



# DETERMINATION OF MERGER NOTIFICATION M/21/057 – JDM AUTOMOTIVE/CAB MOTOR COMPANY

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## Section 21 of the Competition Act 2002

**Proposed acquisition of sole control of CAB Motor Company Limited by JDM Automotive Limited.**

**Dated 19 November 2021**

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### Introduction

1. On 14 October 2021, 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 sole control of CAB Motor Company Limited (“CAB”) (the “Proposed Transaction”).

### The Proposed Transaction

2. The Proposed Transaction will be implemented pursuant to a heads of agreement signed on 8 October 2021 in relation to the proposed sale and purchase of shares between JDM Automotive, Conor Cavanagh and Jackie Cavanagh (the “Agreement”)<sup>1</sup>.
3. Following implementation of the Proposed Transaction, CAB will be solely owned and controlled by JDM Automotive.

### The Undertakings Involved

*The Acquirer – JDM Automotive*

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



4. JDM Automotive is a limited company<sup>2</sup> 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 Group (the “Group”).
5. JDM Automotive has 16 wholly-owned subsidiaries active in the retail sale of branded new and demonstration motor vehicles, and 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 – Dublin – *BMW, MINI, Motorrad*;
  - ii. Mainway North Road Limited – Dublin – *Audi*;
  - iii. Mainway Limerick Limited – Limerick – *Audi*;
  - iv. McAllister’s Limited – Dublin – *Volkswagen*;
  - v. Commons Road Cars Limited – Meath - *Volkswagen*;
  - vi. Karmann Auto Limited – Dublin – *Volkswagen*;
  - vii. JB DL Limited – Dublin – *Ford*;
  - viii. JDM Airside Limited – Dublin – *Jaguar Land Rover*;
  - ix. JDM Specialist Cars Limited – Dublin – *Mazda*;
  - x. Joe Duffy Dun Laoghaire Limited – Dublin – *Porsche*;
  - xi. JDM Premium Cars Limited – Dublin – *Volvo, Kia*;
  - xii. Brecol Limited – Athlone – Property holdings and management;
  - xiii. JDM Eastgate Limited – Dublin, Cork and Limerick – *ZuCar*;

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<sup>2</sup> The individual shareholders and their respective shareholdings in JDM Automotive [...].



- xiv. JDM Services Limited – Dublin – Provides administrative support to the Group used warranty process;
  - xv. Motorpark Limited – Athlone – *Volvo, Ford*;
  - xvi. Joe Duffy Property Company Limited – Group Locations – Property holdings and management.
6. JDM Automotive also sells pre-owned motor vehicles and offers intermediary finance and insurance services.
7. For the financial year ending 31 December 2020, the worldwide turnover of the Group was approximately €337.5 million, all of which was generated in the State.

#### *The Target Company – CAB*

8. CAB is a company limited by shares, incorporated in the State in 1987. It is owned by [...].
9. CAB operates a dealership at Monahan Road, Ballintemple, Cork, Co. Cork. It sells new and used *Ford* branded passenger cars and light commercial vehicles as well as other brands of pre-owned passenger cars and light commercial vehicles. CAB also provide aftersales services and parts.
10. For the financial year ending 31 December 2020, CAB's worldwide turnover was approximately €18.7 million, all of which was generated in the State.

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

11. The parties state in the notification:

*“The commercial objective sought by CAB Motor Company Limited by the proposed transaction is the continuity of its business as a going concern;”* and

*“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**

#### *Horizontal Overlap*

13. There are two potential horizontal overlaps between the parties in the State:
- i. The sale of new and demonstration *Ford*-branded passenger cars and light commercial vehicles, including the supply of intermediary financial services, aftersales services, repair services and the sale of parts and accessories for *Ford*-branded vehicles; and
  - ii. The sale of pre-owned passenger cars and pre-owned light commercial vehicles.

#### *Product Market Definition*

14. 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 product markets because doing so does not alter the Commission's assessment of the likely competitive effects of the Proposed Transaction in the State. Nonetheless, for the purpose of its assessment the Commission assessed the likely impact of the Proposed Transaction in respect of the narrowest product areas in which the activities of the parties overlap in the State as described in paragraph 13 above.

