



EUROPEAN COMMISSION
DG Competition

***Case M.10412 - SCANIA SVERIGE /
DIN BIL SVERIGE / BILMETRO***

Only the English text is available and authentic.

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

Article 4(4)
Date: 28/10/2021



EUROPEAN COMMISSION

Brussels, 28.10.2021
C(2021) 7928 final

PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

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Subject: Case M.10412 – SCANIA SVERIGE / DIN BIL SVERIGE / BILMETRO
Commission decision following a reasoned submission pursuant to Article 4(4) of Regulation No 139/2004¹ for referral of the case to Sweden and Article 57 of the Agreement on the European Economic Area².

¹ 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

Date of filing: 23.09.2021

Legal deadline for response of Member States: 15.10.2021

Legal deadline for the Commission decision under Article 4(4): 28.10.2021

Dear Sir or Madam,

1. INTRODUCTION

- (1) On 23 September 2021, the Commission received by means of a Reasoned Submission a referral request pursuant to Article 4(4) of the Merger Regulation with respect to the indirect acquisition of sole control of Bilmetro Finans & Förnvalting AB (“Bilmetro”, Sweden, or the “Target”) by the Volkswagen AG (VW, Germany, or the “Notifying Party”, together with all its controlled subsidiaries and entities, “VW Group”) through its subsidiaries Scania Sverige AB (“Scania”, Sweden) and Din Bil Sverige AB (“Din Bil”, Sweden) (the “Transaction”). The parties request the operation to be examined in its entirety by the competent authorities of Sweden (VW and Bilmetro are referred hereafter as the “Parties” to the Transaction).
- (2) According to Article 4(4) of the Merger Regulation, before a formal notification has been made to the Commission, the parties to the transaction may request that their transaction be referred in whole or in part from the Commission to the Member State where the concentration may significantly affect competition and which present all the characteristics of a distinct market.
- (3) A copy of this Reasoned Submission was transmitted to all Member States on 24 September 2021.
- (4) On 8 October 2021, the Swedish National Competition Authority (the “SCA”) as the competent authority of Sweden informed the Commission that it agrees with the proposed referral.

2. THE PARTIES

- (5) VW is active as a manufacturer and supplier of passenger cars, LCVs and spare parts. Through its indirect, wholly owned subsidiary Din Bil Sverige AB (‘Din Bil’), it is active in Sweden as a retail distributor of passenger cars and light commercial vehicles (LCVs) of the VW brands Volkswagen, Skoda, Audi, Seat, Cupra and Porsche. Through its solely controlled subsidiary Scania, VW is also active in the manufacture and supply, as well as the retail sale of mainly heavy trucks and associated goods and services.
- (6) Bilmetro is a car and truck dealer and full-service provider of new and used cars and trucks that also offers workshop services, spare parts and finance solutions. Bilmetro sells VW passenger cars and LCVs as well as Scania-branded heavy trucks in central Sweden.³

replacement of ‘Community’ by ‘Union’ and ‘common market’ by ‘internal market’. The terminology of the TFEU will be used throughout this decision.

² OJ L 1, 3.1.1994, p. 3 (the ‘EEA Agreement’).

³ A county (Sw. “län”) is an administrative region in Sweden. In total, there are 21 counties in Sweden. Bilmetro’s outlets are located in the Swedish counties of Gävleborg, Dalarna and Uppsala, which are all located in the geographical region of central Sweden.

3. THE OPERATION AND CONCENTRATION

- (7) On 27 August 2021, the Parties entered into a Master Transfer Agreement, under the terms of which VW will acquire through Scania and Din Bil 100% of the shares in Bilmetro.
- (8) The Transaction would therefore result in a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

4. EU DIMENSION

5. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million and two of the undertakings have an EU-wide turnover of more than EUR 250 million (Notifying Party: EUR [200 000 – 250 000] million, Bilmetro: EUR 369 million). The Parties do not each achieve more than two-thirds of their aggregate Union-turnover in any one Member State. The Transaction therefore has Union dimension within the meaning of Article 1(2) of the Merger Regulation.

