



EUROPEAN COMMISSION  
DG Competition

***Case M.8766 - LKQ /  
STAHLGRUBER***

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: 03/05/2018

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EUROPEAN COMMISSION

Brussels, 3.5.2018  
C(2018) 2841 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the Notifying party

**Subject: Case M.8766 - LKQ/Stahlgruber  
Commission decision pursuant to Article 6(1)(b) of Council  
Regulation No 139/2004<sup>1</sup> and Article 57 of the Agreement on the  
European Economic Area<sup>2</sup>**

Dear Sir or Madam,

- (1) On 9 March 2018, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which LKQ Corporation ("LKQ", USA) acquires within the meaning of Article 3(1)(b) of the Merger Regulation sole control of Stahlgruber GmbH ("Stahlgruber", Germany) (the "Transaction")<sup>3</sup>. LKQ and Stahlgruber are collectively referred to hereinafter as the "Parties", and LKQ individually as "the Notifying Party".

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<sup>1</sup> OJ L 24, 29.1.2004, p. 1 (the 'Merger Regulation'). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ('TFEU') has introduced certain changes, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.

<sup>2</sup> OJ L 1, 3.1.1994, p. 3 (the 'EEA Agreement').

<sup>3</sup> Publication in the Official Journal of the European Union No C 103, 19.3.2018, p. 7.

## **1. THE PARTIES**

- (2) LKQ is a distributor of automotive spare parts used in the repair and maintenance of passenger cars and light commercial vehicles and to a lesser extent of heavy commercial vehicles and specialty vehicle products and accessories. LKQ sells automotive spare parts in the EEA principally in Belgium, the Netherlands, Luxembourg, Bulgaria, the Czech Republic, France, Hungary, Ireland, Italy, Poland, Romania, Slovakia, and the United Kingdom.
- (3) Stahlgruber is a wholly-owned subsidiary of Stahlgruber Otto Gruber AG and a distributor of automotive spare parts used in the repair and maintenance of passenger cars and light commercial vehicles and to a very small extent of heavy commercial vehicles and specialty vehicle products and accessories. Stahlgruber's wholesale distribution activities are concentrated mostly in Germany, but also in Austria and the Czech Republic and to a lesser extent in Italy, Slovenia, Croatia, Belgium and the Netherlands.
- (4) In addition, both Parties have upstream activities in the area of manufacturing of automotive spare parts under private labels. These markets are however not affected markets and, therefore, they are not assessed further in the present decision.

## **2. THE OPERATION**

- (5) Under the terms of the Sale and Purchase Agreement dated 10 December 2017 ("SPA"), LKQ will acquire 100% of the share capital of Stahlgruber GmbH, the holding company of Stahlgruber. LKQ will therefore acquire sole control over Stahlgruber (the "Transaction").
- (6) The operation therefore constitutes a concentration pursuant to Article 3(1)(b) of the Merger Regulation.

## **3. EU DIMENSION**

- (7) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million (LKQ EUR 8 385 million, Stahlgruber EUR [...]). Each of them has an EU-wide turnover in excess of EUR 250 million (LKQ EUR [...], Stahlgruber EUR [...]), but they do not achieve more than two-thirds of their aggregate EU-wide turnover within one and the same Member State.
- (8) The notified operation therefore has an EU dimension pursuant to Article 1(2) of the Merger Regulation

## **4. REFERRAL TO THE CZECH REPUBLIC**

- (9) By letter dated 4 April 2018 the Office for Protection of Competition of the Czech Republic (the "Office"), on behalf of the Czech Republic, requested the Transaction to be partially referred to the Office with a view to assessing the effects of the Transaction in the Czech Republic under national law pursuant to Article 9(2)(a) of the Merger Regulation.

- (10) The Commission has adopted a decision partially referring the case to the Czech Republic for the aspects relating to the impact of the Transaction in the market for the wholesale supply of IAM automotive spare parts in the Czech Republic.
- (11) Therefore, only the remainder of the competition effects of the Transaction will be assessed by the Commission in the present decision.
- (12) This decision is without prejudice to the outcome of the proceedings conducted by the Office in regard to the assessment of the effects of the Transaction on the relevant market in the Czech Republic.

## **5. COMPETITIVE ASSESSMENT**

- (13) Both Parties are active in the manufacturing and sale and in the wholesale supply of various automotive components for the independent after-market ("IAM"). The Parties are also active to a lesser extent in the retail sale of IAM spare parts. However, the geographic footprint of the Parties is vastly complementary and the Transaction gives rise to only two affected markets: the wholesale supply of IAM automotive spare parts in the Czech Republic, which has been the object of referral to the Czech Republic, and in the Netherlands.

### **5.1. Market definition**

#### *5.1.1. Product market definition*

- (14) In past decisions, the Commission has defined the wholesale distribution of automotive spare parts as a separate product market. In the Commission's practice, this market comprises the sales of spare parts to workshops/garages and other retailers.<sup>4</sup> Wholesalers also make sales to other wholesalers, so called "Arbitrage Sales". The Notifying Party submit that these sales should not form part of the wholesale market, and the Commission considers that in this case it is not necessary to conclude on this issue as the Transaction does not raise serious doubts as to its compatibility with the internal market irrespective of whether Arbitrage Sales are considered part of the wholesale distribution market or not.
- (15) In its decisional practice, the Commission considered a further distinction between the market for (i) original equipment spare parts manufactured and or sold under the car manufacturer's brands (OES) and the independent spare parts (IAM).<sup>5</sup> The Commission further considered a distinction between spare parts for light vehicles and those for heavy vehicles.<sup>6</sup>

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<sup>4</sup> Case M.7401 – *Blackstone/Alliance BV/Alliance Automotive*; Case M.6718 – *Toyota Tshusho Corporation/CFAO*

<sup>5</sup> Case M.8198 – *Alliance Automotive Group/FPS Distribution*.

