



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

IN THE COMPETITION APPEAL TRIBUNAL

BETWEEN:

- (1) STELLANTIS AUTO SAS**
- (2) GIE PSA TRESORERIE**
- (3) STELLANTIS NV**
- (4) OPEL AUTOMOBILE GMBH**
- (5) FCA ITALY SPA**
- (6) STELLANTIS EUROPE SPA**
- (7) FCA POLAND SP. Z O.O.**
- (8) MASERATI SPA**
- (10) VAUXHALL MOTORS LTD**
- (11) OPEL ESPAÑA SLA**

Claimants

- and -

- (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**

Defendants

ORDER

UPON the Defendants having provided documents to, and having been provided with documents by, the United States Department of Justice in the course of its regulatory investigation relating to anti-competitive practices in the market for occupant safety system (“**OSS**”) components (the “**DOJ Documents**”)

AND UPON the Tribunal’s Order dated 15 May 2023 giving directions to trial (the “**Second CMC Order**”) and at paragraph 4 requiring the Defendants to disclose by list and provide inspection of certain of the DOJ Documents

AND UPON the further amendments to the Particulars of Claim on 23 October 2023 and 22 December 2023, in which further particulars were provided of the Claimants’ ‘umbrella’ case

AND UPON the Claimants having applied for further disclosure by the First to Fifth Defendants (the “**Autoliv Defendants**”) of DOJ Documents previously withheld on grounds of irrelevance (the “**DOJ Disclosure Application**”)

AND UPON the Defendants having agreed, for the purposes of limitation, to treat French law as governing the claims of the First to Third Claimants; German law as governing the claims of the Fourth, Tenth and Eleventh Claimants; and Italian law as governing the claims of the Fifth to Eighth Claimants

AND UPON the parties having filed and served expert reports in Italian, French and German law on 17 May 2024

AND UPON the Defendants having conceded their limitation defences under Italian and French law on 5 and 6 June 2024

AND UPON the Claimants having applied on 12 June 2024 for their costs of preparing their expert reports in Italian and French law (both the initial report and reply report) (the “**Foreign Law Expert Costs Application**”)

AND UPON the Claimants having applied on 12 June 2024 to re-designate certain documents and passages of the Sixth to Tenth Defendants’ (the “**ZF Defendants**”) witness statements for trial as non-confidential and so outside the scope of the confidentiality provisions of the Revised Confidentiality Ring Order dated 28 June 2023 (the “**Confidentiality Application**”)

AND UPON the Claimants and the ZF Defendants agreeing all but four of the proposed re-designations, such that the only remaining disputed designations are those that appear in the First Witness Statement of Levi Arango dated 2 February 2024 (“**Arango 1**”) (*i.e.*, the confidentiality designations that have been applied to Arango 1, paragraphs 50, 52, 54 and 56) (the “**Remaining Disputed Designations**”)

AND UPON the Defendants having applied on 21 May 2024 for, and subsequently obtained, an extension of time to serve their single joint expert report in the field of competition economics, and having subsequently applied for their costs of that application (the “**Costs of Extension of Time Application**”)

AND UPON certain further matters relating to the pre-trial and trial timetable and pleading amendments being raised in correspondence prior to the fourth case management conference in these proceedings held on 1 July 2024 (the “**Fourth CMC**”)

AND UPON hearing the parties’ counsel at the Fourth CMC

AND UPON the draft trial timetable set out in Annex 3 to this Order having been provisionally approved at the Fourth CMC, subject to further consideration and revision at the Pre-Trial Review (“**PTR**”)

AND UPON the Tribunal indicating that, in the event that the Claimants advance any alternative case on the quantification of loss in light of the contents of the Defendants’ economic expert report, the Claimants’ economic expert should provide a quantification of such case in his reply report

IT IS ORDERED THAT:

Further Amendments

1. The Defendants have permission to file and serve by 4pm on 15 July 2024 Re-Re-Amended Defences, such permission to amend being limited to their cases on:
 - (a) governing law; and
 - (b) the question whether decisions about the pricing of OSS components supplied to particular customers were taken in isolation from each other.

