



**COMPETITION TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case No: CO189Oct17

In the matter between:

The Competition Commission

Applicant

And

Autoliv Inc.

Respondent


Panel : N Manoim (Presiding Member)
M Mazwai (Tribunal Member)
M Mokuena (Tribunal Member)

Heard on : 22 November 2017

Decided on : 22 November 2017

Consent Agreement

The Tribunal hereby confirms the consent agreement as agreed to and proposed by the Competition Commission and Autoliv Inc. annexed hereto.



**Presiding Member
Mr Norman Manoim**

22 November 2017
Date

Concurring: Ms Mondo Mazwai and Mrs Medi Mokuena

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA
(HELD IN PRETORIA)

CT Case No. C01890ct17

CC Case No: 2012Aug0465

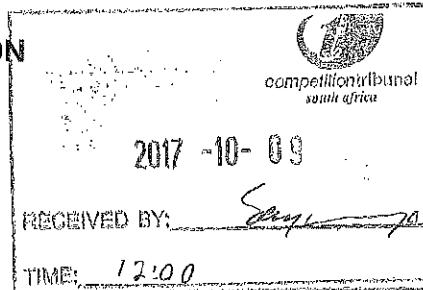
and 2016Nov0627

In the matter between

COMPETITION COMMISSION

And

AUTOLIV INC



Applicant

Respondent

CONSENT AGREEMENT IN TERMS OF SECTION 49D AS READ WITH SECTIONS 58(1)(a)(iii) and 58(1) (b) OF THE COMPETITION ACT, NO. 89 OF 1998, AS AMENDED, BETWEEN THE COMPETITION COMMISSION AND AUTOLIV INC, IN RESPECT OF CONTRAVENTIONS OF SECTION 4(1)(b)(i), (ii) AND (iii) OF THE COMPETITION ACT, 1998.

Preamble

The Competition Commission and Autoliv, Inc. hereby agree that application be made to the Competition Tribunal for the confirmation of this Consent Agreement as an order of the Competition Tribunal in terms of section 49D read with section 58(1)(a)(iii) and 58(1)(b) of the Competition Act, No. 89 of 1998, as amended, in respect of contraventions of section 4(1)(b)(i), (ii) and (iii) of the Act, on the terms set out below.

1. Definitions

For the purposes of this Consent Agreement the following definitions shall apply:

- 1.1 "**Act**" means the Competition Act, No. 89 of 1998, as amended;
- 1.2 "**Autoliv**", as a term used in this Consent Agreement, means/includes any affiliate of Autoliv, Inc., a Delaware corporation incorporated under the laws of Delaware in the United States, with its registered office being 1209 Orange Street, in the City of Wilmington, County of New Castle, Delaware, United States;
- 1.3 "**Commission**" means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Act, with its principal place of business at Mulayo Building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;
- 1.4 "**Commissioner**" means the Commissioner of the Competition Commission, appointed in terms of section 22 of the Act;
- 1.5 "**Complaint**" means the complaint initiated by the Commissioner in terms of section 49B(1) of the Act under case numbers 2012Aug0465 and 2016Nov0627;
- 1.6 "**Consent Agreement**" means this agreement duly signed and concluded between the Commission and Autoliv;
- 1.7 "**Occupant Safety Systems**" means airbags, seatbelts and/or steering wheels (which typically contain a driver airbag);
- 1.8 "**OEM**" means an Original Equipment Manufacturer;
- 1.9 "**Parties**" means the Commission and Autoliv;
- 1.10 "**RFQ**" means Request for Quotation; and
- 1.11 "**Tribunal**" means the Competition Tribunal of South Africa, a statutory body

established in terms of section 26 of the Act, with its principal place of business at Mulayo building (Block C), the DTI Campus, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng.

