



DETERMINATION OF MERGER NOTIFICATION M/15/071 - JDM AUTOMOTIVE / KARMANN AUTO

Section 21 of the Competition Act 2002

Proposed acquisition by JDM Automotive Limited of Karmann Auto Limited

Dated 22 January 2016

Introduction

1. On 14 December 2015, in accordance with section 18(1) of the Competition Act 2002, as amended¹ (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed transaction whereby JDM Automotive Limited (“JDM Automotive”) would acquire the entire issued share capital, and therefore sole control, of Karmann Auto Limited (“Karmann Auto”).²

The Transaction

2. On 10 December 2015, JDM Automotive entered into a share purchase agreement (“Share Purchase Agreement”) with the sole shareholder in Karmann Auto, RedCo Auto Holdings Limited (“RedCo Auto Holdings” or “the Vendor”), pursuant to which it is proposed that the entire issued share capital of Karmann Auto will be acquired by JDM Automotive.

The Undertakings Involved

The Acquirer – JDM Automotive

3. JDM Automotive is a private company limited by shares³, incorporated in the State in 2006, with its registered office at Exit 5, M50, North Road, Dublin 11. JDM Automotive is the holding company for the Joe Duffy Automotive Motor Group.⁴
4. JDM Automotive has nine wholly-owned subsidiaries⁵ active in the retail sale of branded new and demonstration motor vehicles and in the provision of aftersales services and

¹ It should be noted that the Competition and Consumer Protection Act 2014 made a number of important amendments to the merger review regime set out in the Competition Act 2002.

² The notification was submitted to the Commission by the parties on 11 December 2015 but the filing fee was only paid in full on 14 December 2015, making the latter the “appropriate date” in terms of section 18(8) of the Act, read with paragraph 1.3 of the Commission’s Procedures for the Review of Mergers and Acquisitions:

(<http://www.ccpc.ie/sites/default/files/CCPC%20Mergers%20Procedures%20for%20the%20review%20of%20mergers%20and%20acquisitions.pdf>). The “appropriate date” is the date from which the time limits for the Commission to make Phase 1 and Phase 2 determinations begin to run.

³ The individual shareholders and their respective shareholdings in JDM Automotive are [...].

⁴ See <http://www.joeduffy.ie/>.

⁵ Two other subsidiaries of JDM Automotive are non-trading companies, namely Joe Duffy Property Company Limited, which manages the group’s property investments, and a shelf company, JDM Airside Limited.



the sale of parts and accessories for these brands. These subsidiaries and the branded goods and services which they supply are:

- i. Joe Duffy (Motors) Limited, Dublin – BMW, MINI, BMW Motorrad⁶;
 - ii. Mainway North Road Limited, Dublin – Audi;
 - iii. Mainway Limerick Limited, Limerick – Audi;
 - iv. Joe Duffy Dun Laoghaire Limited, South Dublin – Porsche & SEAT;
 - v. JDM Specialist Cars Limited, Dublin – Mazda;
 - vi. JDM Premium Cars Limited, North Dublin – Land Rover & Volvo;
 - vii. JB DL Limited, Dublin – Ford;
 - viii. McAllisters Garage Limited, North Dublin – Volkswagen; and
 - ix. Commons Road Cars Limited - Volkswagen.
5. JDM Automotive also sells pre-owned motor vehicles and offers intermediary finance and insurance services.
6. JDM Automotive's turnover for the financial year ended 31 December 2014 was approximately €168 million, all of which was generated in the State.

The Target – Karmann Auto

7. Karmann Auto is a single member private company limited by shares, incorporated in the State in 2011, and operates a car dealership in M50 Business Park, Ballymount, Dublin 12.
8. Karmann Auto is an authorised Volkswagen dealer⁷, which sells new and demonstration passenger vehicles⁸, provides Volkswagen aftersales and repair services and sells Volkswagen spare parts and accessories. It also sells pre-owned motor vehicles and offers finance services through Volkswagen Bank.
9. Karmann Auto's turnover for the financial year ended 31 December 2014 was approximately €[...], the entirety of which was generated in the State.

The Vendor

10. The sole shareholder in Karmann Auto is RedCo Auto Holdings, a company owned by two individuals.⁹

Rationale for the Proposed Acquisition

11. The notification states:

⁶ BMW Motorrad is the BMW motorcycle brand.

⁷ See: <http://www.karmannvolkswagen.ie/>.

⁸ Karmann Auto is not involved in the sale of new commercial vehicles.

⁹ These individuals and their respective shareholdings in RedCo Auto Holdings are: [...].



“The commercial objective sought to be achieved by RedCo Auto Holdings Limited by the proposed transaction is the continuity of the Karmann business as a going concern.

The commercial objective sought to be achieved by JDM Automotive Limited by the proposed transaction is the continuity of the future growth strategy of the Group as a leading motor sales and sales support group.”