6. ASSESSMENT

- (9) On the basis of an assessment of the information provided by the Parties in the Reasoned Submission, the Commission considers that the Transaction fulfils the criteria for a referral from the Commission to the SCA in accordance with Article 4(4) of the Merger Regulation.
- (10) The Parties activities overlap horizontally on the following markets:

Passenger Cars and LCVs

- a. The market for retail distribution of new passenger cars.
- b. The market for retail distribution of new LCVs.
- c. The market for retail distribution of used passenger cars.
- d. The market for retail distribution of used LCVs.
- e. The market for retail distribution of OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars and Volkswagen LCVs.
- f. The market for the provision of repair and maintenance services for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars and Volkswagen LCVs.

Heavy trucks

- a. The market for retail distribution of new heavy trucks.
- b. The market for retail distribution of used heavy trucks.
- c. The market for retail distribution of OE spare parts for Scania heavy trucks.
- d. The market for the provision of repair and maintenance services for Scania heavy trucks.

e. The market for the provision of finance solutions for heavy trucks.

(11) Moreover, the Transaction gives rise to vertical links between the following of the Parties' activities:

Cars and LCVs

a. The Notifying Party's activities in the wholesale of new passenger cars (upstream) and the Target's activities in the retail distribution of new passenger cars (downstream).

b. The Notifying Party's activities in the wholesale of new LCVs (upstream) and the Target's activities in the retail distribution of new LCVs (downstream).

c. The Notifying Party's activities in the wholesale of OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (upstream) and the Target's activities in the retail distribution of the same OE spare parts (downstream).

d. The Notifying Party's activities in the wholesale of OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (upstream) and the Target's activities in the provision of repair and maintenance services for the same vehicles (downstream).

e. The Notifying Party's activities in the provision of finance solutions for passenger cars and LCVs (upstream) and the Target's activities in the retail distribution of passenger cars and LCVs (downstream).

Heavy Trucks

a. The Notifying Party's activities in the wholesale distribution of new heavy trucks (upstream) and the Target's activities in the retail distribution of new heavy trucks (downstream).

b. The Notifying Party's activities in the wholesale distribution of OE spare parts for Scania heavy trucks (upstream) and the Target's activities in the retail distribution of OE spare parts for Scania heavy trucks (downstream).

c. The Notifying Party's activities in the wholesale distribution of OE spare parts for Scania heavy trucks (upstream) and the Target's activities in the provision of repair and maintenance services for Scania heavy trucks (downstream).

d. The Parties' activities in the retail distribution of finance solutions for heavy trucks (upstream) and the Parties' activities in the retail distribution of new and used heavy trucks (downstream).

6.1. Relevant product markets

Distribution of new passenger cars, LCVs and Heavy Trucks

- (12) In previous decisions, the Commission has distinguished between the distribution of passenger cars and commercial vehicles.⁴ Passenger cars serve the general purpose of individual transport of passengers on public roads, and unlike commercial vehicles, they are not primarily designed for commercial use.
- (13) Commercial vehicles are typically subdivided into LCVs, medium-sized trucks and heavy duty trucks.⁵ LCVs usually have space for one or two passengers, but differ from passenger cars by being designed for commercial use and having a larger cargo space for the main purpose of transporting goods. Within LCVs, the Commission has defined separate markets for large, medium and small LCVs.⁶
- (14) Moreover, in previous decisions, the Commission has distinguished between wholesale and retail distribution of passenger cars and LCVs.⁷ At the wholesale level, importers and manufacturers distribute vehicles to dealers, which subsequently sell the vehicles to end customers. At the retail level, vehicles are sold to end customers by dealers or by the importer's organisation itself. With regard to heavy trucks, the Commission has previously examined whether there is a separate product market for wholesale distribution, but ultimately left the question open.⁸

Sales of used motor vehicles

- (15) The Commission has in previous decisions distinguished between the supply of new and used motor vehicles.⁹ The distribution of used cars has been deemed to differ from the distribution of new cars. Among other things, the prices are lower for used cars, while end users usually spend more money on after-sales services because of the warranties connected with a new car purchase. In addition, new cars are typically only available to purchase from the importer's organisation directly or from its authorised network of dealers. In contrast, used cars are provided also by a large number of unauthorised dealers and private individuals.
- (16) With regard to trucks, the Commission has previously considered a distinction between the sale of new trucks and the sale of used trucks, but ultimately left the exact market definition open.¹⁰

Spare parts for motor vehicles

- (17) The Commission has in its decisional practice made a distinction between the wholesale market and the retail market for distribution of spare parts for motor vehicles.¹¹

⁴ See for example: M.9720 - Volvo Cars/Upplands Motor, paras. 17, 27; M.6403 - Volkswagen/KPI Polska/Skoda auto Polska/VW bank Polska/VW leasing Polska, para. 22; and M.8309 Volvo Car Corporation/First Rent a Car, para. 17.

