

***Case No COMP/M.3765 -  
AMER / SALOMON***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004  
MERGER PROCEDURE**

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Article 6(2) NON-OPPOSITION  
Date: 12/10/2005

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12/10/2005

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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(2) DECISION

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.3765 - Amer/Salomon  
Notification of 24.8.2005 pursuant to Article 4 of Council Regulation  
No 139/2004<sup>1</sup>**

1. On 24.8.2005, the Finnish company Amer Sports Corporation (“Amer”) notified its intention to acquire the Salomon business segment of Adidas-Salomon (“Salomon”) within the meaning of Article 3(1)(b) of Council Regulation No 139/2004 on control of concentrations between undertakings (“the Merger Regulation”).
2. The transaction was referred to the Commission under Art. 4(5) of the Merger Regulation.
3. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of the Merger Regulation and, following submission by the parties of undertakings designed to eliminate competition concerns identified by the Commission, in accordance with Article 6(2) of the Merger Regulation, does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

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<sup>1</sup> OJ L 24, 29.1.2004 p. 1.

## **I. THE PARTIES**

4. **Amer** is a global sporting goods equipment manufacturer and supplier. Amer's products are divided into four key brands: 'Atomic' (winter sports goods), 'Precor' (fitness equipment), 'Suunto' (wrist-top computers) and 'Wilson' (tennis, golf and team sports' equipment).
5. **Salomon** is active globally in the manufacture and supply of winter sports products, such as alpine and cross-country skis, snowboards, boots, bindings, snowshoes, skateboards, hiking footwear, cycling equipment, inline skates and related accessories. Salomon is currently part of the Adidas-Salomon group.

## **II. THE OPERATION**

6. Amer will acquire from Adidas-Salomon the entire issued share capital in a number of companies forming the Salomon business, as well as certain intellectual property rights and assets.

## **III. CONCENTRATION**

7. The proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of Merger Regulation.

## **IV. COMMUNITY DIMENSION**

8. The concentration does not have a Community dimension within the meaning of Article 1 of the Merger Regulation as the combined aggregate worldwide turnover of the undertakings concerned is EUR [...] million (Amer: EUR [...] million; Salomon: EUR [...] million). The Commission acquired jurisdiction to review the notified operation by means of referral under Article 4(5) of the Merger Regulation.

## **V. COMPETITIVE ASSESSMENT**

### **A. Relevant product markets**

9. The activities of the parties overlap in the sector of winter sports goods. The parties have submitted that the winter sports goods sector may be further subdivided into winter sports soft goods (such as clothes, gloves and bags) and winter sports hard goods (skis, snowboards and accessories).
10. As regards the winter sports soft goods, the parties have submitted that their presence in this segment is minimal. In the segment of winter sports hard goods, the parties' activities overlap in a number of product segments and Member States.

### **Sales of winter sports hard goods to retailers ("retail markets")**

11. The parties have submitted that the various products designed for different kinds of skiing and snowboarding are not interchangeable, as different technical solutions are used for each alpine skiing, cross-country skiing and snowboarding. The parties have therefore argued that the following relevant product markets exist: (i) alpine skis, (ii) alpine bindings, (iii) alpine boots, (iv) alpine poles, (v) cross-country skis, (vi) cross-

country bindings, (vii) cross-country boots, (viii) snowboards, (ix) snowboard bindings, (x) snowboard boots.

#### *Alpine skis*

12. Alpine skis are essentially skis that are used to come down a mountain. According to the parties, suppliers have segmented their product portfolio of alpine skis in different ways - principally according to the skier's competence level – and, while there are some common descriptions, there is no universally accepted product segmentation. The parties have submitted that suppliers of branded skis are typically active in all different product segments of the alpine ski market, and manufacturers are able to quickly and easily switch production to satisfy demand in these different segments. The parties have therefore submitted that alpine skis represent a single separate product market.
13. Competitors and customers in their replies to the market investigation have indicated that different sub-categories of alpine skis exist from the demand side point of view (such as free-style, racing, carving) and that, from the technical point of view or in terms of price level, not all skis are substitutable from the consumers' point of view. However, the investigation confirms that, from the supply side, most manufacturers produce and sell all types of skis. The investigation also shows that the technical differences between categories of skis do not prohibit manufacturers to start or increase the production of a specific type of ski, should the prices of a product category increase. Therefore, the Commission considers, for the purpose of this investigation, one relevant product market for alpine skis.

#### *Alpine bindings*

14. Alpine bindings, which are permanently fixed to alpine skis, attach to both the front and the rear of alpine ski boots. Technically, bindings are set on skis by means of drilling in skis and screws<sup>2</sup>. The parties have argued that, from a technical point of view, any type of alpine ski is compatible with any type of alpine binding and that the binding technology is not covered by patents. The market investigation has confirmed this view.
15. According to the parties, bindings were historically manufactured and sold on a separate, stand-alone basis. The parties have argued, however, that in the last 5 years most manufacturers sell skis and bindings on an “integrated” basis: the drilling in skis is now implemented in manufacturers' factories which implies that only bindings and skis of the same manufacturer—or sometimes of a ski manufacturer and a binding manufacturer tied in a partnership—can fit together.
16. Technical and economic motivations account for this development. Technically, ski manufacturers have identified the ski-binding interface as an important factor in the overall performance of a ski. To make this interface more efficient, each manufacturer has developed its own interface. The positions of screws are now specific to each ski manufacturer so that only one brand of bindings can match. Economically, the integration of bindings to skis means that manufacturers are assured to sell a pair of bindings when they sell a pair of skis.

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<sup>2</sup> A newly introduced technology consists of setting bindings on the skis with a “click mechanism”.

17. This integration is essentially implemented in two different ways: either the manufacturer integrates bindings and skis in factories or it just carries out the necessary

brand-specific drilling in skis and then retailers set bindings on the drilled skis (or skis with interface). Under the last option, bindings and skis can be shipped to retailers in the same package or they can be shipped separately. The latter implies that retailers, in making their orders of bindings, purchase together the bindings that are intended to be set on skis with a brand-specific interface and those who are intended to be sold separately. Since these bindings are physically identical, manufacturers are not in a position to price them differently.