#### *Geographic market definition*

15. Similarly, it is not necessary for the Commission to define the precise geographic markets because doing so does not alter the Commission's assessment of the likely



competitive effects of the Proposed Transaction in the State. However, for the purpose of its assessment, the Commission assessed the likely impact of the Proposed Transaction with respect to the State and Co. Cork.<sup>3</sup>

*The sale of new and demonstration Ford-branded passenger cars and light commercial vehicles, including the supply of intermediary financial services, aftersales services, repair services and the sale of parts and accessories for Ford-branded vehicles*

a. Ford-branded passenger cars

16. In 2020, Ford held an estimated market share of approximately 7.69% for all new and demonstration branded passenger cars sold in the State.<sup>4</sup> In 2020, the parties held the following estimated market shares, respectively, in relation to the total retail sale of new and demonstration Ford-branded passenger cars in the State:

- i. JDM Automotive – [5-10]%
- ii. CAB – [0-5]%

17. Therefore, following implementation of the Proposed Transaction, the estimated combined market share of the parties in the State is [5-10]%.<sup>5</sup>

18. In 2020, Ford held an estimated market share of approximately 11.2% for all new and demonstration branded passenger cars sold in Co. Cork.<sup>6</sup> The estimated market shares of JDM Automotive and CAB for the sale of new and demonstration Ford-branded passenger cars in Co. Cork is approximately [0-5]% and [15-20]%, respectively.

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<sup>3</sup> For a similar approach, see M/18/020 Armalou-Spirit Ford/Lillis O'Donnell, available at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2018/02/M.18.020-Public-Determination.pdf>, M/18/086 Brightstone/Fitzpatrick Motors, available at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2018/11/M-18-086-Brightstone-Fitzpatrick-Motors-Public-Determination.pdf> and M/18/019 JDM Automotive/Motorpark, available at: <https://www.ccpic.ie/business/wp-content/uploads/sites/3/2018/02/M.18.019-JDM-Automotive-Motorpark-public-version.pdf>.

<sup>4</sup> Market shares estimated were sourced from statistics gathered by the Society of the Irish Motor Industry ("SIMI"), available at: <https://www.simi.ie/en/motorstats/national-vehicle-statistics>.

<sup>5</sup> The Commission's estimates, using information provided by the parties.

<sup>6</sup> Market shares estimated were sourced from statistics gathered by the Society of the Irish Motor Industry ("SIMI"), available at: <https://stats.beepbeep.ie/>.



Therefore, following implementation of the Proposed Transaction, the estimated combined market share of the parties for the sale of new and demonstration *Ford*-branded passenger cars in Co. Cork is [15-20]%.<sup>7</sup>

*b. Ford-branded light commercial vehicles*

19. In 2020, *Ford* held an estimated market share of approximately 23.44% for all new and demonstration branded light commercial vehicles sold in the State.<sup>8</sup> In 2020, the parties held the following estimated market shares, respectively, in relation to the total retail sale of new and demonstration *Ford*-branded light commercial vehicles in the State:

i. JDM Automotive – [5-10]%

ii. CAB – [0-5]%

20. Therefore, following implementation of the Proposed Transaction, the estimated combined market share of the parties in the State is [0-5]%.<sup>9</sup>

21. In 2020, *Ford* held an estimated market share of approximately 29.2% for all new and demonstration branded light commercial vehicles sold in Co. Cork.<sup>10</sup> The estimated market shares of JDM Automotive and CAB for the sale of new and demonstration *Ford*-branded light commercial vehicles in Co. Cork is [0-5]% and [20-25], respectively. Therefore, following implementation of the Proposed Transaction, the estimated combined market share of the parties for the sale of new and demonstration *Ford*-branded light commercial vehicles in Co. Cork is [20-25]%.<sup>11</sup>

22. As highlighted in paragraphs 18 and 21 above, JDM Automotive has a relatively minor presence in the sale of *Ford*-branded vehicles in Co. Cork, and therefore the Proposed

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<sup>7</sup> The Commission's estimates, using information provided by the parties.

<sup>8</sup> Market shares estimated were sourced from statistics gathered by SIMI, available at: <https://www.simi.ie/en/motorstats/national-vehicle-statistics>.

<sup>9</sup> The Commission's estimates, using information provided by the parties.

<sup>10</sup> Market shares estimated were sourced from statistics gathered by SIMI, available at: <https://stats.beebpeep.ie/light-commercial-vehicles>.