⁵ M.8309 - Volvo Car Corporation/First Rent a Car, para. 13; M.4420 - Credit Agricole Fiat Auto/FAFS, para. 20; M.3352 - Volkswagen/Hahn & Lang; M.2832 - General Motors/Daewoo Motors, paras. 13-14.

⁶ M.9730 - FCA/PSA, para. 50.

⁷ See for example: M.9720 - Volvo Cars/Upplands Motor, paras. 18, 27; M.6403 - Volkswagen/KPI Polska/Skoda auto Polska/VW bank Polska/VW leasing Polska; M.2832 - General Motors/Daewoo Motors; M.182 - Inchape / IEP; M.7747 - PGA/MSA; M.5219 - VWAG/OFH/VW GI.

⁸ M.6763 - VWFS / Pon Holdings B.V. / Pon Equipment Rental & Lease.

⁹ M.9720 - Volvo Cars/Upplands Motor, paras. 19, 27; M.6958 - CD&R/We Buy Any Car.

¹⁰ M.6763 - VWFS / Pon Holdings B.V. / Pon Equipment Rental & Lease, paras. 25-27

- (18) In addition, the Commission has previously distinguished between original equipment (“OE”) spare parts and non-original equipment (“non-OE”) spare parts.
- (19) As for the market for OE spare parts, the Commission has considered this market to be brand-specific. The Commission further distinguished between categories of vehicles, i.e. light vehicles (passenger cars and LCVs) and heavy vehicles, but without any sub-distinction by product (e.g. brake pads, exhaust pipe, etc.).¹²

Repair and maintenance services

- (20) The Commission has in previous decisions defined a separate market for repair and maintenance services for motor vehicles (as compared to retail distribution of spare parts). Different segmentations of this market have been considered but the Commission has ultimately left it open whether this market should be further segmented.¹³ In the context of the Article 101 TFEU assessment of vertical restraints, the Commission indicates that it considers the market for repair and maintenance services for motor vehicles to be brand-specific.¹⁴
- (21) The SCA has also considered that the market for repair and maintenance services is brand-specific. Furthermore, the SCA considered that this market includes the provision of spare parts as part of repair and maintenance work, excluding recall, warranty or free-service work. The SCA considered that both authorised and unauthorised workshops compete on this market.¹⁵

Financial and operational leasing

- (22) In its previous decisions, the Commission considered a distinction between (i) operational leasing, in which ownership of the relevant asset is typically not transferred to the lessee at the end of the lease and the risk of ownership are retained by the lessor, and (ii) financial leasing, which is generally for a longer period, during which the lessee fully repays the asset cost and in result acquires the ownership of the relevant asset at the end of the lease. The Commission has also considered segmentations of the leasing market (i) according to the types of assets which are leased (cars, office equipment etc.), and (ii) according to the size of customers.¹⁶ In the end, it was left open whether there is one relevant product market for leasing or whether it should be segmented (i) into operational and financial leasing, (ii) according to the size of customers (small- and medium-sized enterprises or large corporate customers), and/or (iii) according to the type of assets leased.¹⁷

6.1.1. Commission’s assessment and conclusion

- (23) There are no indications on the Commission’s file that would indicate that the relevant product markets in this case are wider than those considered by the

¹¹ M.9720 - Volvo Cars/Upplands Motor, paras. 23, 27; M.6718 - Toyota Tsusho Corporation/CFAO.

¹² M.9720 - Volvo Cars/Upplands Motor, paras. 23, 27; M.8963 - Eurocar/Bonaldi.

