
Completed acquisition by Motorsport Vision Ltd of Brands Hatch Circuits Ltd & Brands Hatch Leisure Limited

The OFT's decision on reference under section 22 (1) given on 24 May 2004

Please note that square brackets indicate actual figures excised at the request of the parties for reasons of commercial confidentiality.

PARTIES

MotorSport Vision Ltd (MSV) is a new company owned by Roadcoast Ltd, which also owns JPM Ltd. JPM trades as **PalmerSport** and **Bedford Autodrome**. It operates almost exclusively in the field of corporate event driving experience days.

Brands Hatch Circuits Ltd & Brands Hatch Leisure Ltd (BHCL) was formally part of Octagon Motorsports. In November of 2003 Octagon Motorsports split its five motor racing circuits into Silverstone Motorsports Limited (Silverstone) and BHCL (Brands Hatch, Oulton Park, Cadwell Park and Snetterton). The UK turnover of the assets of BHCL bought by MSV was £18m in the year 2003.

TRANSACTION

MSV has purchased the four BHCL circuits; various vehicles; and On Track (a track day organiser (TDO)). The administrative deadline is May 24 2004 and the statutory deadline is 8 June 2004.

JURISDICTION

As a result of this transaction, MSV will supply over 25 per cent of track days for non-club members in the UK. The share of supply test in section 23 of the Enterprise Act 2002 (the Act) is met. A relevant merger situation has been created.

RELEVANT MARKET

The parties are active in the supply of motorsports activities mainly on their motor-racing circuits. The BHCL circuits are licensed, while MSV's circuit, Bedford Autodrome

is not.¹ The parties submit that the only areas of specific overlap are therefore for non-licensed events - the supply of corporate participation days (where companies hire circuits in order to provide motor driving experience days for staff), the supply of track days to final consumers (where circuits are opened to members of the public to drive or hire their own vehicles) and the supply of track time for track days run by TDOs.

Product market

The 2001 Competition Commission (CC) report on the merger between Octagon Motorsports Ltd and British Racing Drivers Club Ltd (the CC report) defined three separate product markets in this sector:

- the downstream market for the supply to final consumers of motorsport activities (including a- track days, and b- corporate participation days) based at licensed circuits;
- an upstream market for the supply of track time to organisations offering motorsport activities to final consumers (such as TDOs); and
- the upstream market for the promotion of motorsport events at licensed circuits.

The latter is not relevant to this merger as Bedford Autodrome is not licensed for motorsports events.

For activities not involving the promotion of motorsports events, whether or not an unlicensed circuit can be seen as a substitute for a licensed circuit will depend on the particular segment and type of customer concerned. Unlicensed circuits do not have the same quality track or the prestige as licensed circuits². However, customers such as those for corporate participation days may see them as substitutes, although they may equally substitute motorsports for other activities such as paint balling. On the other hand, evidence received by the CC suggested that participants in track days, who are typically motor enthusiasts, prefer to drive on licensed circuits and therefore are less likely to regard unlicensed venues as substitutes.

Some third parties felt Bedford Autodrome was of sufficient quality that it could compete with the BHCL licensed circuits despite the lack of a licence. This appears to be born out by the fact that Bedford's track day prices in 2001 were more comparable to those charged at licensed circuits. However, between 2003 and 2004, prices at Brands Hatch increased significantly while prices at Bedford Autodrome decreased substantially (although the parties claim that this apparent price drop was a result of a pre-merger decision to change to variable monthly pricing). This movement in prices

¹ Circuits with [appropriate] facilities are licensed by the sport's governing bodies to stage competitive events.

² It should be noted, however, that the CC looked at the issue of 'prestige circuits' and concluded that there was no clear evidence of a significant gap in the chain of substitution between circuits such that 'prestige circuits' may be considered as a separate market segment from other circuits.

does not appear to support the view that Bedford Autodrome is a strong substitute for licensed circuits, certainly for enthusiasts who attend track days. However, customers contacted felt Bedford Autodrome competes with the BHCL circuits for corporate participation days and concurred with the CC's findings that other leisure activities are also substitutable. This suggests that the CC's approach of segmenting supply to final consumers into track days, which are generally for enthusiasts, and corporate participation days, which is generally for non-enthusiasts, applies in this case.

Both parties own TDOs (BHCL owns On Track and MSV/PalmerSport owns Club Autodrome) and are active in supply of track time to organisations offering motorsport activities to final consumers (such as TDOs). Although Bedford Autodrome is not licensed, it may be placing some competitive constraint on the BHCL circuits in this upstream market. The reverse is also likely to be true (i.e. licensed circuits are likely to place some constraint on unlicensed circuits).

Geographic market

The CC concluded that the geographical reach of these services varies, depending on the activity and whether the participants had their own vehicles, from local to national. We have no new evidence suggesting a different conclusion.

HORIZONTAL ISSUES

Market shares

In relation to the supply of motorsport activities on licensed circuits, this transaction has reduced concentration in that BHCL has sold four of its five licensed circuits to MSV, who previously owned only one unlicensed circuit.