18. According to the parties, more than [ $>50$ ] % of the Atomic skis leave the factory with assembled bindings or with a brand-specific interface. Salomon expects this figure to be [ $>50$ ] % in the near future for its own sales<sup>3</sup>. And while it is still possible to buy skis and bindings separately, it is normally specialists/experts with a particular, mostly more expensive product in mind who make such purchases.
19. Competitors and customers in their replies to the market investigation have confirmed the trend of selling skis and bindings in a package. Taking this into account, alpine bindings to some extent might be seen as an upstream input for ski packages.
20. Nevertheless, since a significant proportion of alpine bindings is still sold on a stand-alone basis, for the purpose of this decision, alpine skis and alpine bindings are analysed as separate product markets. The strong commercial links between both products are nevertheless considered to be one of the most important market features. In particular, the market structure and competition conditions in alpine bindings must be considered to be strongly influenced by the market for alpine skis.

#### *Alpine boots*

21. The parties have argued that alpine boots form a separate product market, as they are not substitutable for cross-country boots from the demand side perspective. According to the parties, supply-side substitutability is equally excluded as different manufacturing techniques are used in each case. As regards the compatibility of the various alpine boots with different bindings, the parties have submitted that any alpine binding can be used with any alpine boot.
22. The parties' arguments have been largely confirmed in the market investigation and for the purposes of this decision, a relevant market for alpine boots will be considered.

#### *Alpine ski poles*

23. Alpine ski poles are used to assist the skier to move forward and are also used as a steering device. The parties have submitted that alpine ski poles form a separate product market. The existence of a separate market is confirmed by the market investigation.

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<sup>3</sup> The focus of Salomon's product portfolio is more in categories, such as free-style and all-mountain, for which the proportion of consumers who prefer skis with pre-assembled bindings is lower.

### *Cross-country skis*

24. Cross-country skis are used to traverse flat or undulating land. According to the parties, there are two types of cross-country skis: skating and classical. The parties claim that in

spite of the technical differences between these two types of skis there is a substantial supply-side substitutability between them. Therefore, they both form one relevant product market.

25. The parties' arguments have been confirmed in the market investigation and for the purpose of this decision, a relevant market for cross-country skis will be considered.

### *Cross-country bindings*

26. The parties have submitted that there are two technology standards used at present for cross-country bindings: the so called SNS and NNN standards. According to the parties, the SNS technology is used on approximately 70% of the global market. Salomon holds the patents for the SNS technology. The competing NNN technology is patented by Rottefella, a Norwegian company not active in other segments of the winter sports hard goods sector.
27. Contrary to the alpine ski segment, cross-country bindings are generally not integrated to cross-country-skis. While market investigation provides some indications that manufacturers try to promote the move towards integration of cross-country skis and bindings, the market investigation has confirmed that currently only 10% to 20% of cross-country skis are sold on an integrated basis. Furthermore, technical reasons may hinder any further push to integration. First, setting cross-country bindings on cross-country skis remains an easy operation and the gain from integrating them in factories is less obvious than in the alpine ski segment. Second, the interface binding-ski is not an important factor of performance so that brand-specific innovations leading to "captive" interfaces are not likely.
28. The parties have argued that both technologies, SNS and NNN, form one product market for cross-country bindings. Cross-country ski bindings of both standards can be used interchangeably between all cross-country skis. Third parties in their replies to the Commission's questionnaires have confirmed the parties' arguments.
29. Therefore, for the purpose of this decision, a relevant market for cross-country bindings will be considered.

### *Cross-country boots*

30. Cross-country boots are made from soft, flexible material and are connected to the binding only at the toe. As described above, cross-country boots are not substitutable for alpine boots, due to their very different physical characteristics. Furthermore, due to the different construction techniques, there are no supply-side substitution possibilities from alpine boots production to cross-country boots production.
31. The market investigation has confirmed that for each cross-country binding technology standard (SNS, NNN), a different cross-country boot is used. The main difference rests in the construction of the sole of the boots which grants the compatibility of the boot and the binding standard. The manufacturer of cross-country boots therefore needs to

obtain a license for the available binding technologies. Accordingly, contrary to the alpine segment, in which commercial and technological links exist between skis and bindings, in the cross-country segment such links exist between bindings and boots.

32. The market may be further segmented according to the skiing styles (classical or skating), but according to the parties an average skier may use the boots for both types of cross-country skis. Furthermore, the parties submitted that the supply-side substitutability between classical boots and skating boots is high.
33. The market investigation has confirmed this view. Therefore, for the purpose of this decision, one relevant product market for cross country boots will be considered.

#### *Snowboards*

34. According to the parties, there are two main categories of snowboards: free-style and free-ride. The free-ride category covers all sorts of gliding – on slope and deep powder skiing, while the free-style category is generally limited to park and pipe snowboarding. The parties submit that these two categories of snowboards form one relevant product market as the manufacturers may easily produce both of them.
35. The market investigation has confirmed the parties' submissions and for the purposes of this decision, a relevant product market for snowboards will be considered.

#### *Snowboard bindings*

36. The parties submit that there are two main constructions of snowboard bindings: soft bindings and hard bindings. The differences between them stem from outer surface appearance, weight, ease of use and use of new technologies.
37. The parties submit that both binding constructions form one relevant product market. This has been confirmed in the market investigation.

#### *Snowboard boots*

38. The parties submit that there are two main constructions of snowboard boots – soft and hard boots. The main differences between them stem from appearance and fit. The parties submit that both types of boots form one relevant product market. This has been confirmed in the market investigation.

#### **Markets for sales of winter sports hard goods to manufacturers (“OEM-markets”)**

39. The parties have submitted that a number of players active on the retail markets defined above procure skis and bindings from other rival manufacturers, both in the cross-country and alpine segments. This is in particular the case for manufacturers that are not integrated—that is, they have no production facilities in both skis or bindings—or for those who have no sufficient production capacities and who do not wish to invest to increase them.
40. The parties have submitted that, with a static demand for winter sports equipment, suppliers that wanted to expand on new markets have often chosen for financial reasons to contract from rival suppliers who had spare production capacity. This, together with the fact that most OEM suppliers are also active on downstream markets

(i.e. sales to retailers) has led the parties to submit that OEM markets do not constitute a separate relevant product market.

41. However, since Salomon and Amer are both active as suppliers of winter sports hard goods to rival companies, the Commission considers that it is still necessary to examine whether the concentration gives rise to vertical issues. Thus, for the purposes of this decision, the Commission considers that the OEM markets for alpine skis, alpine bindings, cross-country skis, and cross-country bindings constitute separate relevant product markets.