2. The Claimants have permission to file and serve, by 4pm on 29 July 2024, a Re-Amended Reply, such permission to amend being limited to:
 - (a) amendments responsive to the amendments to the Defences for which paragraph 1 above provides; and
 - (b) any further clarification of the Claimants' case in relation to alleged losses arising over the period of time for which the Commission held that Autoliv was party to the infringements found in *Decision AT.39881 Occupant Safety Systems supplied to Japanese Car Manufacturers* (the “**OSS1 Decision**”), but the periods of the infringements found in *Decision AT.40481 Occupant Safety Systems (II) supplied to the Volkswagen Group and the BMW Group* (the “**OSS2 Decision**”) had not yet commenced.

DOJ Disclosure Application

3. By 4pm on 15 July 2024, the Autoliv Defendants shall provide for inspection the DOJ Documents which have been withheld from inspection that satisfy the following conditions:
 - (a) The document's filename is responsive to any one or more of the keywords set out in Annex A to this Order; and
 - (b) The document's filename or contents are responsive to any one or more of the keywords set out in Annex B to this Order.
4. The obligation to provide inspection pursuant to paragraph 3 above shall be subject only to a right to redact or withhold material on the following grounds:
 - (a) they are leniency or settlement submissions;
 - (b) they are subject to legal professional privilege; and/or
 - (c) they do not relate to OSS components that are the subject of the claim (*i.e.*, steering wheels, airbags and seatbelts).

5. For the avoidance of doubt, save as provided in paragraph 4(c) above, the Autoliv Defendants shall not be entitled to withhold from inspection documents falling within paragraph 3 on the ground that they are irrelevant.
6. The DOJ Disclosure Application is otherwise dismissed.

Confidentiality Application

7. The Claimants' Confidentiality Application concerning the Remaining Disputed Designations is adjourned to be considered (if still pursued) at trial. For the avoidance of doubt, the Remaining Disputed Designations shall remain in force in the meantime.

Costs Applications

8. The Foreign Law Expert Costs Application is adjourned to be dealt with alongside the costs of these proceedings following trial.
9. The Costs of the Extension of Time Application are adjourned to the trial.

Further Directions to Trial

10. Paragraph 21 of the Second CMC Order is amended as follows:
 - (a) The date by which the parties' experts in the field of competition economics shall meet on a without prejudice basis shall be varied to 3 September 2024;
 - (b) The date for filing of the economic experts' joint memorandum shall be varied to 13 September 2024;
 - (c) Sub-paragraph (c)(iv) shall be varied to read: "*key documents and key pieces of evidence which are relevant to the particular areas of dispute between them; and*"; and
 - (d) A new sub-paragraph (d) shall be added: "*The joint memorandum shall be limited to 50 pages.*"

11. Paragraph 22 of the Second CMC Order is amended as follows:
 - (a) The date in sub-paragraph (a) shall be varied to 6 September 2024;
 - (b) Sub-paragraph (b) (which is concerned with the filing of a progress report) shall be deleted.

12. Any application for witnesses to attend and give evidence at trial remotely via video link shall be made by no later than 4pm on 30 August 2024 and shall be decided either (a) on paper in advance of the PTR; or, failing which (b) at the PTR.

13. In relation to the PTR:
 - (a) The parties are to address the Tribunal at the PTR on the relevance of the OSS Decisions,¹ meaning specifically the points for which the parties (or any of them) rely on those Decisions and the legal framework for such reliance;
 - (b) The parties are to file an agreed updated list of issues at the PTR on the question of the extent to which it will be necessary for the Tribunal to attribute liability as between the Autoliv Defendants and ZF Defendants, in particular in relation to the period when the Commission found that the infringements in both the OSS1 and OSS2 Decisions were in force, and the extent to which it will be necessary to attribute any losses (if found) as between the Claimants' primary case of a direct cartel affecting the Claimants (if established), and the Claimants' alternative case of "umbrella effects";
 - (c) Subject to the parties' right to create a specific PTR bundle concerning matters arising at the PTR, the bundles for use at the PTR are to be the trial bundles.