2. BACKGROUND TO THE COMMISSION'S INVESTIGATION AND FINDINGS

- 2.1 On 3 August 2012, the Commissioner initiated a complaint in terms of section 49(B)(1) of the Act into alleged prohibited practices relating to price fixing, market division, collusive tendering, and/or exchange of commercially sensitive information in contravention of section 4(1)(b)(i), (ii) and/or (iii) of the Act regarding the manufacture and supply of certain OSSs to OEMs against TRW Automotive Inc. (TRW), Autoliv and Takata Corporation (Takata) under case number 2012Aug0465 (original complaint).
- 2.2 On 21 November 2016, the Commissioner amended the original complaint to add additional respondents allegedly involved in prohibited practices as regards price fixing, market division, collusive tendering, and/or exchange of commercially sensitive information in contravention of section 4(1)(b)(i), (ii) and/or (iii) of the Act in respect of certain additional OSSs of certain additional OEMs (amended complaint).
- 2.3 The additional respondents are Tokai Rika Co. Ltd (Tokai) and Toyoda Gosei Co. Ltd. The conduct investigated based on the original and the amended complaints refers to the following OEMs: Volkswagen AG (VW), BMW AG (BMW), Toyota Motor Corporation (Toyota), Honda Motor Corporation (Honda), Peugeot S.A (PSA) and Daimler AG (Daimler).
- 2.4 The firms set out in paragraph 2.1 and 2.3 above shall hereinafter be referred to as the Respondents.
- 2.5 The Commission's investigation revealed the following:
- 2.5.1 During or about the period from 2001 or later to 2011 or earlier, the Respondents being competitors in the manufacture and supply of OSSs to OEMs agreed to fix prices, divide markets, collude on tenders issued by OEMs, and/or exchange of commercially sensitive information. The OEMs covered by

this consent agreement are VW and BMW.

3. PROHIBITED PRACTICES ENGAGED IN BY AUTOLIV

3.1 The Commission's investigation revealed that pursuant to the agreements set out above, Autoliv, together with its competitors, engaged in fifteen (15) instances of prohibited practices against various OEMs, as follows:

3.1.1 BMW

From around 2001 or later to 2011 or earlier, Autoliv, TRW and Takata colluded in respect of four (4) different RFQs (sourcing or resourcing) issued by BMW and/or exchanged competitively sensitive information in respect of certain supplies of OSSs products to BMW. The conduct in contravention of section 4(1)(b)(i), (ii) and (iii) of the Act related to BMW's PL6 [steering wheels, driver airbags, passenger airbags], M Sport [steering wheels and driver airbags], F15/F16 (X5 and X6 vehicles) platforms [airbags and steering wheels], and/or concerned discussions regarding certain raw material price increases certain and annual price reductions.

3.1.2 VW

From around 2006 or later to 2011 or earlier, Autoliv, TRW and Takata colluded in respect of eleven (11) different RFQs (sourcing or resourcing) issued by VW and/or exchanged competitively sensitive information in respect of certain supplies of OSSs products to VW. The conduct in contravention of section 4(1)(b)(i), (ii) and (iii) of the Act related to certain VW platforms (such as the Passat (B6/B7 platform) [seatbelt buckles]; elements of the MQB Platform (first and second tranche) [seatbelts and airbags for "first tranche, first part"; steering wheels and driver airbags for the "first tranche, second part", seatbelts and airbags for the "second tranche"]; Audi A1; B8, D4, and C7 Platforms (A3, A6, A7, A8, Q3) [steering wheels and driver airbags]; Porsche; Porsche Cajun/Macan [front seatbelt buckles]; VW Polo/PQ 25 Platform [seatbelts and passenger airbags]; VW EOS convertible [seatbelts]; VW 120 (VW UP) [seatbelts] and/or concerned certain raw material price increases, certain annual price reductions, certain engineering and development costs, and/or certain other terms and conditions.

3.2 Each instance constitutes a contravention of the Act that separately attracts liability.

4. ADMISSION

Autoliv admits that it engaged in the prohibited practices set out in paragraph 3 above in contravention of section 4(1)(b)(i), (ii) and (iii) of the Act.

5. CO-OPERATION

Autoliv agrees to fully cooperate with the Commission in its investigation and prosecution, if any, of the remaining respondents in the Commission's complaints. This cooperation includes, but is not limited to:

- 5.1 To the extent that it is in existence, the provision of evidence, written or otherwise, which is in the possession of Autoliv or under Autoliv's control, concerning the alleged prohibited practices set out in this Consent Agreement.
- 5.2 Testifying during the hearing of the complaint, if any, in respect of the prohibited practices set out in this Consent Agreement.