## **B. Relevant geographic markets**

### **Retail markets**

42. From the retailers' perspective, the geographical scope of the markets is national. The parties have submitted that a significant proportion of sales still take place at national level; in particular small retailers have their principal interaction with the national sales forces of the suppliers.
43. In this respect, the Commission notes that some major distribution networks (e.g. Intersport, Sport 2000) procure winter sports hard goods through a two-stage process: a first choice of the brand and product portfolio is made at a European-wide level. However, in the second stage, each of the national sections makes its sub-selection taking into account the particularities of the different countries (e.g. consumer preferences). The market investigation suggests that only very few retailers truly purchase at an international level (e.g. Decathlon).
44. Furthermore, market investigation shows that consumer preferences vary significantly across countries. In particular, consumers prefer to purchase national brands when possible. For instance, Austrians are prone to buy Austrian brands (e.g. Atomic, Fischer), and French consumers are inclined to buy French brands (e.g. Rossignol, Dynastar, Salomon). As a result, the market shares of the parties vary significantly across countries (see below). The market investigation has also confirmed that retail price variation across countries still can reach [ $>20$ ],<sup>4</sup> despite, according to the parties, national retail prices have converged.
45. As regards geographic market definition the parties have argued that winter sports tourism supports the trend towards EEA-wide markets for winter sports hard goods, as a significant part of sales in the most important national markets (i.e. the "Alpine" countries like Austria, Germany and France) are attributable to tourists. Furthermore, the parties submitted that the market strategy of the manufacturers (brand positioning, technical innovations and pricing policies) is not oriented towards some national markets but is at least EEA-wide in scope. The Commission considers, however, that even though competition conditions in national markets may be considered to be influenced to some extent by European-wide or even worldwide supply-side factors like common brand strategies and product innovation policies, factors discussed above such as national consumer preferences, price differences, national retail structures and the resulting differences in market positions at the national level lead the Commission to conclude that the markets are still national in scope.

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<sup>4</sup> data provided by the parties.



46. Therefore, for all the forgoing reasons the Commission considers that the retail markets for winter sports hard goods – alpine skis, alpine boots, alpine bindings, cross-country skis, cross-country bindings, alpine ski poles, cross-country boots, snowboards, snowboard bindings and snowboard boots - are national.

### **Markets for sales to manufacturers (“OEM”-markets)**

47. The parties have submitted that production facilities of manufacturers can be situated remote from the demand of end-consumers. Salomon manufactures a large proportion of alpine bindings sold in the EEA in Romania. The ski production capacities of Amer are concentrated in two plants located in Austria and Bulgaria. The market investigation has also established that K2, a US-based company which recently acquired the German ski manufacturer Voelkl, sources its total volume of skis from manufacturers located in China.
48. More importantly, the investigation has confirmed that suppliers of branded skis which source their skis from “Original Equipment Manufacturers” (OEMs) typically source skis and bindings from suppliers located anywhere in Europe (and occasionally from manufacturers located in the rest of the world).
49. In view of these facts, the Commission considers that the markets for sales of skis and bindings to manufacturers (“OEM-markets”) are at least EEA wide in scope.

## **C. Assessment**

### **C.1 Markets for sales of alpine skis and bindings to manufacturers (“OEM-markets”)**

50. Amer sells no OEM alpine bindings and it is only marginally active in OEM alpine skis, whereas Salomon is only active in selling OEM alpine bindings, making [ $>50$ ] % of these sales to Amer. Thus, no horizontal overlaps in these markets and no vertical issues arise from the proposed operation.

### **C.2 Retail markets for alpine and snowboarding hard goods**

#### **Snowboarding hard goods and alpine ski poles**

51. In the Austrian market for snowboards the merged entity will hold a market share of [15-25]%. In all the other national markets the parties’ combined market share is below that level. Also in snowboard bindings and snowboard boots the merged entity holds its highest market shares in Austria, reaching [25-35]% (bindings) and [30-40]% (boots).
52. The market investigation has confirmed that a number of competitors, in particular US-based brands with a product portfolio focused on the markets of snowboard hard goods, are present in all of the relevant markets: Burton, Nitro, Nidecker, F2, Crazy Creek, Rossignol (snowboards); Burton, Snowpro, F2 and Flow (snowboard bindings); and Burton, Northwave, Rossignol and Vans (snowboard boots). Furthermore, market investigation shows that, compared to the remaining brands, Atomic and Salomon are not close competitors. In addition, due to the replies of most of the retailers, not the branded products offered by the merged entity but the products of brands like Burton (snowboard, snowboard bindings and snowboard boots) and Northwave (snowboard boots) must be considered to be “must-have brands”.

53. For the forgoing reasons the Commission considers that the major competitive constraints on the merging parties are not affected by the transaction and that no competition concerns are likely to arise in any markets concerning snowboards, snowboard bindings and snowboard boots.
54. In addition, based on the information submitted by the parties and confirmed by the Commission’s market investigation, the parties’ combined market shares in any national market for ski poles do not exceed 30% and a number of competitors are present on these markets (Scott, Leki, Komperdell and Rossignol). Therefore, the Commission also considers that no competition concerns are likely to arise in any markets concerning alpine ski poles.

**Alpine skis and alpine bindings**

***Major players and commercial links***

55. The “Alpine countries” Austria, Germany, Italy and France account for almost 85% of the EEA-sales volume in alpine ski hard goods. The major players are active in all national markets. Besides the parties to the transaction, K2, Head and Rossignol (recently acquired by Quiksilver) are present with their own brands in the markets for alpine skis and alpine bindings. The brand portfolios of the companies mentioned are summarized in the following table:

**Brand portfolios of leading suppliers  
(alpine skis, alpine bindings)**

| <b>Company</b> | <b>Ski brands</b>       | <b>Binding brand</b>    |
|----------------|-------------------------|-------------------------|
| Amer           | Atomic, Dynamic, Volant | Atomic, Dynamic, Volant |
| Salomon        | Salomon                 | Salomon                 |
| Head           | Head                    | Tyrolia                 |
| K2             | K2, Völkl               | Marker                  |
| Rossignol      | Rossignol, Dynastar     | Look                    |

56. As mentioned above, the market investigation has confirmed the submission of the parties that strong commercial links exist between the markets for alpine skis and alpine bindings. Currently almost 70% of the alpine skis are sold with pre-assembled binding or an interface of a specific binding brand. Accordingly, the market structure and competition conditions in alpine bindings must be considered to be strongly influenced by the market for alpine skis.
57. After the recent acquisition of the binding manufacturer Marker by K2 (2004), each of the leading binding brands today is provided by a group offering also at least one of the leading ski brands. Contrary to Amer, Salomon, Head, K2 and Rossignol, the manufacturing activities of Blizzard, Elan and Fischer is still focused on skis only. These companies manage to offer packages to the retail level by sourcing alpine bindings from one of the leading binding manufacturers, partly on the basis of OEM-

agreements on the production of bindings under the brand of the ski manufacturer (e.g. OEM-agreement between Fischer and Head/Tyrolia).

