

E.CA Economics

# Regional Aid Guidelines and Large Investment Projects

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## An overview of recent cases

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Thanks to Nicola Tosini and Jakob Meinel for research assistance!

## The story of the unsinkable SAM



“Unsinkable Sam ...was the nickname of a German **ship's cat** who saw service in both the Kriegsmarine and Royal Navy during the Second World War, **servicing on board three vessels** and **surviving the sinking of all three.**”(Source: Wikipedia)

The cat's name:

Monti's LET/ LASA

Kroes' SAAP

Almunia's SAM



*Bismarck*



*HMS Cossack*



*HMS Ark Royal*

...let's hope that the latest vessel will not sink and, finally, a modern and economically sound state aid control will find its home!

# Introduction

- This presentation provides an overview of recent cases\* of **Large Investment Projects** assessed under the **Regional Aid Guidelines** and where **a formal investigation has been opened because of the market share and capacity criteria** (para 68 RAG)
- This has been the case for the following **seven cases**:
  - Dell Poland, C 46/2008
  - Petrogal, C 34/2009
  - Linamar Powertrain, SA.33152
  - VW Sachsen, SA.32169
  - Audi Hungaria Motor, C 31/2009
  - Fiat Powertrain Technologies PL, SA.30340
  - BMW Leipzig, SA.32009
- The properties of those cases are summarized and compared to other large investment cases notified during the same period in order **to better understand what kind of cases are selected by the screens**

\*notification date between 1.1.2007 and 1.7.2011

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## Main characteristics of the case

Case number	Name	Industry	Region	107.3.(a) ceiling	Headquarter of aid beneficiary	Status of proceedings
C 46/2008	Dell Poland	C26.02 - Computers and peripheral equipment ( <b>PCs and servers</b> )	Poland	50%	U.S.	<b>Aid approved</b> on 23.09.2009 (published on 02.02.2010)
C 34/2009	Petrogal	C19.02 - Refined petroleum products ( <b>refineries</b> )	Portugal	30% and 40%	Portugal	<b>Aid approved</b> on 03.08.2011 (with <i>corrigendum</i> on 14.02.2012)
SA.33152	Linamar Powertrain	C29.03 - Parts and accessories for motor vehicles ( <b>engines and power transmission parts</b> )	Eastern Germany	30%	Canada	<b>Investigation opened</b> on 09.11.2011
SA.32169	VW Sachsen	C29 - Motor vehicles, trailers and semi-trailers ( <b>shift from platform- to module-based car manufacturing process</b> )	Eastern Germany	30%	Germany	<b>Investigation opened</b> on 13.07.2011
C 31/2009	Audi Hungaria Motor	C29.03 - Parts and accessories for motor vehicles ( <b>new engines</b> )	Hungary	30%	Germany	<b>Investigation opened</b> on 28.10.2009 and extended on 06.07.2010
SA.30340	Fiat Powertrain Technologies PL	C29 - Motor vehicles, trailers and semi-trailers ( <b>new small gasoline engines</b> )	Poland	40%	Italy	<b>Investigation opened</b> on 09.02.2011 and notification withdrawn on 01.12.2011
SA.32009	BMW Leipzig	C29 - Motor vehicles, trailers and semi-trailers ( <b>electric cars</b> )	Eastern Germany	30%	Germany	<b>Investigation opened</b> on 13.07.2011