<sup>11</sup> The Commission's estimates, using information provided by the parties.



Transaction gives rise to only a *de minimus* horizontal overlap between the parties in Co. Cork.

23. Furthermore, following completion of the Proposed Transaction, the parties will continue to face competition from a number of significant competitors within Co. Cork active in the retail sale of new and demonstration *Ford*-branded passenger cars and light commercial vehicles, including Cork City Ford Centre, Bandon Motors (Bandon) Limited, Cavanaghs of Fermoy Ltd.; and Moncool Ltd., trading as Kellehers of Macroom, which will continue to act as a competitive constraint on JDM Automotive.

24. In addition, the Commission notes that if customers of *Ford*-branded new and demonstration passenger cars and light commercial vehicles were to consider other branded new and demonstration passenger cars and light commercial vehicles substitutable with those produced by *Ford*, there are a number of other franchised dealers in the State and in Co. Cork which will act as a competitive constraint on JDM Automotive following the implementation of the Proposed Transaction.

c. Supply of intermediary financial services, aftersales services, repair services and the sale of parts and accessories for Ford-branded vehicles

25. The Commission notes that most *Ford* dealerships, as well as certain independent service providers, provide intermediary financial services, aftersales services and other related parts, including repair services and sale of parts and accessories for *Ford*-branded passenger cars and *Ford*-branded light commercial vehicles. Therefore, the Commission considers that there is a sufficient number of providers of intermediary financial services, aftersales and other related services that will continue to act as a competitive constraint on JDM Automotive following implementation of the Proposed Transaction, both in the State and in Co. Cork.

Conclusion on potential market (i)

26. In 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 new and demonstration *Ford*-branded passenger cars – including the supply of intermediary financial services, aftersales services and repair services – and the sale



of parts and accessories for *Ford*-branded passenger cars and light commercial vehicles in the State.

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

27. There is a horizontal overlap between the activities of the parties in the sale of pre-owned passenger cars and pre-owned light commercial vehicles in the State. The Commission notes, however, that most, if not all, motor dealerships in the State sell pre-owned passenger cars and light commercial vehicles. Based on information provided by SIMI,<sup>12</sup> there were 1053 registered dealers<sup>13</sup> selling pre-owned vehicles in the State in 2020. These dealers, along with other non-SIMI registered dealers and importers, will exert a strong competitive constraint on the merged entity following implementation of the Proposed Transaction.
28. Even if the relevant geographic market were to be defined more narrowly to comprise Co. Cork, SIMI figures indicate that there are approximately 111 dealers located in Co. Cork which offer pre-owned passenger cars and pre-owned light commercial vehicles for sale. These dealers, along with other non-SIMI registered dealers and importers, will exert a strong competitive constraint on the merged entity in Co. Cork following implementation of the Proposed Transaction.
29. In light of the above, the Commission considers that the Proposed Transaction is not likely to lead to any competition concerns in respect of the sale of pre-owned passenger cars and pre-owned light commercial vehicles within the State or Co. Cork.

*Vertical Relationship*

30. The parties have stated in the notification that there is no vertical relationship between JDM Automotive and CAB. 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.

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<sup>12</sup> The Commission contacted SIMI to obtain a proxy for the number of dealers that sell pre-owned vehicles in the State.

<sup>13</sup> The Commission notes that dealers and/or franchises which operate in the State are not obliged to register with SIMI.





## Conclusion

31. 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

32. The parties notified a non-compete obligation on the current shareholders of CAB by reference to the Draft SPA. The CCPC notes that Clause 11.2.1 of the Draft SPA contains a non-compete obligation on the current shareholders of CAB, Conor Cavanagh and Jackie Cavanagh. The duration of this non-compete obligation does not exceed the maximum duration acceptable to the Commission<sup>14</sup>. The Commission considers this restriction to be directly related to and necessary for the implementation of the Proposed Transaction.

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<sup>14</sup> In this respect, the CCPC follows the approach adopted by the EU Commission in paragraphs 20 and 26 of its “Commission Notice on restrictions directly related and necessary to concentrations” [2005] OJ C56/03 (<https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52005XC0305%2802%29>).



### **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 sole control of CAB Motor Company 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

**Brian McHugh**

**Member**

**Competition and Consumer Protection Commission**