### *Market share structure*

58. The parties have combined market shares exceeding 15% in a large number of national markets for alpine skis and alpine bindings. All these markets have been reconstructed on the basis of the sales data provided by the parties and their competitors. According to the results of this exercise, the merged entity will become market leader in most of the affected national markets for alpine skis and alpine bindings (see table below).

### **Market structure of the retail markets of alpine skis / alpine bindings (2004; % of sales in value)**

| Country            | Skis     |          |          |          |          |          | Bindings |          |          |          |          |          |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
|                    | Amer     | Sal.     | A/S      | Fisch    | Head     | Blizz.   | Amer     | Sal.     | A/S      | Head     | Fisch    | Ross     |
| <b>Austria</b>     | [30-40%] | [10-20%] | [40-50%] | [10-20%] | [0-10%]  | [0-10%]  | [30-40%] | [10-20%] | [50-60%] | [20-30%] | [10-20%] | [0-10%]  |
| <b>UK</b>          |          |          |          | Ross     | K2       | Head     |          |          |          | Ross     | K2       | Head     |
|                    | [10-20%] | [20-30%] | [40-50%] | [10-20%] | [10-20%] | [0-10%]  | [10-20%] | [30-40%] | [50-60%] | [10-20%] | [10-20%] | [10-20%] |
| <b>Netherlands</b> |          |          |          | Ross     | K2       | Head     |          |          |          | Head     | Ross     | K2       |
|                    | [20-30%] | [10-20%] | [30-40%] | [10-20%] | [10-20%] | [0-10%]  | [20-30%] | [10-20%] | [30-40%] | [20-30%] | [10-20%] | [0-10%]  |
| <b>Finland</b>     |          |          |          | Ross     | Fisch    | Head     |          |          |          | Ross     | Fisch    | Head     |
|                    | [20-30%] | [10-20%] | [30-40%] | [20-30%] | [10-20%] | [0-10%]  | [20-30%] | [20-30%] | [40-50%] | [10-20%] | [10-20%] | [0-10%]  |
| <b>Sweden</b>      |          |          |          | Ross     | Fisch    | Head     |          |          |          | Ross     | Head     | Fisch    |
|                    | [10-20%] | [20-30%] | [30-40%] | [20-30%] | [10-20%] | [10-20%] | [10-20%] | [20-30%] | [30-40%] | [10-20%] | [10-20%] | [10-20%] |
| <b>Spain</b>       |          |          |          | Ross     | K2       | Head     |          |          |          | Ross     | K2       | Head     |
|                    | [10-20%] | [10-20%] | [30-40%] | [20-30%] | [20-30%] | [10-20%] | [20-30%] | [10-20%] | [40-50%] | [20-30%] | [10-20%] | [10-20%] |
| <b>France</b>      |          |          |          | Ross     | Head     | K2       |          |          |          | Ross     | Head     | K2       |
|                    | [10-20%] | [10-20%] | [20-30%] | [40-50%] | [0-10%]  | [0-10%]  | [10-20%] | [20-30%] | [40-50%] | [40-50%] | [0-10%]  | [0-10%]  |
| <b>Poland</b>      |          |          |          | Ross     | Elan     | Blizz    |          |          |          | Ross     | Head     | Elan     |
|                    | [10-20%] | [10-20%] | [20-30%] | [30-40%] | [10-20%] | [0-10%]  | [10-20%] | [10-20%] | [30-40%] | [40-50%] | [10-20%] | [0-10%]  |
| <b>Germany</b>     |          |          |          | K2       | Ross     | Head     |          |          |          | Head     | K2       | Ross     |
|                    | [10-20%] | [0-10%]  | [20-30%] | [10-20%] | [10-20%] | [10-20%] | [10-20%] | [0-10%]  | [20-30%] | [10-20%] | [10-20%] | [10-20%] |
| <b>Czech Rep.</b>  |          |          |          | Fisch    | Ross     | Blizz    |          |          |          | Fisch    | Ross     | Head     |
|                    | [10-20%] | [0-10%]  | [20-30%] | [20-30%] | [10-20%] | [10-20%] | [10-20%] | [0-10%]  | [20-30%] | [30-40%] | [10-20%] | [10-20%] |
| <b>Italy</b>       |          |          |          | Tec      | K2       | Ross     |          |          |          | Tec      | Ross     | K2       |
|                    | [0-10%]  | [10-20%] | [10-20%] | [20-30%] | [10-20%] | [10-20%] | [0-10%]  | [10-20%] | [20-30%] | [20-30%] | [10-20%] | [10-20%] |

In several countries like Austria and the UK the merged entity will reach market shares of above 35% in alpine skis and above 50% in alpine bindings with a significant lead over its strongest competitors. In other countries like France, Poland, Spain, Finland and Sweden the parties' combined market shares will meet or exceed 30% and the combined market shares of the merged entity and its strongest competitor will exceed 55%, in some countries even 75%.

### *Competitive effects*

59. Despite the fact that the geographical scope is still national, the markets for alpine skis and alpine bindings are characterized by some market features common for all Member States. Since these general market conditions are relevant for the assessment whether and to which extent the proposed transaction may give rise to any competition concern, these common market features will be discussed separately before assessing the competitive effects of the proposed transaction on a country-by-country basis.