## Time between notification/registration and investigation opening; aid instruments

Name	Notification date	Date of investigation opening	Days elapsed between the two dates	Aid instrument	Instrument shares
Dell Poland	16.07.2007	10.12.2008 (Aid approved on 23.09.2009)	17 months (26 months)	Direct grant, tax allowance, other	About 3/4 and 1/4
Petrogal	17.11.2008	19.11.2009 (Aid approved on 03.08.2011, with <i>corrigendum</i> on 14.02.2012)	12 months (32 months)	Tax allowance	-
Linamar Powertrain	09.06.2011	09.11.2011	5 months	Direct grant, other forms of tax advantage	-
VW Sachsen	27.12.2010	13.07.2011	6 months	Direct grant	-
Audi Hungaria Motor	26.02.2009	28.10.2009	8 months	Direct grant, tax allowance	About 50/50
Fiat Powertrain Technologies PL	28.01.2010	09.02.2011	12 months	Direct grant, fiscal exemptions	About 2/3 and 1/3
BMW Leipzig	30.11.2010	13.07.2011	7 months	Investment allowance	-

## Aid amount, aid intensity, and job creation

Name	Value of investment (in present value)	Value of aid (in present value)	Ceiling reached?	Number of direct and indirect jobs created	Aid per direct and indirect job
Dell Poland	€189.58 million	€52.72 million	Yes (27.81%)	2500 direct jobs (expected), 1700 (actual)	€0.02 million per expected direct job
Petrogal	€974.06 million (as single investment project)	€121.09 million (as single investment project)	No (12.43% < 14.28%)	150 direct jobs, 450 indirect jobs, and 3000 temporary jobs during construction	€0.81 million per direct job, €0.20 million per any job
Linamar Powertrain	€157.09 million (as single investment project)	€28.32 million (as single investment project)	Yes (18.03%)	410 direct jobs, and 10 training jobs	€0.07 million per direct job
VW Sachsen	€697.68 million	€83.47 million	Yes (11.96%)	The 5300 jobs engaged in the production of certain products will be maintained	-
Audi Hungaria Motor	€511.28 million	€49.52 million	No (9.69% < 12.6%)	150 direct jobs	€0.33 million per direct job
Fiat Powertrain Technologies PL	€179.89 million	€39.99 million	Yes (22.23%)	400 direct jobs, 110 indirect jobs	€0.10 million per direct job, €0.08 million per any job
BMW Leipzig	€368.01 million	€46.00 million	No (12.5% < 13.5%)	800 total jobs	€0.06 per any job
<b>Average</b>	<b>€439.66 million</b>	<b>€60.16 million</b>	<b>14.95%, with ceiling reached in 4 out of 7 cases</b>	<b>722 direct jobs, 828 total jobs</b>	<b>€0.27 [0.02 – 0.81] million per direct job, €0.13 [0.02 – 0.33] million per any job</b>

## Reasons to open formal investigation

Name	Main reason for opening the investigation	Capacity/ market share criterion	Data issues	Pre-existing plant	Initial investment/ single investment	Incentive effect (formal criterion)
Dell Poland	Market definition and capacity expansion	Both	Not sufficient for proper market definition	Greenfield investment	Investment by suppliers not considered single investment	Unproblematic
Petrogal	Inconsistent data, initial investment, market definition, criteria for market shares	Market shares	Not sufficient for market definition, market share calculation and capacity assessment	Pre-existing plant	Initial investment questioned; investment in two refineries considered single	Problematic (in the opening decision)
Linamar Powertrain	Inconsistent data, criteria for capacity expansion	Capacity	Inconsistent data on eligible costs and aid amounts; no price data	Pre-existing plant	Earlier aid measure considered single investment	Unproblematic
VW Sachsen	Market definition, criteria for market shares and capacity expansion, single investment	Both	No price data	Pre-existing plant	Aid in related press unit considered single investment	Unproblematic
Audi Hungaria Motor	Market definition, criteria for market shares and capacity expansion	Market shares	No price data	Pre-existing plant	-	Unproblematic
Fiat Powertrain Technologies PL	Market definition, criteria for market shares and capacity expansion	Both	No price data	Pre-existing plant	-	Unproblematic
BMW Leipzig	Market definition, criteria for market shares, new product	Market shares (electric cars)	Not sufficient for market share calculation	Pre-existing plant	-	Unproblematic



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## General statistics (based on the state aid registry)

