

Final Report of the Hearing Officer ⁽¹⁾
Occupants Safety Systems (II) supplied to the Volkswagen Group and the BMW Group
(AT.40481)
(Text with EEA relevance)
(2019/C 199/03)

On 7 July 2017, the Commission initiated proceedings pursuant to Article 11(6) of Council Regulation (EC) No 1/2003 ⁽²⁾ and Article 2(1) of Regulation (EC) No 773/2004 ⁽³⁾ against Autoliv ⁽⁴⁾, Takata ⁽⁵⁾ and TRW ⁽⁶⁾ (collectively 'the parties').

Following settlement discussions ⁽⁷⁾ and settlement submissions ⁽⁸⁾ in accordance with Article 10a(2) of Regulation (EC) No 773/2004, the Commission notified a Statement of Objections ('SO') on 10 January 2019. According to the SO, the parties participated in two single and continuous infringements of Article 101 of the TFEU and Article 53 of the EEA Agreement in respect of their supplies of occupants safety products for certain passenger cars to companies belonging to the Volkswagen Group and the BMW Group.

In their respective replies to the SO the parties confirmed pursuant to Article 10a(3) of Regulation (EC) No 773/2004 that the SO reflected the contents of their settlement submissions.

The Commission's draft decision finds that the parties infringed Article 101 of the TFEU and Article 53 of the EEA Agreement by participating in two single and continuous infringements consisting of exchanging certain commercially sensitive information and in some instances price coordination concerning the sale of certain types of occupants safety systems (namely seatbelts, airbags and/or steering wheels) for passenger cars in the period between January 2007 and March 2011 to the Volkswagen Group and the BMW Group.

Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known their views. I conclude that it does so.

In view of the above, and taking into account that the parties have not addressed any requests or complaints to me ⁽⁹⁾, I consider that the effective exercise of the procedural rights of the parties to the proceedings in this case has been respected.

Brussels, 1 March 2019.

Joos STRAGIER

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

⁽²⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1).

⁽³⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

⁽⁴⁾ Autoliv, Inc. and Autoliv B.V. & Co. KG.

⁽⁵⁾ TKJP Corporation (formerly Takata Corporation) and TB Deu Abwicklungs-Aktiengesellschaft i.L. (formerly Takata Aktiengesellschaft).

⁽⁶⁾ ZF TRW Automotive Holdings Corp. (formerly TRW Automotive Holdings Corp.), TRW Automotive Safety Systems GmbH and TRW Automotive GmbH.

⁽⁷⁾ The settlement meetings took place between November 2017 and November 2018.

⁽⁸⁾ The parties submitted their formal requests to settle on [...].

⁽⁹⁾ Under Article 15(2) of Decision 2011/695/EU, parties to the proceedings in cartel cases which engage in settlement discussions pursuant to Article 10a of Regulation (EC) No 773/2004, may call upon the hearing officer at any stage during the settlement procedure in order to ensure the effective exercise of their procedural rights. See also paragraph 18 of Commission Notice 2008/C 167/01 on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (OJ C 167, 2.7.2008, p. 1).