*Dominance / non-coordinated (unilateral) effects*

60. Based on the results of market investigation, the assessment whether the merged entity's high market shares in several countries give rise to the concern that the proposed transaction may lead to a dominant position or an increased leeway of the merged entity for unilateral price increases ("non-coordinated effects") has to take into account the following aspects which are common for almost all the affected national markets for alpine skis and alpine bindings:
61. The results of market investigation have confirmed the submission of the parties that the retailers' brand portfolio in average comprises 5-7 different alpine ski brands and 4-5 alpine binding brands. Price negotiations between suppliers and retailers are based on the assignation of the suppliers' products to specific retail "price points". The wholesale price level is the result of negotiations on the retailers' sales margin as well as volume discounts per product and product category. The retail prices of skis cover a range of around €149 up to €899, the retail prices of alpine bindings a range of around €99 up to €299. The "price points" are most commonly defined in steps of €50 (i.e. €149, €199, €249 etc.). Accordingly, the competition process in the markets for alpine skis and alpine bindings is characterized by the aim of the suppliers to assign more products to the highest price point possible.
62. Furthermore, the parties have submitted and the market investigation has confirmed that – besides price – the competition in the markets of alpine skis and alpine bindings is also driven by product differentiation and brand positioning. In addition to the large number of different types of skis and bindings offered at several price levels and quality standards (e.g. cross-carver, slalom-carver, all-mountain skis, racing-skis, free-style), each supplier endeavours to assign to its products a specific brand image. According to the parties, the products of Amer and Salomon provide quite different brand images - Atomic a strong "racing" image, Salomon a "lifestyle" image.
63. The market investigation in addition shows that competition in alpine skis and alpine bindings is also driven by product innovations. In particular, the product cycle for alpine skis is relatively short with each supplier providing at least minor product innovations each winter season. Regular ski tests carried out by several ski magazines also make the quality and performance of the products one of the most important factors of market success.
64. Due to the fact that suppliers need to assign a strong brand image to their products and due to the relevance of technological know-how, product performance and product innovation for market success, the barriers to entry to the markets for alpine skis and alpine bindings for actors not active in neighbouring product or geographical markets (barriers to "green-field entry") must be considered to be substantial. Market investigation has also confirmed that the barriers to entry and expansion for companies active in neighbouring markets are significantly lower.

65. Furthermore, according to the parties, a few large buyers account for around 30-50% of the sales of each party in most of the markets. In addition, the market investigation has provided indications that, at least in some of the affected national markets, larger retailers (like the French-based retailer Decathlon) are able and willing to promote expansion strategies of smaller brands. In addition, market investigation has confirmed that – at least in some of the Member States – larger retailers like Decathlon (“Quechua”) and Intersport (“TecnoPro”) in recent years launched and promoted private label brands.
66. Although it may be true that large sports good retailers - like Decathlon, Metro-Group or the buyer groups like Intersport and Sport 2000 - are important customers, any hypothetical buying power of large retailers is mitigated to a significant extent by the strength of the brands provided by the parties. The market investigation has confirmed that at least in some of the national markets - like France and Austria – the brands of the merged entity must be considered to be “must have brands” even for larger retailers.

*Collective dominance / coordinated effects*

67. As mentioned above, in several countries like France, Poland, Spain, Finland and Sweden the parties’ combined market shares will reach or exceed 30% and the combined market shares of the merged entity and its strongest competitor will reach or exceed 55% (see table above). As regards the assessment whether these high combined market shares of the merged entity and its largest competitor give rise to the concern that the proposed transaction may lead to coordinated effects, the analysis of the Commission is based on the following general considerations:
68. For coordinated market conduct / collective dominance being implemented and sustained effectively, general market conditions have to (i) make it easy for the firms to reach a mutually acceptable coordinative outcome, (ii) make it easy for the firms to detect any deviation from the expected behaviour (detection of “cheating”), and (iii) make it easy for the firms to punish any deviation in such a way that for each firm the coordinative outcome is the most favourable (i.e. profitable) market conduct (effective “retaliation”).
69. In assessing the relevant factors that contribute to these necessary conditions for coordinated effects, the Commission considers that the markets for alpine skis and alpine bindings in general are not conducive to coordinated market conduct for the following reasons:
70. The parties submitted and market investigation has confirmed that the sales volumes and prices of alpine skis and bindings are rather stable. But market investigation has also confirmed that, due to the product innovations presented each year, the life cycle of the products concerned is rather short. Consequently, despite the stability of sales volumes and prices, the markets for alpine skis and bindings are characterized by technology- and fashion-related dynamics.
71. Furthermore, as mentioned above, the products concerned are highly differentiated with respect to technology, brand image and price points. The product portfolio of Salomon in winter season 2005/2006 will comprise 43 different types of alpine skis and 22

different types of alpine bindings grouped into 6 different product categories. Amer will offer 49 types of skis and 36 types of bindings grouped into 7 product categories. Consequently, a mutually acceptable coordinative market conduct would have to cover a very wide range of very different parameters (type of ski, quality, brand image, price points etc.).

72. Furthermore, due to the diversity and wide variety of product characteristics and price points the markets for alpine skis and alpine bindings are not very transparent. Accordingly, market behaviour is not easy to monitor and attempts of “cheating” are not easy to detect.

#### *Austria*

73. In the Austrian market for alpine skis, the combined market share of the parties reaches [40-50]% giving them a lead over their strongest competitors Fischer ([10-20]%), Head ([0-10]%) and Blizzard ([0-10] %).
74. A significant impediment of effective competition caused by coordinated effects can be excluded for these markets, since the general conditions of the markets on alpine skis and bindings described above together with the asymmetry of market shares are not conducive to such behaviour.
75. In addition, a significant impediment of effective competition by unilateral price increases of the merged entity can be excluded for the following reasons:
76. The market investigation has confirmed the view submitted by the parties that, compared to the remaining brands, Atomic and Salomon are not close competitors. Since Austrian consumers have strong preferences for “Austrian” brands as well as for ski brands with a “racing” image, mainly other “Austrian” ski brands like Fischer and Head which also provide a stronger “racing” image than the “French” ski brand of Salomon are seen to be the closest competitors of Atomic.
77. Taking further into account that the retailers’ brand portfolio in average comprises 5 to 7 ski brands, the Commission considers the major competitive constraints on the merging parties as not being significantly affected by the transaction. In particular, the merged entity will not have a leeway to increase prices unilaterally because customers would be able and willing to switch to competing brands.
78. The combined market share of the parties in the Austrian market for alpine bindings ([50-60]%) exceeds their market position in alpine skis. Nevertheless, a substantial impediment of effective competition as a result of the proposed transaction can also be excluded for the following reasons:
79. Due to the strong commercial links between alpine skis and alpine bindings, the market position in alpine bindings generally reflects the success of a particular brand in the alpine skis market. This applies in particular to the current market position of Amer. The parties have submitted and the market investigation has confirmed that the vast majority of the bindings sold by Amer are sold as part of Atomic ski with pre-assembled bindings. The major competitors of Amer in the Austrian ski market (Fischer, Head and Blizzard) combine other binding brands (Marker, Tyrolia) to their skis when sold as a package. Therefore, the major competitors to the parties in the

market for alpine bindings (Marker and Tyrolia) have the backup of strong ski brands (Fischer, Blizzard and Head).

