



# DETERMINATION OF MERGER NOTIFICATION M/18/080 – JDM AUTOMOTIVE/ASSETS OF T.K.F. AUTOS

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## Section 21 of the Competition Act 2002

### Proposed acquisition by JDM Automotive Limited of certain business assets of T.K.F. Autos Limited located at Donore Road, Drogheda, Co Louth

Dated 9 November 2018

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#### Introduction

1. On 2 October 2018, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (“the Commission”) received a notification of a proposed acquisition whereby JDM Automotive Limited (“JDM Automotive”) would acquire certain business assets including property, plant & equipment, fixtures & fittings and used vehicle stock of T.K.F. Autos Limited (“T.K.F. Autos”) located at Donore Road, Drogheda, Co Louth (the “Target Assets”) (“the Proposed Transaction”).

#### The Proposed Transaction

2. At the time of the notification, the parties informed the Commission that they had not yet executed a formal written agreement relating to the Proposed Transaction. The parties submitted to the Commission, together with the notification, a copy of the signed heads of agreement between JDM Automotive and T.K.F. Autos dated 14 September 2018.
3. In the circumstances, the Commission considers that the undertakings involved have demonstrated a good faith intention to conclude an agreement for the purpose of section 18(1A)(b)(ii) of the Act.

#### The Undertakings Involved

##### *The Acquirer – JDM Automotive*



4. JDM Automotive is a private company limited by shares<sup>1</sup>, incorporated in the State in 2006, with its registered office at Exit 5, M50, North Road, Dublin 11.
5. JDM Automotive has 16 wholly-owned subsidiaries, four of which are currently non-trading companies.<sup>2</sup> The 12 trading subsidiaries are active in the retail sale of branded new and demonstration motor vehicles and light commercial vehicles; in the provision of aftersales services and the sale of parts and accessories for a number of its affiliated brands. These subsidiaries, and the branded goods and services which they supply, are as follows:
  - i. Joe Duffy (Motors) Limited - Finglas, Dublin – *BMW, BMWi, MINI, BMW Motorrad*<sup>3</sup>;
  - ii. Mainway North Road Limited - Finglas, Dublin – *Audi*;
  - iii. JDM Specialist Cars Limited - Finglas, Dublin – *Mazda*;
  - iv. JBDL Limited – Finglas, Dublin - *Ford*;
  - v. Karmann Auto Limited - Finglas, Dublin – *Volkswagen*;
  - vi. McAllister's Garage Limited – Swords, Dublin – *Volkswagen*;
  - vii. JDM Airside Limited - Swords, Dublin - *Jaguar & Land Rover*
  - viii. JDM Premium Cars Limited - Swords, Dublin – *Volvo & Kia*;
  - ix. Joe Duffy Dun Laoghaire Limited - Dun Laoghaire, Dublin – *Porsche*;
  - x. Commons Road Cars Limited – Navan, Meath – *Volkswagen*;
  - xi. Mainway Limerick Limited - Limerick – *Audi*; and
  - xii. Motorpark Limited – Athlone, Roscommon - *Ford*.
6. JDM Automotive through its subsidiaries also sells pre-owned motor vehicles and offers intermediary finance and insurance services.
7. For the financial year ending 31 December 2017, JDM Automotive's turnover was approximately €282.4 million, all of which was generated in the State.

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<sup>1</sup> [...]

<sup>2</sup> The four subsidiaries of JDM Automotive which are currently non-trading companies are Joe Duffy Property Company Limited, JDM Eastgate Limited, JDM Services Limited and Brecol Limited.

<sup>3</sup> BMW Motorrad is the BMW motorcycle brand.



### **The Target Assets**

8. The Target Assets comprise property, plant & equipment, fixtures & fittings and used vehicle stock of T.K.F. Autos located at Donore Road, Drogheda, Co Louth.
9. T.K.F. Autos is a company limited by shares incorporated in Ireland on 30 March 1982. It operates as a *Nissan* motor retailer from its premises at Donore Road, Drogheda, Co. Louth. T.K.F. Autos is ultimately owned by Frans Van Der Werff (50%), Kenneth Gilmore (35%) and Barbara Van Der Werff (15%).
10. For the financial year ending 31 December 2016, T.K.F. Autos' turnover was approximately €[...], all of which was generated in the State.

### **Rationale for the Proposed Transaction**

11. The notification states the following in relation to JDM Automotive:

*“The commercial objective sought to be achieved by the Limited Group 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 has informed the Commission that it only intends to operate an *Audi* service centre with the Target Assets<sup>4</sup> following completion of the Proposed Transaction. This new service centre, once operating, will complement JDM Automotive's existing *Audi* service centre, currently located in Finglas. Therefore, for the purposes of this analysis the service centre will not be assessed further.
14. JDM Automotive will not be taking over the *Nissan* franchise or, for that matter, making sales of any new vehicles from the Target Assets. JDM Automotive have informed the

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<sup>4</sup> Excluding the used vehicle stock which will be sold via other JDM Automotive subsidiaries as per paragraph 14



Commission that the used vehicle stock which is being acquired through the Proposed Transaction will be sold via other JDM Automotive subsidiaries.