- Over the relevant period, 2007 to July 2011, 133 RAG cases/ schemes are reported:
  - 67 schemes
  - 45 individual applications
  - 21 *ad hoc* cases
- Of the 66 *ad hoc* cases or individual applications **38 cases are LIP** (benchmarking group)
- We add to this list the BMW Leipzig (SA.32009) and the Linamar Powertrain (SA.33152) cases
- Of the resulting group of 40 cases
  - 33 individual applications and 7 *ad hoc* cases
  - 33 Art. 107(3)(a) cases, and 6 Art. 107(3)(c) cases, and 1 Art. 107(3)(a)/(c) case
  - 20 cases in Eastern Germany, 13 between Italy (7), Spain (3), Greece, Portugal, and the United Kingdom, and 7 between Poland (4), Hungary, Romania and Slovakia

## Comparison between the cases for which a formal investigation was opened due to the screens and the others

Statistic	Formal investigation opened		Formal investigation not opened	Difference
Average size of investment	434.06	[344.06]*	367.01	18%
Average size of aid	59.42	[49.14]	47.42	25%
Average aid intensity	16.5%	[17.2%]	13.9%	2.6 percentage points
Average aid per job created	0.23	[0.11]	0.09	14%
Percentage of greenfield investments	14.00%		14.00%	0.0 percentage points
Most frequent industry	C29 – Manufacture of motor vehicles, trailers and semi-trailers		C26 – Manufacture of electronic components and boards	-

\*without Petrogal

Note: These statistics do not include case Propapier (C30/2010), Deutsche Solar AG (C34/2010), and Fri-el Acerra s.r.l. (C8/2009).

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## Summary and Conclusions

- Only in 7.5% of all RAG notifications or in 25% of all LIP cases a formal proceeding is opened
- In 7 out of 10 cases the proceeding is opened because of the market share or capacity criteria
- Four of the seven cases are picked based on the capacity criteria
- No schemes are assessed within a formal proceeding
- The average time for a positive decision without opening and the average time for an opening decision is **10 months**; the time for a final decision after opening **20 to 32 month** with those following the market share and capacity criteria being at the higher end
- The screens **pick specific sectors**, e.g. automotive vs. electronic components
- They also (weakly) select cases with a **larger investment, a larger aid amount, a higher aid intensity and lower aid effectiveness** - but this result is driven by one case only!
- They do not specifically pick investments **at pre-existing plants** nor aid granted in **107(3)(c) regions**

## Conclusions

- There is a general issue regarding data problems (in particular for the market share criteria):
  - Dell recital (130): “The Commission considers...the information received during the formal **investigation...insufficient ...for the Commission to conduct a meaningful market investigation** which could enable to define the relevant product market(s) for desktops and notebooks.” [see also FN 35]
  - Linamar recital (61): “...**given the difficulties in obtaining reliable price estimates**, the Commission considers that only volume data are to be used to define markets and markets evolutions.”
  - Sometimes the opening of a formal investigation is justified by the need **to assess the screens more carefully**
- The screens seem to help identifying specific sectors; with respect to other properties the cases selected are hardly distinguishable from other LIP cases; the two selected cases finally decided on did result in a positive decision

**Is this limited selection power of the screens  
justifying the additional effort and time?**

**(Final answer once we see the outcome of the  
five open decisions...)**

# Thank you!

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# Appendix

Search criteria

Case description



## Search criteria

- In the EUROPA website (<http://ec.europa.eu/competition/elojade/isef/index.cfm>), we set the following criteria:
  - Policy area: State Aid
  - Primary objective: Regional development
  - EU primary legal basis: Art. 107(3)(a) TFEU – Least developed regions or Art. 107(3)(c) – Certain economic activities/areas
  - EU secondary legal basis: Regional – Regional aid guidelines, 2007 – 2013
  - Notification or registration date: from 01 January 2007 to 30 June 2011

