



Case No: 1435/5/7/22 (T)

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

- (1) PSA AUTOMOBILES SA
- (2) GIE PSA TRÉSORERIE
- (3) STELLANTIS NV
- (4) OPEL AUTOMOBILE GMBH
- (5) FCA ITALY SPA
- (6) FCA SRBIJA D.O.O. KRAGUJEVAC
- (7) FCA POLAND SA
- (8) MASERATI SPA
- (9) SOCIETA EUROPEA VEICOLI LEGGERI (SEVEL) SPA
- (10) VAUXHALL MOTORS LTD
- (11) OPEL ESPAÑA SLU

Claimants

- v -

- (1) AUTOLIV AB
- (2) AUTOLIV, INC.
- (3) AUTOLIV JAPAN LTD
- (4) AUTOLIV B.V. & CO. KG
- (5) AIRBAGS INTERNATIONAL LTD
- (6) ZF TRW AUTOMOTIVE HOLDINGS CORP.
- (7) ZF AUTOMOTIVE SAFETY GERMANY GMBH
- (8) ZF AUTOMOTIVE GERMANY GMBH
- (9) TRW SYSTEMS LTD
- (10) ZF AUTOMOTIVE UK LTD
- (11) TOKAI RIKA CO., LTD
- ~~(12) TOYODA GOSEI CO., LTD~~

Defendants

ORDER

UPON the Tribunal's Orders of 7 June 2022 (the "**First CMC Order**") and 15 May 2023 (the "**Second CMC Order**") and the definitions variously therein

AND UPON (i) the Ninth Claimant having merged with the Fifth Claimant on 14 December 2022; and (ii) the Eleventh Claimant, which formerly carried on business under the name Opel España SLU, being renamed "Stellantis España SLU" on 30 December 2022 (together, the "**Administrative Matters**")

AND UPON the disclosure by the First to Fifth Defendants ("**Autoliv**"), the Sixth to Tenth Defendants ("**ZF/TRW**") and the Eleventh Defendant ("**Tokai Rika**") of Other Regulator Documents, including certain documents set out at Annex 1 to this Order originating from the Takata group (the "**Takata Documents**") which pursuant to the Tribunal's direction were disclosed into the inner confidentiality ring by Autoliv and ZF/TRW

AND UPON the Claimants giving disclosure on 31 July 2023 of the Limitation Defences Disclosure and providing a disclosure statement dated 28 July 2023, and withholding from inspection 147 documents and citing legal professional privilege as the basis for doing so

AND UPON the Claimants' application dated 20 September 2023 (the "**Claimants' Application**") seeking:

- (i) the disclosure and inspection of documents which contain internal discussions and/or internal reports of discussions between a Defendant and any competitor that relate to price amendments in respect of the Sampled RFQs
- (ii) permission to amend the Claimants' Re-Re-Amended Claim form dated 14 November 2022 and Re-Amended Particulars of Claim dated 28 October 2022; and
- (iii) the designation as non-confidential of 234 documents (identified in Annex 1 to this Order) that have been disclosed into the confidentiality ring in these proceedings ("**Confidentiality Application**")

AND UPON the applications of Autoliv and ZF/TRW, both dated 20 September 2023, for:

- (i) permission to adduce expert economic evidence separate from that of the other Defendants; and
- (ii) the Claimants to explain the basis on which they have claimed privilege in respect of each of the 147 documents withheld from inspection (the "**Privilege Applications**")

AND UPON Tokai Rika having failed to disclose the documents and data required by paragraph 7(a) of the Second CMC Order by the deadline or by the date of the third case management conference held on 20 October 2023 (the "**Third CMC**")

AND UPON Bristows LLP (on behalf of Joyson Auto Safety S.A. ("**JAS**"), which directly or indirectly acquired certain assets of Takata Corporation and their affiliates on or around 10 April 2018) having sought 21 days on 19 October 2023 to review the Takata Documents so

that it may determine whether they are confidential and ought to remain within the confidentiality ring

AND UPON the consideration of the skeleton arguments and Counsels' submissions at the Third CMC

IT IS ORDERED THAT:

DISCLOSURE OF PRICE AMENDMENTS INTERNAL COMMUNICATIONS

1. In this Order "**Price Amendments**" means amendments or proposed amendments to the price to be paid by any of the Claimants for any OSS product or component procured pursuant to one of the Sampled RFQs as defined in the Second CMC Order. For the avoidance of doubt, Price Amendments include (without limitation) any price reduction request from any Claimant and any request for raw materials price increases from any Defendant.
2. By 4pm on 24 November 2023, each of the Defendants shall disclose and provide inspection of documents up to and including 30 March 2011 that contain internal discussions and/or internal reports of (a) discussions between a Defendant and any competitor, or (b) the likely conduct of any competitor, in each case regarding Price Amendments.

AMENDMENTS TO THE RE-AMENDED PARTICULARS OF CLAIM

3. The Claimants shall have permission to:
 - (a) amend their Re-Amended Particulars of Claim to further particularise their primary case on the cartelisation of supplies to the Claimants and the alternative plea of umbrella effects; to amend their alternative English law plea; and to address the Administrative Matters; and
 - (b) amend their Re-Re-Amended Claim Form to account for the Administrative Matters.