80. Furthermore, as mentioned above, retailers, in making their orders for bindings, generally purchase together the bindings that are intended to be set on skis with interface and those who are intended to be sold separately. Since these bindings are physically identical, manufacturers are not in a position to price them differently. Consequently, despite their high market shares, neither for bindings sold in packages nor for bindings sold on a stand-alone basis, the parties to the transaction will have an increased leeway to behave independently in the market for bindings.
81. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise on the markets for alpine skis and alpine bindings in Austria.

*UK, Netherlands*

82. The market structure of the markets for alpine skis in the UK and the Netherlands shows similarities in terms of market shares with the Austrian market, although the former markets are much smaller (less than one tenth each) than the latter one. The combined market shares of the parties will be high (UK: [35-45]%; Netherlands: [30-40]%), giving them a significant lead over its strongest competitor Rossignol (UK: [10-20]%; Netherlands: [10-20]%). K2 as the third largest competitor in both countries reaches similar market shares (UK: [10-20]%; Netherlands: [10-20]%).
83. A significant impediment of effective competition caused by coordinated effects can be excluded for these markets, since the general conditions of the markets on alpine skis and bindings, and the asymmetry of market shares are not conducive to such behaviour.
84. Neither for the UK nor the Netherlands the results of market investigation have established Amer and Salomon as close competitors. Furthermore, it has to be taken into account that – contrary to the Austrian market – the consumers in the countries concerned do not have strong preferences for specific “national” brands. Competitive pressure therefore in particular comes from other “non-Austrian” ski brands with a strong “racing” image like K2/Voelkl.
85. Furthermore, as mentioned above, in these countries, the vast majority of skis are bought to be used in other countries; various parties to the investigation have indicated that the possibility for consumers to buy easily their skis abroad (in the skiing resorts) exerts a pressure on the retail prices in their home countries, which, in turn would limit the possibility for manufacturers to increase the prices charged to retailers.
86. In the markets for alpine bindings in the UK and the Netherlands the merged entity reaches market shares of [45-55]% and [30-40]%. Market investigation shows that the strong commercial links between alpine skis and alpine bindings also exist in the UK and the Netherlands. This implies that coordinated or/and non-coordinated effects specific to the segment of bindings are very unlikely to occur. Furthermore, the major competitors of the parties in alpine bindings (K2/Marker, Head/Tyrolia, Rossignol/Look) are also present in these countries, holding significant market shares of [5-15]% - [20-30]%.

87. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise on the markets for alpine skis and alpine bindings in the UK and the Netherlands.

*France*

88. France represents one of the most important markets of alpine skis and alpine bindings in Europe. The market share of the merged entity in the market for alpine skis in France is [20-30]% (Amer: [5-15]%; Salomon: [15-25]%). With Rossignol holding a market share of [40-50]%, the combined market share of the two leading suppliers in the French market post merger will be [70-80]%. All the other brands will hold market shares of less than [5-15]%. In the market for alpine bindings the merged entity reaches a market share of [35-45]% and Rossignol holds a share of [40-50]%.  
89. Despite the fact that Rossignol and the merged entity will hold more than [70-80]% of the markets for alpine skis and alpine bindings, the Commission considers that an effective coordination of market behaviour will be unlikely post merger.  
90. As mentioned above, the general market conditions of the markets for alpine skis and alpine bindings are not conducive to collective dominance and coordinated market conduct. Furthermore, coordinated effects of the proposed transaction in the French markets are also hampered by the presence of the two other major integrated suppliers of alpine skis and bindings (Head/Tyrolia, K2/Voelkl/Marker).  
91. Even if the current market shares of these companies are low, market investigation has shown that – although some barriers to expansion like consumers’ preference for the “French” brands exist – the threat of expansion strategies by smaller “foreign” brands represents a significant competitive constraint. Amer itself has started to expand and to become an important actor only in the last five years.<sup>5</sup> Market investigation has also confirmed that this expansion strategy was supported and promoted by Decathlon, the largest sport good retailer in the French market.  
92. Based on the results of market investigation, the Commission also considers that a leeway of the merged entity for unilateral price increase can be excluded for the following reasons:  
93. First, as mentioned above, market investigation shows that brand image and positions are regarded as more important factors than price in consumer choices. In this regard, Amer and Salomon have positioned their brands differently, as they have respectively “racing” and “lifestyle” images. Second, the presence of the trade brands of Decathlon (“Quechua”) and Intersport (“TecnoPro”) which account for [0-10]% of the market puts downward pressure on prices.  
94. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise on the markets for alpine skis and alpine bindings in France.

*Poland, Spain, Finland and Sweden*

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<sup>5</sup> Atomic had been present on the French market since the end of the 1980’s.



95. The structure of the markets for alpine skis and bindings in Poland, Spain, Finland and Sweden shows similarities with the French markets. The combined market shares of the merged entity and Rossignol reach [50-60]% (Spain) up to [60-70]% (Poland) in alpine skis and [60-70]% (Spain) up to [70-80]% (Poland) in alpine bindings. With the exception of Poland in each of these national markets the merged entity will have the market share lead over Rossignol (for details see table above):
96. A significant impediment of effective competition caused by coordinated effects can be excluded for these markets, since – as described in more detail above – the general conditions of the markets for alpine skis and bindings do not contribute to an effective coordination of market conduct.
97. An effective coordination of market conduct between the merged entity and Rossignol is also hampered by the presence of other major integrated suppliers of alpine skis and bindings in each of the markets. In addition to the major integrated supplier of alpine skis and bindings also Fischer and Blizzard reach significant market shares in the markets for alpine skis in Sweden, Finland and Poland.
98. A significant impediment of effective competition caused by non-coordinated effects can also be excluded for the following reasons:
99. Again, the market investigation has not provided any indication that, compared to the remaining brands, Atomic and Salomon are close competitors. Furthermore, contrary to the market situation in Austria and the UK, the leading integrated manufacturers reach significant market shares of more than [5-15]%. In this context it has also to be taken into account that – contrary to the French market – the barriers to expansion in these countries are significantly lower due to the lack of strong preferences of the consumers for specific “national” brands.
100. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise on the markets for alpine skis and alpine bindings in Poland, Spain, Finland and Sweden

*Germany, Italy, Czech Republic*

101. The combined market shares of the parties in the markets for alpine skis in Germany and Italy are below 30% (Germany: [20-30]%; Italy: [10-20]%). The market investigation has confirmed that, due to the strong preferences of the final consumer for “national” brands, the strongest competitive constraints on the merged entity in these markets come from the “German” and “Italian” ski brands respectively (Germany: K2/Voelkl [10-20]%; Italy: Tecnica/Nordica: [20-30]%). In the Czech Republic the market share of the merged entity reaches [20-30]%. But due to the limited presence of Salomon the market share increment is low (0-10)%) and the structure of the markets will therefore not be affected to any appreciable extent.
102. Due to the high proportion of skis sold with pre-assembled bindings the market structure in alpine bindings mainly reflects the market shares in the markets for alpine skis. The combined market shares of the parties in Germany ([20-30]%), Italy ([20-30]%) and the Czech Republic ([15-25]%) only slightly exceed (Germany, Italy) or are even below (Czech Republic) their respective market shares in alpine skis. Furthermore, all the major competing binding brands (Head/Tyrolia, K2/Marker, Rossignol/Look) are also present in these markets reaching market shares of more than [5-15]%).

103. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise on the markets for alpine skis and alpine ski bindings in Germany, Italy and the Czech Republic.

### **Alpine boots**

#### ***General market conditions***

104. The value of the EEA alpine boots market is around EUR 200 million. The market volume has been relatively stable for the past few years. Except for K2, all the integrated suppliers of alpine skis and alpine bindings are also present in the markets for alpine boots with their own boots brands. Contrary to the markets for alpine skis and bindings, in which its market presence – except for Italy – is rather limited, the Italian-based company Tecnica/Nordica reaches significant market shares in alpine boots in most countries. Furthermore, smaller brands like Alpina and Dalbello as well as private labels reach significant market shares.
105. As mentioned above, due to the existence of international standardization, there are no limitations as regards the compatibility of alpine bindings and alpine boots. Furthermore, the parties submitted and market investigation has confirmed that consumers assign the highest priority to the fit of the boots to the feet. Compared with the markets for alpine skis and bindings, brand image as well as product innovations are much less important for success in the market for alpine boots.

#### ***Competitive effects***

106. The parties have combined market shares exceeding 15% in a number of national markets for alpine boots. In several countries the merged entity will reach market shares of above 35% and will become market leader. Nevertheless, the Commission considers that competition concerns are unlikely to arise in any of the national markets for alpine boots for the following reasons.
107. In Austria, the parties, according to their own submission, hold [30-40]% of the market (Amer: [5-15]%, Salomon: [20-30]%) and the largest competitor, Tecnica/Nordica, has a market share of [20-30]%. The Commission's investigation, however, has established that the parties' market share is lower ([30-40]%) and that of Tecnica/Nordica higher ([30-40]%). Head and Dalbello hold market positions of [5-15]% and [5-15]%. Furthermore, the integrated manufacturer Rossignol is also present in the market, currently holding a market share of [0-10]%. Additional competitive pressure on the merged entity comes from several private labels which currently account for [0-10]% of the market.
108. Due to the significant market position of Tecnica/Nordica as well as the presence of other resourceful competitors (Rossignol, Head) and smaller brands (Dalbello, private labels) the Commission considers that competition concerns are unlikely to arise in the market for alpine boots in Austria.
109. In Finland, the data submitted by the parties suggest that they account for [30-40]% of the boots market (Amer: [0-10]% Salomon: [20-30]%). The largest competitor again is Tecnica/Nordica ([15-25]%), Rossignol holds [10-20]% and Head [0-10]% of the Finnish market. These market positions have been largely confirmed in the Commission's market investigation.

110. The asymmetry in market shares—e.g. the presence of a number of competitors of different size—makes the likelihood of coordination very low. Regarding non-coordinated effects, Finnish customers have indicated that the closest competitor to Atomic alpine boots is Tecnica/Nordica. Accordingly, compared to the remaining brands, Atomic and Salomon are not close competitors. None of the competitors or customers contacted has indicated that competition would be negatively affected by the proposed transaction.
111. For all the foregoing reasons, the Commission considers that competition concerns are unlikely to arise in the market for alpine boots in Finland.
112. In Sweden, the data submitted by the parties suggests that they account for [40-50]% of the boots market (Amer: [0-10]% Salomon: [30-40]%). The largest competitor is Tecnica/Nordica ([20-30]%), Rossignol has [0-10]% and Head [0-10]% of the market. These market positions have been largely confirmed in the Commission's market investigation.
113. The asymmetry in market shares—e.g. the presence of a number of competitors of different size—makes the likelihood of coordination very low. Concerning non-coordinated effects, similarly to Finland, Swedish customers have indicated that Tecnica/Nordica is a close competitor to Atomic in alpine boots. Given this, the Commission concludes that Tecnica/Nordica is in a particularly good position to offset any attempts by the new entity to unilaterally raise prices.
114. For the foregoing reasons, the Commission considers that competition concerns are unlikely to arise in the market for alpine boots in Sweden.
115. For Spain, the parties have estimated that they account for [40-50]% of the market (Amer: [5-15]%, Salomon: 30-40]%) and that Rossignol has [30-40]% of the market. Market investigation based on the sales data of the parties and their major competitors suggests that the parties' market share is slightly higher, some [40-50]% (Amer: [10-20]%; Salomon: [30-40]%). Tecnica/Nordica has some [20-30]% and Rossignol [10-20]%. Furthermore, also Head is present in the market holding a market share of [5-15]%).
116. Given the relative disparity in the market shares of the market players, the Commission considers that coordinated effects are unlikely to arise after the merger. Concerning non-coordinated effects, Spanish customers have indicated that the closest competitor to Amer in alpine boots is Tecnica/Nordica. Given this and the fact that Tecnica/Nordica has [20-30]% of the market, the Commission considers that the new entity is unlikely to be in a position to use unilaterally any market power.
117. Therefore, the Commission considers that competition concerns are unlikely to arise in the market for alpine boots in Spain.
118. In the UK, the parties hold, according to their own estimates, [65-75]% of the market (Amer: [0-10]%, Salomon: [60-70]%). The data submitted to the Commission by boot manufacturers, however, show that the parties' market position is much lower, [40-50]%. The market share increment stemming from Amer's activities in this market is only [0-10]%. The largest competitors on this market are Tecnica/Nordica ([20-30]%), Rossignol ([10-20]%) and Head ([5-15]%).