# Appendix

Search criteria

Case description

## Sectoral split

- 12 cases in Manufacture of motor vehicles, trailers and semi-trailers (NACE code C29)
- 11 cases in Manufacture of electronic components and boards (NACE C26)
- 3 cases in Reparation and installation of machinery and equipment (NACE C33), and in Electricity, gas, steam and air conditioning supply (NACE D35)
- 2 cases in Manufacture of chemicals and chemical products (NACE C20), and Manufacture of electrical equipment (NACE C27)
- 1 case in Manufacture of wood and of products of wood and cork (NACE C16), Manufacture of paper and paper products (NACE C17), Manufacture of coke and refined petroleum products (NACE C19), Manufacture of rubber and plastic products (NACE C22), Manufacture of other non-metallic mineral products (NACE C23), Manufacture of machinery and equipment (NACE C28), and Solar wafers

## Duration of proceedings

- For 10 of these 40 cases, a formal investigation (Art. 4(4) decision) was opened
  - For the 7 cases at hand (which, together with Propapier C30/2010, Deutsche Solar AG C34/2008, and Fri-el Acerra s.r.l. C8/2009, make up these 10 cases) the average time between notification and investigation opening was 10 months [5 – 17 months]
  - In the 2 of the 7 cases at hand for which approval (Art. 7(3) decision) was given, approval was given in 29 months [26 – 32 months]
- In the 30 cases for which a formal investigation was not opened, approval (Art. 4(3) decision) was given in 10 months on average [1 – 18 months]

## Dell Poland case, C 46/2008 (case description)

- Computer manufacturing plant in Lodz, Poland , 107.3 (a) region (50% aid ceiling)
- Desktops, notebooks and servers; no shift to other products in the next 5 years
- In present-value terms, €190 million eligible investment expenditure, €53 million state aid; 28% aid intensity
- Roughly half grant for initial investment; one quarter for job creation and one quarter for tax exemptions
- May 2006 application of aid by Dell, accepted in Nov 2006 by the Polish authority; Dec 2007 notification; opening of plant 2008, Dec 2008 opening of formal investigation; Sept 2009 approval by the Commission
- 1200 to 3000 direct new jobs committed for 3 years (5 years for the plant) (1700 when the decision was taken); 1300 indirect jobs through suppliers; broader positive effects – like cooperation with universities, knowledge transfer in general, multiplier effect; anchor effect
- First regional state aid case where an in-depth assessment was carried out

## Dell Poland case (the criteria/ market definition)

- Main reasons for the opening of the proceedings: Market definition (desktops and notebooks in the same market? Market for high end vs. low end servers); the first question is relevant for market growth criteria (decline in the desktop market) the latter question for the market power/ share criterion (Dell above 25% MS for low-end servers)
- Due to insufficient information for a proper, quantitative market definition smallest plausible markets were considered, i.e. assessment was carried out on desktops/ notebooks market separately (See para 130 and Fn 35)
- Capacity reductions in other plants were not taken into account [interesting what that means for compatibility assessment]; capacity could be shifted around between all products
- Values are taken into account for market growth, not volume only
- Market share concerns regarding servers also remained

## Dell Poland case (in depth)

- Objective: equity objective
  - 1200 to 3000 direct new jobs committed for 3 years (5 years for the plant) (1700 when the decision was taken); 1300 indirect jobs through suppliers;
  - broader positive regional effects – like cooperation with universities, knowledge transfer in general, multiplier effect; anchor effect
- Best instrument
  - Assessment of general measures could have been more effective; rejected based on macroeconomic studies
- Incentive Effect
  - Approval based on relocation scenario – *“compensating for less favourable investment conditions in comparison with another envisaged location in Eastern Europe”*. Nitra in Slovakia (40% aid ceiling)
  - NPV model based on internal strategic documents and expert report by LECG
- Aid to the minimum/ proportionality
  - LECG estimates net disadvantage to be lower by €1 million than what has been granted
- Distortions of competition and trade
  - No crowding out of competitors, because investment would have happened in any event
  - No job losses at other European locations as closure of plant in Ireland considered independent from this new plant opening (decision to close Limerick plant was taken only at the end of 2008)
  - Parallel investment by two suppliers (RR Donnelley and Flextronics)