6. FUTURE CONDUCT

Autoliv agrees to:

- 6.1 prepare and circulate a statement summarising the content of this agreement to its employees, managers and directors within thirty (30) days of the date of confirmation of this Consent Agreement as an order of the Tribunal;
- 6.2 refrain from engaging in conduct in contravention of section 4 (1)(b) of the Act in future;
- 6.3 develop, implement and monitor a competition law compliance programme as part of its corporate governance policy, which is designed to ensure that its employees, management, directors and agents do not engage in future contraventions of the Act. In particular, such compliance programme should include mechanisms for the identification, prevention, detection and monitoring of any contravention of the Act;

6.4 submit a copy of such compliance programme to the Commission within 60 days of the date of confirmation of this Consent Agreement as an order by the Tribunal; and

6.5 undertake henceforth to engage in competitive practices.

7. ADMINISTRATIVE PENALTY

7.1 Having regard to the provisions of sections 58(1)(a)(iii) as read with sections 59(1)(a), 59(2) and 59(3) of the Act, Autoliv is liable to pay an administrative penalty.

7.2 Autoliv agrees and undertakes to pay a cumulative administrative penalty in the amount of **R149 960 540 (One Hundred and Forty Nine Million Nine Hundred and Sixty Thousand Five Hundred and Forty)**. Annexed hereto marked "A" is a table depicting the penalty amount levied in respect of each contravention.

7.3 This cumulative administrative penalty represents the total penalty levied against each of the fifteen (15) instances of prohibited practices where Autoliv is implicated. The administrative penalty, individually and in respect of each instance of prohibited practices, does not exceed 10% of Autoliv's annual turnover in the Republic of South Africa for the financial year ended December 2015.

7.4 Autoliv will pay the amount set out in paragraph 7.2 above to the Commission within thirty (30) days of the confirmation of this Consent Agreement as an order of the Tribunal.

7.5 The administrative penalty must be paid into the Commission's bank account

which is as follows:

Name: The Competition Commission Fee Account

Bank: Absa Bank, Pretoria

Account Number: 4050778576

Branch Code: 323 345

Ref: 2012Aug0465/2016Nov0627/ Autoliv

7.6 The administrative penalty will be paid over by the Commission to the National Revenue Fund in accordance with the provisions of section 59(4) of the Act.

8. Full and Final Settlement

This agreement, upon confirmation as an order of the Tribunal, is entered into in full and final settlement of all prohibited practices engaged in by Autoliv and its competitors and concludes all proceedings between the Commission and Autoliv in respect of all prohibited practices under this investigation.

Dated and signed at Stockholm on the 20TH day of SEPTEMBER 2017

For Autoliv Inc.



Group Vice President Legal
General Counsel and Secretary
Lars A. Sjöbring

Name In Full: _____

Dated and signed at Pretoria on the 3rd day of October 2017

For the Commission


Tembinkosi Bonakele
Competition Commissioner

ANNEXURE "A"

NO	AFFECTED RFQ	PENALTY AMOUNT	Percentage (%)
1	BMW PL6 platform	R9 997 369.33	2.5%
2	M-Sport	R9 997 369.33	2.5%
3	BMW F15,F16, MCV platform (X5/X6)	R9 997 369.33	2.5%
4	BMW-Fixing of trading conditions (raw material price increases, annual price reductions and terms and conditions)	R9 997 369.33	2.5%
5	VW Passat (B6/B7 Platform)	R9 997 369.33	2.5%
6	VW MQB platform (first tranche)	R9 997 369.33	2.5%
7	VW MQB platform (second tranche)	R9 997 369.33	2.5%
8	VW Polo (PQ 25 platform)	R9 997 369.33	2.5%
9	A1,A3, A4, A6, A7, A8, Q3, Q5 and Q7 (Audi B8, D4 and C7 platform)	R9 997 369.33	2.5%
10	Porsche	R9 997 369.33	2.5%
11	VW sourcing of Porsche Cajun	R9 997 369.33	2.5%
12	PQ25 platform	R9 997 369.33	2.5%
13	VW-Fixing of trading conditions (raw material price increases, annual price reductions and terms and conditions)	R9 997 369.33	2.5%
14	VW 120 (VW Up)	R9 997 369.33	2.5%
15	VW EOS Convertible	R9 997 369.33	2.5%
	Total amount	R149 960 540	