¹³ M.6063 – Itochu/Speedy; M.2087 – Feu Vert/Carrefour/Autocenter Delauto; M.1526 – Ford/Kwik-Fit.

¹⁴ Commission Notice - Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles, para. 57.

¹⁵ SCA, Decision no. 212/2004, Bilia/Eneqvist.

¹⁶ M.8414 – DNB/Nordea/Luminor Group, para. 54.

¹⁷ M.8744 - Daimler / BMW / Car Sharing JV, para. 86; M.8553 – Banco Santander/Banco Popular Group, para. 23 et seq.; M.8414 - DNB/Nordea/Luminor Group, para. 67.

Commission in previous decisions. As regards any possible narrower delineation or segmentation of these markets, the Commission considers that the exact product market definition may be left open since the Transaction fulfils the conditions for a referral to Sweden independently of the exact product market definition, as explained in more detail in Section 6.3 below. The SCA will be able to investigate and delineate the exact product market definition if appropriate.

6.2. Relevant geographic market

Distribution of new passenger cars, LCVs and Heavy Trucks

- (24) In previous decisions, the Commission has considered that the market for wholesale distribution of new passenger cars and LCVs is at least national.¹⁸ With regard to heavy trucks, in a previous decision the Commission considered that if a separate market for wholesale distribution were to be defined, such a market would either be national or wider in scope.¹⁹
- (25) The Commission has previously left open the question whether the markets for retail distribution of new passenger cars and LCVs are local, national or EU-wide in scope.²⁰ The Commission has previously not examined in detail the geographic scope of the market for retail sales of heavy trucks.

Sales of used motor vehicles

- (26) Used cars are to a greater extent purchased by customers on online platforms, which indicates that the market is most likely national in scope. Previous Commission decisions have suggested that the geographical market for distribution of used vehicles is national or regional in scope.²¹
- (27) With regard to the sale of used trucks, the Commission has in previous decisions suggested that the geographical market is national or wider.²²

Spare parts for motor vehicles

- (28) In previous decisions, the Commission has considered that the geographic market for wholesale distribution of spare parts could be either EEA-wide or national, but ultimately left the exact definition of the market open.²³
- (29) In previous decisions, the Commission has considered that the retail distribution of spare parts could be either national or regional, but ultimately left open the exact definition.²⁴

¹⁸ M.6403 - Volkswagen/KPI Polska/Skoda auto Polska/VW bank Polska/VW leasing Polska

¹⁹ M.6763 - VWFS / Pon Holdings B.V. / Pon Equipment Rental & Lease.

²⁰ M.9720 - Volvo Cars/Upplands Motor, paras. 31, 38; M.7747 - PGA/MSA; M.8966 - PGA Motors/Fiber/Bernard Participations.

²¹ M.9389 - Porsche Holding Salzburg/SIVA/Soauto, para. 7; M.6958 - CD&R/We Buy Any Car.

²² M.6763 - VWFS / Pon Holdings B.V. / Pon Equipment Rental & Lease, paras. 25-27.

²³ M.9839 - VGRD/Auto Wichert Assets, para. 26; M.9070 - Eurocar/Vicentini, para. 13; M.8963 - Eurocar/Bonaldi, para. 13; M.6718 - Toyota Tsusho Corporation/CFAO, para. 22; M.5250 - Porsche/Volkswagen; M.3198 - VW-Audi/VW-Audi Sales Centres.

²⁴ M.9839 - VGRD/Auto Wichert Assets, para. 32; M.9070 - Eurocar/Vicentini, para. 14; M.8963 - Eurocar/Bonaldi, para. 14; M.6718 - Toyota Tsusho Corporation/CFAO, para. 22.