## Dell Poland case (in depth, 2)

- Distortions of competition and trade
  - No crowding out of competitors, because investment would have happened in any event
  - No job losses at other European locations as closure of plant in Ireland considered independent from this new plant opening (decision to close Limerick plant was taken only at the end of 2008)
    - Parallel investment by two suppliers (RR Donnelley and Flextronics)
- Balancing
  - Decision argues that Lodz is more disadvantaged than alternative region Nitra in Slovakia
  - As long as only net costs disadvantage is compensated, no assessment of the relative benefits (beyond general assessment described above)
  - Overall approval



## Petrogal, SA.26980 (case description)

- Aid to formerly state owned company Petrogal by the Portuguese authority regarding two regions in Portugal , 107.3 (a) region (30% and 40% aid ceiling)
- Conversion of an existing plant from gasoline to diesel production; increased production of naphtha as a side product
- Granted under an expired scheme
- Petrogal is a subsidiary of Galp, which is the former state monopolist for oil and natural gas trading in Portugal . It is market leader in Portugal and holds the two only refineries in Portugal
- €974 million eligible investment expenditure, €121 million state aid (in present value; both locations); 12% aid intensity plus European Investment Bank loan for €500 million
- Tax exemption
- Jan 2007 application for aid by Petrogal and confirmation thereof; work started in March 2008; finalization 2011; Aug 2011 authorisation of the measure by the Commission
- 150 direct new jobs and 450 indirect new jobs plus 3000 temporary jobs during construction; 5 years commitment for the plant [310 direct jobs if one accepts downsizing in the counterfactual and 930 to 3,720 indirect jobs depending on the assumption of the ratio between direct and indirect jobs in this industry]
- Strong complaints by competitors
- Finally approved

## Petrogal (the criteria/ market definition)

- Main reasons for the opening of the proceedings:
  - Inconsistent data
  - Market definition
  - Criteria on market share
  - Many other issues as well: initial investment, single investment, incentive effect,...
- Market definition:
  - Diesel and heavy naphtha
  - European-wide market
  - Market definition as put forward was accepted
- Market shares:
  - Significantly below 25% also in 2015
- Capacity expansion:
  - Increasing market for diesel
  - Low capacity addition for naphtha
- No in-depth assessment

## Linamar Powertrain, SA.33152 (case description)

- Aid to Canadian car parts Linamar Powertrain supplier in Saxony, Germany, 107.3 (a) region (30%)
- Engine and power transmission parts for motor vehicles
- In Europe, Linamar holds production capacities in Hungary and, since 2003, in Saxony; new investment is about building a second plant in Saxony
- Received aid for earlier investments in Saxony during the period 2007 to 2010 of €7.9 million, which is considered a single investment project together with the new investment
- €145 million eligible investment expenditure, €26,65 million state aid (nominal values; new investment only); 18% aid intensity; meets the maximum aid ceilings, but data submitted by the MS are contested
- Direct grant and tax premium
- Confirmation of aid in April 2010, work started one week later; (existing scheme) Aug 2011 notification; Nov 2011 opening of formal investigation
- 410 new jobs (plus 10 training jobs); 5 years commitment for the plant
- No final decision taken so far

