Merger Regulation.

V. COMPETITIVE ASSESSMENT

8. The transaction involves the market for distribution of aerospace spare parts, and various markets for the provision of MRO services.

A. Relevant markets

Distribution of aerospace spare parts

9. The market primarily concerned by the transaction is the market for distribution of aerospace spare parts², where independent spare parts distributors and manufacturers compete. Aerospace spare parts are distributed either directly by their manufacturers or by independent distributors, which usually sell small aerospace spare parts requiring regular replacement and timely delivery.
10. The distribution of aerospace spare parts could be divided into different submarkets, such as, on one hand, the distribution of large aerospace parts by airframe and component manufacturers, and, on the other hand, the distribution of small spare parts, requiring regular and quick replacement, by independent distributors. Another possibility would be to define separate markets for spare parts dedicated for large commercial aircraft and for general aviation/regional aircraft. Finally, there is a possible

² See for instance Case n° COMP/M.1969 UTC/Honeywell/i2/MyAircraft.com.

distinction between spare parts dedicated for commercial and those for military aircraft. However, it is not necessary to precisely define the relevant product market at stake as the competitive analysis will remain unchanged under any possible market definition.

11. As to the geographic market definition, the distribution of aerospace spare parts takes place at the world-wide level or at least EEA-wide level. The market investigation has shown that both manufacturers and independent distributors supply from a limited number of locations world-wide, based on world-wide used catalogues, with no significant price differences either between EEA Member States or between different world regions.
12. In the light of the above, the Commission takes the view that the appropriate geographic market definition for distribution of aerospace spare parts is at least EEA-wide if not worldwide. However, the precise geographic market definition can be left open given that the concentration does not give rise to competition concerns on either an EEA-wide or a worldwide geographic market.

MRO service providing

13. Based upon previous cases³, the MRO sector could be subdivided into four segments: (i) heavy maintenance, including major structural inspection of airframes (ii) line maintenance, including routine maintenance checks (iii) engine maintenance and (iv) component maintenance. These markets might be subdivided into separate markets according to the type of the aircraft⁴.
14. As to the geographic market definition, in previous cases the Commission indicated that heavy maintenance services might be at least EEA-wide, whereas line maintenance could be local in scope⁵ and engine maintenance could be worldwide⁶. With regard to MRO services for components, the Commission considered these services to be worldwide.⁷
15. The market investigation has confirmed the findings of the past Commission assessments. For instance, although MRO services are considered as a broad business area, some companies have specialized service lines corresponding to the four core divisions. In the same way, the globalization trend in all four segments is outlined, even if some security limitations could affect the choice of the location of where the service is performed (for military aircraft).
16. However, the precise product and geographic market definitions for MRO services can be left open given that the concentration would not give rise to competition concerns.

B. Competitive assessment

³ JV.19 KLM/Alitalia, COMP/M.3280 Air France / KLM, COMP/M.3374 SR Technics / FLS Aerospace.

⁴ COMP/M.3280 Air France / KLM.

⁵ COMP/M.3374 SR Technics/FLS Aerospace.

⁶ COMP/M.3280 Air France / KLM.

⁷ JV.19 KLM/Alitalia.