Post transaction, MSV will control two small TDOs. The parties estimate that the TDOs combined share of supply will be [0-5 per cent] of the supply of corporate participation days in the UK [increment per cent by revenue]; and [0-5 per cent] of the supply of track days in the UK to final consumers [increment per cent by number of track days]. Accordingly, there is no evidence to suggest that horizontal issues will arise in these two sectors as a result of this merger.

Turning to the parties' supply of track time to TDOs, the parties measure this by reference to the total number of track days open to non-club members taking place in the UK according to adverts in Circuit Driver Magazine. They estimate a further 25 per cent of track days are offered only to club members and not advertised. This would give a total number of track days taking place in the UK in 2003 of around 1700, giving MSV a share of supply of [20-30 per cent] [per cent increment]. This would rise to 25-35 per cent if the members-only track days are excluded. However, theoretically, every

day on which it is possible to use the track at each circuit is available for track days. Thus the level of *potential* competition between all circuits might be greater than the market share figures above might suggest.

Post acquisition, prices for track days for TDOs at Brands Hatch have risen significantly, Oulton Park and Cadwell Park prices have risen roughly in line with inflation, while both Snetterton and Bedford Autodrome have dropped prices. MSV claims that the increases, as well as cost cutting, was necessary to offset substantial losses in recent years and to remedy under investment at a time when demands for increasing safety improvements and insurance costs are rising much faster than underlying inflation. The parties claim that the decision to increase prices was made prior to the merger. Although there is no contemporaneous documentary evidence to support this, other licensed circuits have also increased their prices for track days in the same period.

Third parties generally did not welcome the price increases and some were considering exiting the market in the near future. However, others commented that they do not believe the price increases occurred as a result of the merger, and did not believe that prices would come down again if the merger should not proceed.

Given the relatively small increment to the supply of corporate participation days and of the supply of track days by TDOs, the reasons the parties have provided for the BHCL price changes, coupled with the fact that price increases have occurred in other licensed circuits, the weight of evidence indicates that prices have not risen as a result of the merger, nor does it appear that the merger will lead to prices being higher than they would have been absent the merger.

Barriers to entry and expansion

At the time of the CC report, BHCL did not consider barriers to entry for new circuits to be high. Rockingham (a licensed circuit) appears to be the only example of a major recent entrant to the industry (2001). BHCL believed this was principally a reflection of a decline in the motorsport market since the 1960s. BHCL suggested that unlicensed circuits were easier to set up as they did not have to undergo the expense of a licence or large amounts of parking for spectators. Examples of such recent entry into the unlicensed market include Dunsfold and Keevil Airfield. MSV believes there are at least 30 disused airfields around the country which would make suitable bases for track day events.

Buyer power

Many third parties (both corporate event organisers and TDOs) have commented that prices from all circuits are non-negotiable. Combined with the industry wide price increases, this suggests there is little, if any, countervailing buyer power.

VERTICAL ISSUES

Both parties own downstream TDOs, which in theory could raise issues of foreclosure to the circuits. However, no third party raised concerns about this issue.

THIRD PARTY VIEWS

Many third parties viewed the acquisition as positive because of the fear that the BHCL circuits might otherwise have been acquired for non-motor sport usage. End consumers tended not to have any concerns about the merger. Two TDOs had some concerns about the price increases but most felt they were not related to the merger. Competitors were, with one exception, not concerned about the merger.

ASSESSMENT

The parties overlap in the supply of corporate participation days, the supply of track days to final consumers, and the upstream supply of track time for track days to TDOs. Shares of supply in the first two areas are very low and no customers have any concerns here. It is therefore not expected that any substantial lessening of competition has resulted or may be expected to result in these areas.

Shares of supply are somewhat higher in the upstream supply of track time for track days to TDOs, an area in which some customers raised concerns. However, there are several reasons to believe that the merger has not resulted nor may be expected to result in a substantial lessening of competition. First, post merger, the increment to MSV's share of the supply of track time to TDOs is around 1 per cent. Such a small increment would not appear to provide MSV with greater scope to raise prices than existed before the acquisition. Although there have been price rises, the reasons for them (substantial losses incurred and the necessity for substantial improvements) seem plausible. Second, Bedford Autodrome is an unlicensed circuit. The CC report questioned the degree of competitive constraint that such circuits could exercise over licensed circuits, a view which is supported by evidence before the OFT (although some third parties did consider that Bedford Autodrome, unlike other unlicensed circuits, was nevertheless able to compete effectively with the BHCL circuits). Third, the fact that Silverstone, a licensed circuit, was not part of the transaction and continues to compete means the merger may have created a more competitive environment. The significance of Silverstone is highlighted by the fact that its separation from Brands

Hatch, Oulton Park, Cadwell Park and Snetterton largely allayed the concerns that the CC had about all 5 of these licensed circuits being under common control. Finally, most third parties were in agreement about the fact that this acquisition was a positive outcome for the BHCL circuits, as it was largely feared the circuits may have been acquired for non-motor sport usage.

Consequently, the OFT does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

This merger will therefore **not be referred** to the Competition Commission under section 22(1) of the Act.