## Linamar Powertrain (the criteria/ market definition)

- Main reasons for the opening of the proceedings:
  - Inconsistent data on eligible costs and aid amounts
  - Criteria on capacity expansion in declining market
- Market definition:
  - Camshafts, conrods, flywheels, rear differential units, power transfer units, cylinder heads, cylinder blocks
  - European-wide market
  - Market definition as put forward was accepted
- Market shares
  - Based on volumes [interesting difference to Dell]
  - Significantly below 25% also in 2015
- Capacity expansion
  - Above 5% for at least 4 of the 7 products
  - Markets are declining relative to EU benchmark for all but for one of the affected markets

## VW Sachsen, SA.32169 (case description)

- Aid to VW group for changing the production process at the Zwickau plant in Saxony, Germany , 107.3 (a) region (30% aid ceiling)
- Switch from a platform based to a module based manufacturing process
- Received aid in earlier years for its press shop at the Zwickau plant
- €735 million eligible investment expenditure, €95 million state aid (in nominal terms); 12% aid intensity which meets exactly the max aid ceiling (without taking into account historic aid)
- Direct grant and tax premium; split unclear
- Dec 2009 application for aid by VW and confirmation thereof; work started in Dec 2009 as well; finalization in 2014; June 2011 opening of a formal investigation by the Commission; no final decision taken so far
- 5300 jobs will be maintained

## VW Sachsen (the criteria/ market definition)

- Main reasons for the opening of the proceedings:
  - Single investment
  - Market definition (A0 to B segments; light trucks own product market; market wider than EEA?)
  - Criteria on market share
  - Criteria on capacity expansion
- Market definition:
  - Passenger cars of segment A and B (possibly later A0); contested if segments form one market
  - European wide market; contested if market is wider
- Market shares:
  - Significantly above 25% in 2015 for an EEA wide market with individual segments forming distinct product markets
- Capacity expansion:
  - Net capacity increase (share of the capacity increase directly financed by the aid) vs. gross capacity increase (capacity increase for the overall investment project)
  - Output limitations are offered
  - Markets are declining
- No final decision taken

## Audi Hungary, C31/2009 (case description)

- Aid to Audi (part of VW group) for a plant in Győr, Hungary, 107.3 (a) region (30% aid ceiling)
- Production of new generation of engines; increase in existing capacity
- Plant exists since 1993 and had in 2008 5,879 employees and €5,6 billion turnover; considered a strategic important plant for the Audi AG; received aid in earlier years outside the 3 year window
- In present value, €514 million eligible investment expenditure, €50 million state aid (€60 Mio in nominal terms); 10% aid intensity at present value which is below the max aid ceiling of 12.61%
- Direct grant and tax premium (50:50 split)
- Sept 2006 application for aid; which was also the start of Phase 1 of the project and general agreement by the Hungarian authority; Dec 2008 final approval by Hungary; Feb 2009 notification of aid; October 2009 opening of formal investigation;
- Affects segments A00, A0, A, B, C, D and E (the last segment was recently excluded from the aid measure)
- 150 new direct jobs; knowledge spillovers, e.g. through co-operations with local universities

## Audi Hungary (the criteria/ market definition)

- Main reasons for the opening of the proceedings:
  - Market definition (segments; light trucks own product market?; market wider than EEA?)
  - Criteria on market share
  - Criteria on capacity expansion
- Market definition:
  - Passenger cars of segment A00, A0, A, B, C, D and E (the last segment was recently excluded from the aid measure)
  - Contested if segments form one market
  - European wide market; contested if market is wider
- Market shares:
  - Significantly above 25% in some years for an EEA wide market with individual segments forming distinct product markets (but not if segments are aggregated; for global markets only the E-segment exhibits market shares above 25%)
- Capacity expansion:
  - Net capacity increase (expansion of current plant) only taken into account
  - Capacity increase calculated for all segments combined (instead for each segment separately) results in an unproblematic capacity expansion; problem of allocation of capacity to individual segments
  - Markets are declining
- No final decision taken