4. Each of the Fourth Amended Claim Form and the Re-Re-Amended Particulars of Claim resulting from the amendments set out in paragraph 3 above shall be filed and served by 4pm on 27 October 2023.

PRIVILEGE APPLICATIONS

5. By 4pm on 27 October 2023, the Claimants are to provide in respect of each of the documents withheld from inspection a description (in sufficient detail to enable the Defendants to understand any assertion of privilege and potentially challenge it by way of an application to the Tribunal, if so advised) identifying any documents which have been redacted or withheld by them on the basis of legal professional privilege.

CONFIDENTIALITY APPLICATION

6. 21 days following the date of this Order, the Takata Documents shall be designated as non-confidential.
7. JAS shall have liberty to apply to vary paragraph 6 above within 21 days of the date of this Order. Should any such application be made, the Takata Documents shall remain within the confidentiality ring until such time as that application has been determined.

TOKAI RIKA'S EFFECTS AND QUANTUM DISCLOSURE

8. Tokai Rika shall provide to the Claimants the disclosure specified in paragraphs 1 to 5 of Annex 1 to the Second CMC Order by 3 November 2023. For the avoidance of doubt, the requirements of paragraph 9 of the Second CMC Order shall continue to apply to the disclosure of this data.
9. The remainder of Tokai Rika's disclosure ordered by paragraph 7(a) of the Second CMC Order (i.e. the disclosure specified in paragraphs 6 and 7 of Annex 1 to the Second CMC Order) shall be provided to the Claimants by no later than 4pm on 24 November 2023. Tokai Rika shall file and serve a revised disclosure report and electronic document questionnaire by the same date.

FURTHER AMENDMENTS TO STATEMENTS OF CASE

10. By 4pm on 22 December 2023, the Claimants shall:
 - (a) amend their Re-Re-Amended Particulars of Claim to provide further particulars of the alleged cartel or cartels in light of the disclosed documents, and to specify whether they allege that there was a single cartel in this case involving all of the Defendants and/or two or more cartels each of which involved some (but not all) of the Defendants. If a number of different cartels are alleged (whether or not as an alternative to the plea of a single cartel involving all the Defendants), the Claimants shall specify which combinations of Defendants they allege participated in each of those cartels; and
 - (b) file and serve a note summarising the approach that their expert in the field of competition economics intends to take to the econometric analysis.
11. The Defendants shall have permission to make any consequential amendments to their Amended Defences by no later than 4pm on 26 January 2024, if so advised.

VARIATIONS TO DEADLINES IN THE SECOND CMC ORDER

12. The Second CMC Order is varied as follows:

Witnesses of fact

- (a) The date for filing and service of witness statements ordered in paragraph 15 shall be varied to 4pm on 2 February 2024;
- (b) The date for filing and service of witness statements in reply ordered in paragraph 16 shall be varied to 4pm on 1 March 2024;

Expert evidence in competition economics

- (c) The date for filing and service of the Claimants' expert report ordered in paragraph 18 shall be varied to 4pm on 15 March 2024;

- (d) The date for filing and service of the Defendants' expert report ordered in paragraph 19 shall be varied to 4pm on 10 May 2024;
- (e) The date for filing and service of the Claimants' expert reply report ordered in paragraph 20 shall be varied to 4pm on 12 July 2024;
- (f) The dates in paragraph 21 shall be varied as follows:
 - (i) The parties' experts shall meet on a without prejudice basis (without the parties) by 4pm on 17 July 2024; and
 - (ii) The parties' experts shall file the joint memorandum with the Tribunal by 4pm on 31 July 2024.
- (g) The dates in paragraph 22 shall be varied as follows:
 - (i) The joint memorandum template ordered in paragraph 22(a) shall be submitted to the Tribunal for its approval by 17 July 2024;
 - (ii) The progress report ordered in paragraph 22(b) shall be filed by 4pm on 24 July 2024.

- 13. The pre-trial review hearing currently listed for 29 July 2024 pursuant to paragraph 29 of the Second CMC Order shall be relisted for the first available date after 1 September 2024.

COSTS

- 14. Costs in the case.