<sup>6</sup> Case M.8198 – *Alliance Automotive Group/FPS Distribution*; Case M.6319 – *Triton/Europart*.

- (16) Finally, in the Commission's past practice the market for the wholesale distribution of replacement tyres was considered to be separate from that of automotive spare parts.<sup>7</sup>
- (17) The Parties partially agree with the above decisional practice and submit that there are additional competitive relations which are not yet sufficiently reflected. Particularly, the Parties claim that:
- (a) there is an intensive competition between IAM and OES suppliers;
  - (b) wholesalers compete with their complete product portfolio including tyres; and,
  - (c) in some EU Member States, especially in Italy, there is an additional distribution level comprising local distributors/ricambisti.
- (18) For the purpose of this decision, the exact product market definition with regard to the wholesale of automotive spare parts to the IAM can be ultimately left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative product market definition.

#### *5.1.2. Geographic market definition*

- (19) In past decisions, the Commission considered the markets for the wholesale supply of automotive spare parts to be regional, national or even EEA-wide in scope. The ultimate market definition was left open, but the Commission focused its further competitive assessment mainly on national markets.
- (20) The Parties partially agree with the Commission's past practice, however claim that for some Member States (like Italy) the geographic scope of the market may be different.
- (21) For the purpose of this decision, the geographic market with regard to the wholesale of automotive spare parts to the IAM is likely national or narrower, but the exact geographic market definition can be ultimately left open as the Transaction does not raise serious doubts as to its compatibility with the internal market under any alternative geographic market definition.

### **5.2. Competitive assessment: Horizontal non-coordinated effects in the Netherlands**

#### *5.2.1. Methodological introduction on market shares calculation*

- (22) In order to provide a fully transparent overview of the market structure, LKQ has submitted different set of market shares using different calculation methodologies. In particular, the different calculation methodologies differ in what is included in the overall market.

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<sup>7</sup> Case M.6063 – *Itochu/Speedy*.

- (23) More precisely, the Notifying Party has submitted the following set of market share for the IAM markets:
- (a) The IAM sales including sales of tyres, of garage equipment and arbitrage sales;
  - (b) The IAM sales excluding sales of tyres, but including sales of garage equipment and arbitrage sales;
  - (c) The IAM sales including sales of tyres and arbitrage sales, but excluding sales of garage equipment;
  - (d) The IAM sales including arbitrage sales, but excluding both sales of tyres and of garage equipment;
  - (e) The IAM sales excluding arbitrage sales, sales of tyres and of garage equipment;
  - (f) The IAM sales excluding arbitrage sales and garage equipment.
- (24) "Arbitrage Sales" are sales made by wholesalers to other distributors (wholesalers) in the same or other EEA Member. According to the Notifying Party these sales are very common at the wholesale level, however LKQ submits that by including them a significant number of sales would be double counted and therefore the Parties' shares significantly overstated.
- (25) In addition to sales of components, as a special service for the garages, the Parties sell a full portfolio of tools and equipment for garages, if the garages wish so. Such "add-on" equipment sales can be large "one-off" pieces of equipment such as hydraulic lifts (used for vehicle inspection), rollingroads (used for brake testing) and air compressors (used for powering air tools) or smaller pieces of equipment, which may also include hand tools such as single screwdrivers or wrenches, worth a few EUR a piece.
- (26) The Parties estimated the market size on the basis of data provided by *Datamonitor*. However, the sales of workshop tools and equipment are not included in *Datamonitor's* data, because *Datamonitor* only provides data at retail / consumer level which does not include products not sold to consumers like garage equipment and tools. Therefore, the Notifying Party also submitted market share calculations with the aim to correct for the sales of workshop tools and equipment in the total market size.

#### 5.2.2. *Competitive assessment*

- (27) The market for the wholesale supply of automotive components for the IAM in the Netherlands is the only affected market in addition to the Czech Republic. For the reasons set out below, the Commission takes the view that the Transaction will not result in a significant impediment to effective competition on the market for the wholesale supply of automotive components for the IAM in the Netherlands.
- (28) First, the Transaction will only give rise to an affected market in the Netherlands if arbitrage sales are included in the calculation. If not, the combined market

shares of the Parties will be below [10-20]%, irrespective of whether garage equipment and tyres are included or not in the calculation.

- (29) Second, even if the arbitrage sales of the Parties are included, their combined market share will be just above [20-30]%, and below [20-30]%, irrespective of how the market shares are calculated.
- (30) Third, the increment brought about by the Transaction is limited. Stahlgruber generated a turnover with garages of only EUR [...] in the Netherlands in 2016. Also if Stahlgruber's arbitrage sales are included, its turnover in the Netherlands amounts to EUR [...]. Even the most conservative estimate for the market size of the wholesale market in the Netherlands is over EUR 1.5 billion (excluding tyres and adjustment for garage equipment). This leads to a market share for Stahlgruber of below [0-5]%. Any horizontal overlap with LKQ is therefore not appreciable and the Transaction will not change the structure of the Dutch market.

## 6. CONCLUSION

- (31) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement with regard to the markets other than the wholesale supply of IAM automotive spare parts in the Czech Republic. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

*For the Commission*

*(Signed)*  
*Margrethe VESTAGER*  
*Member of the Commission*