Repair and maintenance services

- (30) The Commission's decision-making practice has left open the geographical definition of the market for repair and maintenance services, considering a possible segmentation at regional or national level.²⁵ The SCA has in a previous decision considered that the relevant geographic market for the provision of repair and maintenance services is likely to be regional in scope.²⁶
- (31) The Commission has noted that customers generally have their vehicles serviced or repaired in the urban agglomeration of their domicile, that is to say in a relatively limited geographical catchment area.²⁷ Similar considerations have been made by the SCA in its decisional practice.²⁸

Financial and operational leasing

- (32) In its previous decisional practice, the leasing market was considered to be national in scope.²⁹
- (33) With regard to the automotive sector, in the Volvo Car Corporation/First Rent A Car case, the Commission left open whether the geographic market definition for operational and financial leasing is national or EEA-wide in scope.³⁰

6.2.1. Commission's assessment and conclusion

- (34) The Commission received no evidence that would indicate that the relevant geographic markets in this case are wider than those considered by the Commission in previous decisions. As regards any possible narrower delineation or segmentation of these markets, the exact geographic market definition of these markets may be left open since the Transaction fulfils the conditions for a referral to Sweden independently of the exact geographic market definition, as explained in more detail in Section 6.3 below.

6.3. Assessment of the referral request

6.3.1. Legal requirements

- (35) According to the Commission Notice on case referral, in order for a referral to be made by the Commission to one or more Member States pursuant to Article 4(4), the following two legal requirements must be fulfilled:
- a) there must be indications that the concentration may significantly affect competition in a market or markets,³¹ and

²⁵ M.2087 – Feu Vert/Carrefour/Autocenter Delauto, paras. 9-10.

²⁶ Ibid, para. 38. The regional market considered in that decision consisted of Stockholm County, where the parties had overlapping activities.

²⁷ M.2087 – Feu Vert/Carrefour/Autocenter Delauto, para. 9.

²⁸ SCA, Decision no. 212/2004, Bilia/Eneqvist.

²⁹ Case M.8414 – DNB/Nordea/Luminor Group, para. 71.

³⁰ Case M.8309 – Volvo Car Corporation/First Rent a Car, paragraph 33.

³¹ Further developed in point 17 of the Commission Notice on Case Referrals.

- b) the market(s) in question must be within a Member State and present all the characteristics of a distinct market.³²

(36) On the basis of the information submitted in the Reasoned Submission, the Transaction gives rise to the following horizontally affected markets if central Sweden is considered the relevant geographic market:

*Passenger Cars and LCVs*³³

- a) The market for retail distribution of OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (combined market share: [30 - 40]%).
- b) The market for the provision of repair and maintenance services for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (combined market share: [20 - 30]%).

*Heavy trucks*³⁴

- a) The market for retail distribution of new heavy trucks (combined market share: [30 - 40]%).
- b) The market for retail distribution of OE spare parts for Scania heavy trucks in (combined market share: [60 - 70]%).
- c) The market for the provision of repair and maintenance services for Scania heavy trucks (combined market share: [40 - 50]%).
- d) The market for retail distribution of used heavy trucks (combined market share of [30 - 40]%)
- (37) When considered in a wider geographic scope, including the entire territory of Sweden, the Transaction gives rise to the horizontally affected markets for a) the market for retail distribution of new heavy trucks (combined market share: [20 - 30]%), b) the market for retail distribution of OE spare parts for Scania heavy trucks (combined market share: [40 - 50]%) and c) the market for the provision of repair and maintenance services for Scania heavy trucks (combined market share: [30 - 40]%).
- (38) The Commission considers that the existence of affected markets is generally sufficient to meet this requirement of Article 4(4) of the Merger Regulation.³⁵ As

³² Further developed in point 18 of the Commission Notice on Case Referrals.

³³ The Parties furthermore note that the Transaction gives rise to a horizontal overlap in two markets which would be nearly affected, when considered in a geographic scope that comprises central Sweden: the market for retail distribution of used passenger cars (combined market share: [10 - 20]%), and the market for retail distribution of new LCVs (combined market share: [10 - 20]%). Neither market would be affected when considered in a national geographic scope.

³⁴ The Parties furthermore note that the Transaction gives rise to a horizontal overlap in two markets which would be nearly affected: the market for retail distribution of used trucks in Sweden (combined market share: [10 - 20]%), and the market for the provision of finance solutions for heavy trucks in Sweden (combined market share: [10 - 20]%).

³⁵ The Commission Notice on case referral in respect of concentrations (the "Referral Notice"), OJ C 56, 05.03.2005, p. 2-23, footnote 21.

regards the horizontally affected markets, those markets are likely to be national or narrower in scope.