## Fiat Powertrain, N 38/2010 (case description)

- Aid to Fiat Powertrain for a plant in Silesia region, Poland, 107.3 (a) region (40% aid ceiling)
- Production of new generation of engines (internal combustion Small Gasoline Engines); increase in existing capacity
- Plant exists already (new production line)
- In present-value terms, €180 million eligible investment expenditure, €40 million state aid (€50 million in nominal terms); 22% aid intensity which is also the max aid ceiling
- Direct grant (roughly 2/3) and tax allowance (1/3)
- Oct 2008 work started; completion in Dec 2014; Jan 2010 notification of aid; Feb 201 opening of formal investigation;
- Affects segments A, B, MPV-B C, and CDV (Global Insight nomenclature)
- 400 new direct jobs and 110 indirect jobs; knowledge spillovers

## Fiat Powertrain (the criteria/ market definition)

- Main reasons for the opening of the proceedings:
  - Market definition (segments; light trucks own product market; market wider than EEA?)
  - Criteria on market share
  - Criteria on capacity expansion
- Market definition:
  - Passenger cars of segment A, B, MPV-B C, and CDV (Global Insight nomenclature)
  - contested if segments form one market
  - European wide market; contested if market is wider
- Market shares
  - Significantly above 25% for segment A for an EEA wide market (but not if segments are aggregated or for global markets)
- Capacity expansion
  - Capacity increase calculated for individual segments, assuming all capacity put into one segment, results in problematic capacity expansions;
  - If all segments are aggregated, capacity expansion lies at 4.22%
  - Some of the segments are declining; combined market is declining
- No final decision taken

## BMW Leipzig, SA.32009 (case description)

- New production facility in Leipzig, Eastern Germany, Art. 107(3)(a) region (30% aid ceiling), for the manufacturing two new electric car models, with bodies made of carbon fiber-reinforced plastics
  - A Battery Electric Vehicle (BEV) model, “i3”
  - A Plug-in Hybrid Electric Vehicle (PHEV) model, “i8”
- The aid is granted on the basis of a block exempted scheme
- Investment started in December 2009 and is expected to continue until 2013/2014
- There had been a previous investment at this plant in September 2007, with eligible expenditures of EUR 100 million and aid of EUR 12.5 million (granted on the basis of block exempted schemes)
  - That investment related to the manufacturing of mouldings, doors and flaps for conventional combustion engine cars and was thus separate from the investment at hand
- Eligible expenditures in this investment are EUR 368.01 million (in present value) and aid is EUR 46.00 million (also in present value), for an aid intensity of 12.5% (that is, about 1 percentage point below the adjusted ceiling)
- Aid takes the form of an investment allowance/debt write-off
- The investment is considered to create about 800 new jobs in the assisted region, resulting in an aid per new job of EUR 57,500

## BMW Leipzig, SA.32009 (the criteria/ market definition)

- Paragraph 68 of the RAG states that, for large enough aid (above 75% of the aid implied by the adjusted ceiling for an investment of EUR 100 million), an in-depth assessment must be undertaken when
  - Either the beneficiary's market share is/will be above 25%
  - Or production capacity increases by more than 5% in a declining market
- That is, unless (footnote 65 of the RAG) the beneficiary creates a **new product**
- In the in-depth assessment, it will be determined whether
  - The aid provides an incentive effect
  - The benefits of the aid outweigh the costs in terms of distortion of competition and effect on trade between Member States
- Not able to decide **whether footnote 65 applies** in this case, the Commission carried out the two tests described above
- In addition, the Commission was not able to reach a conclusion on the **relevant product and geographic market**
  - According to some candidate product and geographic markets (e.g., electric cars, in segments D or E2+F, in the EEA or worldwide), the beneficiary's market share in 2015 would exceed 25%
- The production capacity-increase test is not problematic
- To resolve the “new product” and “market definition” questions, the Commission opened a formal investigation consulting interested third parties
- If the consultations are not conclusive or the market share threshold is exceeded in the relevant market, the Commission will carry out an in-depth assessment