Justin Turner KC

Chair of the Competition Appeal Tribunal

Made: 20 October 2023

Drawn: 2 November 2023

Annex 1 – Documents designated as non-confidential

1.	ALV_0001096	39.	ZF-001231	77.	ZF-001418	115.	ZF-001595
2.	ALV_0001097	40.	ZF-001234	78.	ZF-001421	116.	ZF-001597
3.	ALV_0001098	41.	ZF-001236	79.	ZF-001424	117.	ZF-001599
4.	ALV_0001099	42.	ZF-001240	80.	ZF-001426	118.	ZF-001605
5.	ALV_0001100	43.	ZF-001245	81.	ZF-001429	119.	ZF-001606
6.	ALV_0001101	44.	ZF-001249	82.	ZF-001437	120.	ZF-001608
7.	ALV_0001102	45.	ZF-001259	83.	ZF-001443	121.	ZF-001610
8.	ALV_0001103	46.	ZF-001261	84.	ZF-001447	122.	ZF-001611
9.	ALV_0001104	47.	ZF-001265	85.	ZF-001449	123.	ZF-001620
10.	ALV_0001105	48.	ZF-001267	86.	ZF-001450	124.	ZF-001624
11.	ALV_0001106	49.	ZF-001273	87.	ZF-001452	125.	ZF-001626
12.	ALV_0001107	50.	ZF-001277	88.	ZF-001454	126.	ZF-001633
13.	ALV_0001108	51.	ZF-001279	89.	ZF-001458	127.	ZF-001641
14.	ALV_0001109	52.	ZF-001282	90.	ZF-001459	128.	ZF-001645
15.	ALV_0001110	53.	ZF-001286	91.	ZF-001463	129.	ZF-001651
16.	ALV_0001111	54.	ZF-001290	92.	ZF-001465	130.	ZF-001654
17.	ALV_0001112	55.	ZF-001302	93.	ZF-001471	131.	ZF-001656
18.	ALV_0001113	56.	ZF-001305	94.	ZF-001473	132.	ZF-001660
19.	ALV_0001114	57.	ZF-001333	95.	ZF-001475	133.	ZF-001662
20.	ALV_0001115	58.	ZF-001337	96.	ZF-001497	134.	ZF-001664
21.	ALV_0001116	59.	ZF-001341	97.	ZF-001501	135.	ZF-001676
22.	ALV_0001117	60.	ZF-001343	98.	ZF-001509	136.	ZF-001684
23.	ALV_0001118	61.	ZF-001345	99.	ZF-001513	137.	ZF-001688
24.	ZF-001165	62.	ZF-001347	100.	ZF-001516	138.	ZF-001690
25.	ZF-001172	63.	ZF-001348	101.	ZF-001524	139.	ZF-001696
26.	ZF-001177	64.	ZF-001349	102.	ZF-001526	140.	ZF-001698
27.	ZF-001181	65.	ZF-001355	103.	ZF-001530	141.	ZF-001702
28.	ZF-001184	66.	ZF-001356	104.	ZF-001534	142.	ZF-001704
29.	ZF-001187	67.	ZF-001357	105.	ZF-001538	143.	ZF-001707
30.	ZF-001191	68.	ZF-001359	106.	ZF-001542	144.	ZF-001708
31.	ZF-001192	69.	ZF-001364	107.	ZF-001545	145.	ZF-001712
32.	ZF-001193	70.	ZF-001366	108.	ZF-001547	146.	ZF-001713
33.	ZF-001206	71.	ZF-001369	109.	ZF-001555	147.	ZF-001718
34.	ZF-001208	72.	ZF-001393	110.	ZF-001570	148.	ZF-001720
35.	ZF-001212	73.	ZF-001398	111.	ZF-001580	149.	ZF-001733
36.	ZF-001218	74.	ZF-001404	112.	ZF-001584	150.	ZF-001734
37.	ZF-001221	75.	ZF-001410	113.	ZF-001588	151.	ZF-001736
38.	ZF-001225	76.	ZF-001416	114.	ZF-001593	152.	ZF-001739

153. ZF-001787	174. ZF-001843	195. ZF-001983	216. ZF-002669
154. ZF-001789	175. ZF-001847	196. ZF-001984	217. ZF-002671
155. ZF-001791	176. ZF-001851	197. ZF-001986	218. ZF-002697
156. ZF-001796	177. ZF-001854	198. ZF-001992	219. ZF-002699
157. ZF-001799	178. ZF-001862	199. ZF-001994	220. ZF-002701
158. ZF-001801	179. ZF-001892	200. ZF-002007	221. ZF-002709
159. ZF-001803	180. ZF-001896	201. ZF-002011	222. ZF-002710
160. ZF-001805	181. ZF-001902	202. ZF-002015	223. ZF-002713
161. ZF-001807	182. ZF-001906	203. ZF-002017	224. ZF-002722
162. ZF-001813	183. ZF-001914	204. ZF-002616	225. ZF-002728
163. ZF-001814	184. ZF-001919	205. ZF-002619	226. ZF-002730
164. ZF-001817	185. ZF-001920	206. ZF-002630	227. ZF-002732
165. ZF-001821	186. ZF-001922	207. ZF-002633	228. ZF-002733
166. ZF-001827	187. ZF-001927	208. ZF-002635	229. ZF-002737
167. ZF-001829	188. ZF-001931	209. ZF-002636	230. ZF-002741
168. ZF-001831	189. ZF-001939	210. ZF-002638	231. ZF-002749
169. ZF-001833	190. ZF-001942	211. ZF-002640	232. ZF-002750
170. ZF-001837	191. ZF-001956	212. ZF-002649	233. ZF-002755
171. ZF-001839	192. ZF-001958	213. ZF-002652	234. ZF-002757
172. ZF-001840	193. ZF-001959	214. ZF-002664	
173. ZF-001841	194. ZF-001963	215. ZF-002667	