- (39) Therefore, both requirements of Article 4(4) of the Merger Regulation appear to be met in relation to these horizontally affected markets.
- (40) The Transaction also gives rise to the following vertically affected markets, when the geographic scope of the downstream markets is limited central Sweden:

*Passenger Cars and LCVs*³⁶

- a) The upstream Swedish market for the wholesale of new LCVs (where the VW Group has a market share of [30 – 40]%) and the downstream market for the retail distribution of new LCVs in central Sweden (where the Parties have a combined market share of [10 – 20]%).
- b) The upstream Swedish market for the wholesale distribution of OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (where the VW Group has a market share of [60 – 70]%) and the downstream market for the retail distribution of the same products in central Sweden (where the Parties have a combined market share of [30 – 40]%).
- c) The upstream Swedish market for the wholesale distribution OE spare parts for Volkswagen, Audi, Skoda, Seat, and Cupra passenger cars as well as Volkswagen LCVs (where the VW Group has a combined market share of [60 - 70]%) and the downstream market for the provision of repair and maintenance services in central Sweden (where the Parties have a combined market share of [20 – 30]%).

Heavy trucks

- a) The upstream Swedish market for the wholesale distribution of new heavy trucks (where Scania has a market share of [40 – 50]%) and the downstream market for retail distribution of new heavy trucks in central Sweden (where the Parties have a combined market share of [30 – 40]%).
- b) The upstream Swedish market for the wholesale distribution of OE spare parts for Scania heavy trucks (where Scania has a market share of [90 - 100]%) and the downstream market for retail distribution of OE spare parts for Scania heavy trucks in central Sweden (where the Parties have a combined market share of [60 – 70]%).
- c) The upstream Swedish market for the wholesale distribution of OE spare parts for Scania heavy trucks (where Scania has a market share of [90 – 100]%) and the downstream market for the provision of repair and maintenance services for Scania heavy trucks in central Sweden (where the Parties have a combined market share of [40 – 50]%).

³⁶ The Transaction nearly gives rise to vertically affected markets between the upstream market for wholesale of new passenger cars in Sweden, where VW Group has a market share of [20 – 30]%, and the downstream market for retail distribution of new passenger cars in central Sweden, where the Parties have a combined market share of [10 – 20]%.

- d) The upstream Swedish market for the provision of finance solutions for heavy trucks (incl. trailers) (where the Parties have a combined market share of [10 – 20]%) and the downstream market for the retail distribution of new and used heavy trucks in central Sweden (where the Parties have a combined market share of [30 – 40]% / [30 – 40]%).
- (41) When the downstream markets are considered in a wider geographic scope, including the entire territory of Sweden, the Transaction gives rise to all the above vertically affected markets, except for the upstream Swedish market for the provision of finance solutions for heavy trucks (incl. trailers) (where the Parties have a combined market share of [10 – 20]%), and the downstream market for the retail distribution of new and used heavy trucks in Sweden (where the Parties have a combined market share of [20 – 30]% / [10 – 20]%).
- (42) These vertically affected markets are all defined as national or narrower in scope, except for the upstream markets referred to in rec. (44) below.
- (43) Therefore, the requirements of Article 4(4) of the Merger Regulation appear to be met also in relation to the vertically affected markets that are national or local in scope.
- (44) As set out in paragraph (34) above, for the upstream markets for the wholesale distribution of passenger cars, LCVs, heavy trucks and OE spare parts for VW Group cars and Scania heavy trucks, the Commission has previously left open the possibility of wider than national geographical markets.
- (45) In this Transaction the markets that could be affected under such a market definition would be the markets for wholesale distribution of passenger cars, LCVs, heavy trucks and OE spare parts for VW Group cars and Scania trucks, the provision of leasing services, as well as the retail sale of new passenger cars and LCVs. However, even under the assumption that those markets were EEA-wide, the effects of the Transaction at any level wider than Sweden or in any other Member State are negligible considering that the Target is present only in the region of central Sweden, thus far away from any Member States bordering Sweden.
- (46) Indeed, any effects outside of Sweden on these markets would be insignificant given that any such effects would mainly result from input foreclosure, which is highly unlikely to materialize as a result of the lack of incentive to do so considering (i) that the Target's dealers are located only in Sweden and [...],³⁷ (ii) that there is no evidence of customers located in other Member States purchasing motor vehicles from Sweden,³⁸ (iii) that the Parties need to maintain several routes to the downstream markets in order to maintain profitability, and (iv) that for passenger cars and LCVs there are a number of strong alternative suppliers in the EEA to which downstream rivals could switch to.
- (47) As regards the market for the provision of financial and operational leasing, which is vertically affected due to the Parties' high market shares in the downstream markets for the retail sale of new and used heavy trucks, any potential customer foreclosure effects outside Sweden would also be highly unlikely to result from the Transaction.