14. Skeleton arguments for trial shall be filed and served on 24 September 2024, and shall be limited to 50 pages.

¹ *i.e.*, the OSS 1 Decision and OSS 2 Decision.

15. The parties shall have liberty to apply to vary any of the directions given in paragraphs 10-14 of this Order.

Costs

16. Save as set out in paragraphs 8-9 above, the costs of this hearing and the applications considered at the hearing shall be costs in the case.

Justin Turner KC
Chair of the Competition Appeal Tribunal

Made: 1 July 2024
Drawn: 24 July 2024

ANNEX A

1. The Annex A keywords are a follows:

“steering committee”
“PSC”
“monthly report”
“monthly manager meeting”
“org”
“sales strategy”
“pricing strategy”
“sales review”
“sales report”
“account review”
“business review”
“market price”
“benchmark”
“standardized”
“standardisation”
“cost comparison”
“price comparison”

ANNEX B

2. The Annex B keywords are as follows:

“Abarth” OR “AB”
“Alfa Romeo” OR “AR”
“Fiat” OR “FCA”
“Lancia” OR “LAN”
“Maserati” OR “MAS”
“Citroen” OR “CIT”
“DS”
“Peugeot” OR “PEU” OR “PSA” OR “PCA”
“TPCA” OR “Kolin”
“Opel” OR “OV” OR “VO”
“Vauxhall” OR “VAUX”
“General Motors” OR “General Motor” OR “GM”
“A5*” AND “C3”
“A7*” AND “207”
“A9*” AND “208”
“B0” OR “B Zero” OR “B-Zero”
“D2*” AND “407”
“M3*” AND “301”
“T7*” AND “308”
“T8*” AND “3008”
“T8*” AND “5008”
“Mito”
“312” AND “500”
“500L”
“Ducato”

"Panda"
"Grande Punto" OR "Punto" OR "Punto Evo"
"Ypsilon"
"M157"
"Corsa" OR "S07"
"Meriva" OR "S10"
"Adam" OR "Junior"

ANNEX C

Draft Trial Schedule

PSA Automobiles SA & Others v Autoliv AB & Others

Week	Monday	Tuesday	Wednesday	Thursday	Friday
				<i>28 September</i>	<i>29 September</i>
				Reading Day 1	Reading Day 2
	<i>30 September</i>	<i>Day 1 1 October</i>	<i>Day 2 2 October</i>	<i>Day 3 3 October</i>	<i>Day 4 4 October</i>
Week 1	Reading Day 3	Opening Statements (Claimants)	Opening Statements (Defendants)	Opening Statement (Defendants) (AM) Factual witnesses (PM)	Factual witnesses
	<i>Day 5 7 October</i>	<i>Day 6 8 October</i>	<i>Day 7 9 October</i>	<i>Day 8 10 October</i>	<i>Day 9 11 October</i>
Week 2	Factual witnesses	Factual witnesses	Factual witnesses	Factual witnesses	[Buffer for factual witnesses]
	<i>Day 10 14 October</i>	<i>Day 11 15 October</i>	<i>Day 12 16 October</i>	<i>Day 13 17 October</i>	<i>Day 14 18 October</i>
Week 3	Economic experts	Economic experts	Economic experts	Economic experts	Economic experts

Week	Monday	Tuesday	Wednesday	Thursday	Friday
	<i>Day 15 21 October</i>	<i>Day 16 22 October</i>	<i>Day 17 23 October</i>	<i>Day 18 24 October</i>	<i>Day 19 25 October</i>
Week 4	German Law experts (cross-examination) (AM) [Writing closing statements]	[Writing closing statements]	[Writing closing statements]	Closing statements	Closing statements
	<i>Day 20 28 October</i>	<i>Day 21 29 October</i>	<i>Day 22 30 October</i>	<i>Day 23 31 October</i>	<i>Day 24 1 November</i>
Week 5	Closing statements	Closing statements	Closing statements	[Additional day – buffer]	
	<i>Day 25 4 November</i>	<i>Day 26 5 November</i>	<i>Day 27 6 November</i>	<i>Day 28 7 November</i>	<i>Day 29 8 November</i>
Week 6					