Third Party Submissions

12. No submission was received.

Competitive Analysis

13. JDM Automotive owns dealerships that sell and service the following brands of new and demonstration motor vehicles: BMW, MINI, Audi, Ford, Mazda, Porsche, SEAT, Volkswagen, Land Rover and Volvo. It also sells pre-owned motor vehicles, branded parts and accessories and offers intermediary finance and insurance services.
14. Karmann Auto holds an exclusive Volkswagen franchise for the sale of new and demonstration Volkswagen passenger vehicles in North Dublin. It also sells pre-owned motor vehicles and offers finance services through Volkswagen Bank. Karmann Auto also holds a Volkswagen service dealer contract and as such provides services and sells parts and accessories for the Volkswagen brand of motor vehicles, which makes up approximately [10-15]% of the annual turnover of Karmann Auto.
15. Consequently, there are two minor horizontal overlaps in the activities of the parties within the State that relate to:
 - i. the sale of new and demonstration Volkswagen passenger vehicles, including finance services through Volkswagen Bank, aftersales and repair services and the sales of parts and accessories for Volkswagen motor vehicles (“Volkswagen overlap”); and
 - ii. the sale of pre-owned motor vehicles.
16. While the Commission defines markets to the extent necessary depending on the particular circumstances of a given case, in this instance it is not necessary to define precise relevant markets since the Commission’s review of the competitive effects of the proposed transaction would be the same regardless of the precise product or geographic market definition adopted. However, in order to examine the competitive impact of the proposed transaction, the Commission has analysed its impact by reference to the two overlaps outlined above.

Volkswagen overlap

17. JDM Automotive owns two Volkswagen dealerships, (i.e., McAllisters Garage, in Swords, County Dublin, which is approximately 13 kilometres away from the Karmann Auto dealership and also Commons Road Cars in Navan, County Meath, which is approximately 52 kilometres away from the Karmann Auto dealership). The McAllisters Garage and Commons Road Cars dealerships account for approximately only [10-15]% and [0-5]%, respectively, of JDM Automotive’s annual turnover.



18. Nationally, for the year January - November 2015, Volkswagen held a market share of new vehicle registrations, including private imports, of 12.29%¹⁰. The three Volkswagen dealerships owned by the notifying parties will hold between them an estimated post-transaction market share for the supply of Volkswagen passenger vehicles in the State of less than 10%, as follows¹¹:
- McAllister Garage (owned by JD Automotive) – [0-5]%,
 - Commons Road Cars (owned by JD Automotive) – [0-5]%, and
 - Karmann Auto – [0-5]%
19. In addition, there are 13 other Volkswagen dealerships within an hour's journey from the Karmann Auto dealership which act as a competitive constraint on the notifying parties and will continue to do so post-transaction.

Sale of pre-owned motor vehicles

20. Both Karmann Auto and JDM Automotive are involved in the sale of pre-owned motor vehicles, although that is not the principal line of business of either of them. Sales of pre-owned motor vehicles made up approximately [35-40]% and [35-40]% of total vehicle sales by Karmann Auto and JDM Automotive in the last financial year respectively. The Commission also notes that most, if not all, motor dealerships in the State sell pre-owned motor vehicles and will act as a competitive constraint on the merged entity following implementation of the proposed transaction. For example, a new service offered by the Society of the Irish Motor Industry (SIMI), in association with its Used Car Website (www.beebbeeep.ie), lists 264 dealers in the State offering pre-owned motor vehicles (used cars) for sale, 76 of which are in the Dublin area.¹²

Vertical Issues

21. There is no vertical overlap in the activities of the parties and the proposed transaction does not give rise to vertical competition concerns.

Conclusion

22. In each of the above areas of overlap, there is a large and varied (in terms of size) number of competitors whose presence will constrain the activities of the merged entity post-transaction. For example, in the overall national market for retail sales of passenger vehicles and the provision of aftersales and repair services, parts and accessories, the parties estimate that Karmann Auto and JDM Automotive hold an estimated market share of less than [0-5]% and [0-5]%, respectively. The increment in the parties' market share post-transaction will therefore be minimal.
23. In light of the above, the Commission considers that the proposed acquisition will not substantially lessen competition in any market for goods or services in the State.

¹⁰ Society of the Irish Motor Industry (SIMI) statistics:
http://files.simi.ie/statistics/2015/National%20Vehicle%20Statistics/November_StatsPressRel2015.xls

¹¹ Estimated market shares provided by the parties.

¹² <http://www.beebbeeep.ie/dealers/search.html>



Ancillary Restraints

24. The Share Purchase Agreement between JDM Automotive and the Vendor contains covenants restricting the Vendor from carrying on any business within the city and county of Dublin which competes with Karmann Auto and from soliciting the custom of any existing customer or supplier and/or offering employment to any existing employee of Karmann Auto for a specified period.
25. The duration of the ancillary restraints does not exceed the maximum duration acceptable to the Commission¹³ and, given the particular nature of the proposed transaction, the Commission considers the restrictions to be directly related and necessary to the implementation of the proposed transaction.

¹³ In this respect, the Commission follows the approach adopted by the EU Commission in paragraph 20 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2005). For more information see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN).



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition whereby JDM Automotive Limited would acquire the entire issued share capital and thus sole control of Karmann Auto Limited, will not be to substantially lessen competition in any market for goods or services in the State, and accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Gerald FitzGerald
Member
Competition and Consumer Protection Commission