Horizontal effect - Distribution of aerospace spare parts

17. There would be no overlap between the parties considering the distribution of large aerospace parts by airframe and component manufacturers on one hand and the distribution of small spare parts by independent distributors on the other hand.
18. With respect to the overall distribution of aerospace spare parts on a worldwide market, the combined market share of the parties would be around [5-15%] (around [5-15%] for Boeing and [0-5%] for Aviall). Should the market be EEA-wide, the combined market share of the parties would be [5-15%].
19. Under any other alternative product market definition, the only affected markets would be the distribution of commercial aerospace spare parts (with [10-20%] combined market share worldwide or alternatively with [10-20%] market share EEA-wide) and the distribution of aerospace spare parts for large commercial aircraft (with [10-20%] combined market share worldwide or alternatively with [10-20%] market share EEA-wide).
20. These market shares suggest that the merged entity will continue to face strong competition from other manufacturers, independent spare parts distributors, and airlines with excess stock of spare parts that they are willing to sell. That has been largely confirmed throughout the market investigation by the manufacturers, independent spare parts distributors and airlines.
21. Furthermore, it appears that the parties are not close competitors. The main business activity of Aviall, representing [90-100%] of its turnover, is the distribution of small aerospace spare parts mainly requiring regular and quick replacement for both commercial (in majority general aviation/regional aircraft) and military aircraft. For Boeing, the distribution of aerospace spare parts represents [0-10%] of its turnover, and its activities consist mainly of distribution of large structural airframe parts exclusively for large commercial aircraft and for military aircraft to the exclusion of general aviation and regional aircraft. An illustration of this could be found in the distribution of spare parts for aircraft engine: it represents [50-60%] of Aviall's total aerospace spare parts sales and less than [0-5%] of Boeing's spare parts sales. Furthermore, whereas Boeing predominantly distributes Boeing-proprietary spare parts, this type of spare parts represents a minor part of Aviall's sales.⁸
22. Given the fact that the vast majority of spare parts sold by Boeing are Boeing-proprietary whereas Aviall sells very few Boeing-proprietary spare parts, that Aviall sells mostly spare parts for general aviation/regional jets whereas Boeing sells commercial spare parts exclusively for large commercial aircraft, and that the clear majority of Aviall's spare parts are for engines whereas Boeing hardly sells such parts, it is unlikely that a customer would have found itself in the position of selecting between Boeing and Aviall for the same (or a substitutable) spare part. Indeed, most of the parties' top EEA customers are not common customers.
23. As regard any horizontal effect of the concentration on the distribution of aerospace spare parts, it can therefore be concluded that the transaction does not raise serious doubts as to its compatibility with the common market.

⁸ Distribution of Boeing- proprietary spare parts represented less than [0-5%] of its sales in 2005.

Horizontal effect – MRO service providing

24. In relation to MRO service providing, there is no overlap between the individual MRO activities of Boeing and Aviall on any conceivable geographic market. Aviall's MRO activities are limited exclusively to certain specific types of aerospace components⁹. Boeing mainly provides heavy maintenance, engine maintenance and some line maintenance services. Nonetheless, as part of these activities, but not on a stand-alone basis, it might carry out MRO services in relation to the same components as Aviall. The market investigation clearly confirmed that Aviall and Boeing do not compete for the same type of MRO services. However, even considering a hypothetical overall market for component MRO (including MRO work for all components), the parties' combined market share would not exceed [0-10%] on a worldwide or EEA-wide basis.
25. As regard any horizontal effect of the concentration on the MRO service providing, it can therefore be concluded that the transaction does not raise serious doubts as to its compatibility with the common market.

Vertical effect – Distribution of aerospace spare parts

26. The proposed transaction will lead to a vertical relationship as Boeing has a market share exceeding 25% in the manufacture and supply of its proprietary spare parts.
27. However, this vertical relationship is only hypothetical as Boeing-property spare parts represent a minor part of Aviall's sales: as indicated supra, the distribution of Boeing-proprietary spare parts represented less than [0-5%] of Aviall's sales in 2005. Boeing, like other major OEMs, sells its spare parts mostly directly to end-users and not through independent distributors.
28. In accordance, already pre-merger there is no distributor relying on the distribution of Boeing-proprietary spare parts, as Boeing sells over [90-100%] of its spare parts directly to end-customers. Thus, the concentration will not have the effect of foreclosing the competing distributors to Boeing products.
29. Given the alternative distribution channels, including a large number of independent distributors, the market investigation has also confirmed that the concentration will not have the effect of foreclosing component manufacturers from access to distribution channels¹⁰. It can be added that the commercial interest of Aviall relies on its ability to propose a wide range of parts coming from various OEMs and to offer a degree of flexibility in both prices and delivery, rather than to reduce its product-range and give any preferential treatment to Boeing.
30. As regard any vertical effect of the concentration on the distribution of aerospace spare parts, it can therefore be concluded that the transaction does not raise serious doubts as to its compatibility with the common market.

VI. CONCLUSION

⁹ Aviall provides component services with regard to brakes and wheels, batteries, hoses and oxygen equipment, as well as paint mixing.

¹⁰ For instance, Boeing's main commercial competitor Airbus does not sell its proprietary aerospace spare parts through Aviall.

31. 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
Olli REHN
Member of the Commission