#### Horizontal Overlap

15. There are two potential horizontal overlaps between the activities of the parties within the State:
  - i. the sale of new and demonstration passenger cars and light commercial vehicles, including the supply of intermediary financial services, aftersales services and repair services and the sale of parts and accessories for new and demonstration passenger cars and light commercial vehicles; and
  - ii. the sale of pre-owned passenger cars and light commercial vehicles.
16. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define the precise relevant markets because doing so will not alter the Commission's assessment of the likely competitive effects of the Proposed Transaction in the State. 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 in paragraph 15 above in line with previous decisional practices of the Commission.<sup>5</sup>
17. Similarly, it is not necessary for the Commission to define the precise geographic markets. The Commission has followed its decisional practices<sup>6</sup> and assessed the likely competitive effects of the Proposed Transaction in respect of the State.

#### *The sale of new and demonstration passenger cars and light commercial vehicles<sup>7</sup>*

18. In relation to new and demonstration passenger cars and light commercial vehicles, JDM Automotive are currently active in relation to a number of franchised brands as

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<sup>5</sup> See previous Commission decisions <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/03/M-17-015-Avanacar-Citroen-Dublin-Determination.pdf> and <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/02/M.18.019-JDM-Automotive-Motorpark-public-version.pdf>

<sup>6</sup> Ibid

<sup>7</sup> including the supply of intermediary financial services, aftersales services and repair services and the sale of parts and accessories for new and demonstration passenger cars and light commercial vehicles



outlined at paragraph 5 above and T.K.F. Autos is currently active in a *Nissan* branded dealership. Following implementation of the Proposed Transaction, there will be one less *Nissan* branded dealership in the sale of new and demonstration *Nissan* branded passenger cars and light commercial vehicles<sup>8</sup> in Co Louth and surrounding areas. The Commission notes that there will remain a number of *Nissan* branded dealers which will continue to operate in Co. Louth and surrounding areas. Furthermore, Nissan is not restricted by the transaction from introducing another dealership in the area as a result of the Proposed Transaction. The Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects as JDM Automotive does not operate any *Nissan* dealership and does not intend to operate the Target Assets as a *Nissan* dealership in the State.

19. Given that the Target Assets will be operated only as an *Audi* approved service centre following the implementation of the proposed transaction, JDM Automotive's market share of any branded sale of new and demonstration branded passenger cars and light commercial vehicles will be unaffected by the Proposed Transaction.
20. Therefore, the Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects in respect of the sale of new and demonstration passenger cars and light commercial vehicles including the supply of intermediary financial services, aftersales services and repair services - and the sale of parts and accessories for passenger cars and light commercial vehicles in the State.

#### *The sale of pre-owned passenger cars and light commercial vehicles*

21. There is a horizontal overlap between the activities of the parties in relation to the sale of pre-owned passenger cars and light commercial vehicles in the State, although the Commission notes that most, if not all, motor dealerships in the State sell pre-owned passenger cars and light commercial vehicles. The Commission has previously received from the Society of the Irish Motor Industry ("SIMI") an estimate for the number of dealers that sell pre-owned passenger cars and light commercial vehicles in the State.<sup>9</sup>

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<sup>8</sup> Including the supply of intermediary financial services, aftersales services and repair services and the sale of parts and accessories for Nissan branded passenger cars and light commercial vehicles

<sup>9</sup> The Commission notes that dealers and/or franchises that operate in the State are not obliged to register with SIMI.



In 2017, 719 dealers selling pre-owned passenger cars and light commercial vehicles in the State were registered with SIMI. These registered dealers, amongst others, will act as a competitive constraint on JDM Automotive following implementation of the Proposed Transaction.

22. In the light of the above, the Commission considers that the Proposed Transaction is not likely to lead to any negative horizontal competitive effects in respect of the sale of pre-owned passenger cars and light commercial vehicles within the State.

#### Vertical Relationship

23. The parties have stated in the notification that there is no vertical relationship between JDM Automotive and the Target. The Commission has not identified any vertical relationship between the parties. On this basis, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

#### **Conclusion**

24. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

#### **Ancillary Restraints**

25. No ancillary restraints were notified.



### **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 certain business assets including property, plant & equipment, fixtures & fittings and used vehicle stock of T.K.F. Autos Limited located at Donore Road, Drogheda, Co Louth, 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

**Patrick Kenny**  
**Member**  
**Competition and Consumer Protection Commission**