³⁷ See Response to RFII, question 4.

³⁸ See Response to RFII, question 4 and 5.

Indeed, the customer base of an upstream rival would, if an EEA-wide geographic market were adopted, cover the whole of the EEA whereby the Parties would be considered to represent an insignificant part of that customer base.

- (48) With regard to other relevant product markets that may potentially be defined wider than national in scope, there are no indications on the Commission's file that the Transaction would significantly affect competition on any of them outside Sweden.
- (49) Hence, the legal requirements of Article 4(4) of the Merger Regulation appear to be equally met as regards these other relevant product markets, in so far as they may potentially be defined as wider than national.
- (50) Therefore, the Commission considers that the Proposed Transaction may significantly affect competition in markets located exclusively in Sweden, which present the characteristics of distinct markets.

6.3.2. *Additional factors*

- (51) In addition to the verification of the legal requirements, point 19 of the Notice provides that it should also be considered whether referral of the case is appropriate, and in particular "whether the competition authority or authorities to which they are contemplating requesting the referral of the case is the most appropriate authority for dealing with the case".
- (52) In addition, point 23 of the Notice states that "Consideration should also, to the extent possible, be given to whether the NCA(s) to which referral of the case is contemplated may possess specific expertise concerning local markets, or be examining, or about to examine, another transaction in the sector concerned".
- (53) The requested referral will preserve the "one-stop shop" principle, as this case will be referred in its entirety to a single competition authority.
- (54) The SCA has previously examined the markets relevant to this Transaction.³⁹ Most notably, the Commission has recently referred to the SCA Volvo Cars' acquisition of Upplands Motor,⁴⁰ which is operating car dealerships that are located largely in the same region within Sweden as the Target's dealerships. Furthermore, the SCA has reviewed a merger case where the parties' activities included repair and maintenance services and the sale of motor vehicles and spare parts in a similar region to the one in which the Target is active.⁴¹ The SCA has also published reports regarding the competitive dynamics of markets relating to after-sales services for motor vehicles.⁴² The SCA's possession of expertise concerning the specific national characteristics of the markets, as well as the fact that the SCA previously has examined a transaction

³⁹ SCA, Decision no. 212/2004, Bilia/Eneqvist. See also the court case about an alleged cartel among Volvo dealers, brought by the SCA; judgement from the Swedish Market Court MD 2008:12 in case no T4231-04.

⁴⁰ M.9720 – Volvo Cars/Upplands Motor

⁴¹ SCA, Decision no. 212/2004, Bilia/Eneqvist.

⁴² Personbilsmarknad i förändring – konsekvenser för konkurrensförhållanden och konsumentskydd med särskild betong på eftermarknaden, report no 2016:5, and Makten över bilen – en rapport om bilförsäkringar och marknaden för bilreparationer, report no. 2019:2.

in the sector and region concerned, are additional circumstances which the Referral Notice identifies as indicative for an appropriate referral candidate.⁴³

6.3.3. Conclusion on referral

- (55) On the basis of the information provided by the parties in the Reasoned Submission, the case meets the legal requirements set out in Article 4(4) of the Merger Regulation in that the concentration may significantly affect competition in a market(s) within a Member State which presents all the characteristics of a distinct market.
- (56) Moreover, the SCA can be considered to be the most appropriate authority for dealing with the case.

7. CONCLUSION

- (57) For the above reasons, and given that Sweden has expressed its agreement, the Commission has decided to refer the transaction in its entirety to be examined by the SCA. This decision is adopted in application of Article 4(4) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Olivier GUERSENT
Director-General

⁴³ Referral Notice, para 23.