119. Given the asymmetry of the market shares, the limited market share of Amer and the number of players active on this market, the Commission considers that coordination is a very unlikely outcome of the merger. As concerns non-coordinated effects, in view of the small market share increment stemming from Amer's limited activities and given the strong market position of Tecnica/Nordica, the Commission does not consider that the merger has any appreciable effect on the market structure. Competitors or customers active in the UK have not raised any concerns.
120. For the foregoing reasons, the Commission considers that competition concerns are unlikely to arise.
121. In France the merged entity's market share reaches [30-40]%, in Poland the combined market share of the parties is [30-40]% and in Germany the merged entity hold a market share of [20-30]%. Amer's presence in these countries is very limited (France: [0-10]%; Poland: [0-10]%; Germany: [0-10]%).
122. Furthermore, in France Tecnica/Nordica ([20-30]%) as well as Rossignol ([20-30]%) hold significant market shares. The strongest competitors of the merged entity in Germany are Tecnica/Nordica ([15-25]%) and Head ([15-25]%). In Poland, the market leader is Rossignol ([40-50]%) with Head and Alpina holding market shares of [5-15]% and [0-10]%.
123. For the foregoing reasons, the Commission concludes that competition concerns are unlikely to arise in the markets for alpine boots in France, Germany and Poland.

### **C.3 Cross-country ski hard goods**

#### **General situation**

124. The cross-country sector represents the smallest segment of the markets for winter sports hard goods. It accounted for 11% of the total sales of winter sports hard goods for the season 2003/2004. The total value of the sales at world-wide level is EUR 145 million<sup>6</sup>.
125. It is reported that 45% of the European sales of cross-country skis are made in the Nordic countries<sup>7</sup>. The most important national markets in Central Europe are Germany —total sales in 2004 of EUR 22 million (EUR 10 million for skis, EUR 4 million for bindings and EUR 8 million for boots)—and Austria—total sales in 2004 of EUR 11 million (EUR 6 million for skis, less than EUR 2 million for bindings and less than EUR 4 million for boots). In France, the total sales in the cross-country ski segment in 2004 amounted to about EUR 10 million—EUR 4 million for skis, EUR 3 million for bindings and EUR 3 millions for boots.
126. As stated above, only a small proportion of skis is sold with pre-assembled bindings. Boots fit only one of the two types of bindings (SNS, NNN) and the boots manufacturers need to obtain licenses for the manufacturing of the sole of the boots. The parties submitted and the market investigation has confirmed that consumers

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<sup>6</sup> Source: Fédération française des industries du sport (FIFAS), Dossier sectoriel sur les sports d'hiver pour la saison 2003/2004, May 2005.

<sup>7</sup> Source: *Id.*

generally first choose their boots, giving high priority to the fit with their feet, and then, accordingly, choose the bindings. Accordingly, the choice of the binding standard (SNS, NNN) is dependent on the choice of the boots brand.

### **OEM markets for skis and bindings and cooperation agreements among manufacturers**

127. As regards sales of skis to rival manufacturers, one of the most important actors is Fischer. According to the parties, Fischer's capacity in cross-country skis is of about 1 million pairs of skis per year. By contrast, the parties have submitted that other ski manufacturers' capacities is far less significant: the other manufacturers with the two largest capacities are Amer ([<300.000 pairs) and Rossignol ([<250.000] pairs). The other competitors have either smaller capacities or, like Salomon, no capacity at all.
128. To be active on the markets of cross-country skis, Salomon sources its skis from Fischer under a set of agreements described below. The parties have submitted that in 2004 Fischer sold [<75.000] pairs of skis to Salomon, that is, based on the parties' estimates, [0-10]% of Fischer's total production capacity and [5-15]% of Fischer's world-wide sales. Amer does not source skis from rival manufacturers<sup>8</sup>. Hence, the operation does not give rise to vertically affected markets.
129. As regards sales of bindings to rival manufacturers, Salomon and Rottefella are the only companies active on this segment. As mentioned above, Salomon manufactures all the bindings based on the patented SNS standard, whereas Rottefella produces all the bindings with the patented NNN standard.
130. The parties have submitted that Salomon was historically not supplying bindings to competitors and sold them directly to retailers. Nevertheless, in 2003, it agreed to supply bindings to Fischer under the Fischer brand—and, in exchange, entered the ski market by procuring Salomon-branded skis from Fischer—under the agreements described below. As regards Rottefella, according to the investigation, it also sells bindings directly to retailers under its own brand-name.
131. In 2004, Fischer sold [<300.000] bindings to retailers world wide, all sourced from Salomon. This represents about [25-35%] of Salomon's total capacity and [45-55%] of Salomon's total sales in bindings. As for Rottefella, the investigation has found that [>50%]% of the world-wide production of the company is sold to retailers under its own brand and the remaining [<50%]% is sold under OEM agreements to Rossignol and, until now, to Amer.
132. Since Salomon manufactures [>50%]% of the world-wide bindings among which nearly [45-55%] is sold to Fischer, Salomon holds a market share that is greater than 25% on the OEM market for cross-country bindings. Post-merger, Amer will switch from Rottefella (NNN) to Salomon (SNS).
133. Nevertheless, this does not give rise to competition concerns, as discriminatory prices or foreclosure against Fischer are unlikely since it is in the best interest for Salomon to have strong partners as part of the SNS pool: the higher the number of SNS boot

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<sup>8</sup> Atomic uses [...] % of its production capacities and at the same time procures [...] pairs of skis from Pamporovo Ski Ltd. (Bulgaria), which is not affiliated with an actual or potential competitor.

manufacturers, the more prominent becomes the SNS standard. Consequently, it is unlikely that Salomon will give to Fischer incentives to switch to another standard.

134. Besides these supply agreements, some manufacturers have also engaged in cooperation agreements. Rottefella, together with a pool of skis and boots manufacturers (Rossignol, K2/Madshus, and Alpina) has recently launched a new binding system (the “Nordic-Integrated-System-(NIS)-standard”) that should replace the NNN system. Salomon—based on the cooperation agreements described below—has started to develop a new binding standard (“ski-binding-boot-interface”) which should replace the SNS technology<sup>9</sup>.

### **Cooperation agreements between Fischer and Salomon in cross-country**

135. The current state of the cooperation between Fischer and Salomon in cross-country skis and bindings is governed by three agreements: the *General Letter of Intent* of March 5, 1999; the *Nordic SNS Norm* agreement of March 5, 1999 and its addendum of January 11, 2001; the *Memorandum of understanding* of February 3, 2003 and its addendum of December 12, 2003.
136. The *General Letter of Intent* provides that [...]
137. Under the *Nordic SNS Norm* agreement and its addendum [...]
138. With the *Memorandum of understanding*, Fischer and Salomon have started a cooperation agreement in the field of cross-country skis and bindings. With this new agreement, Salomon and Fischer respectively started to sell skis and bindings to retailers under their own brand, whereas both companies continued to sell to retailers boots bearing their brand<sup>10</sup>. The most important clauses of this agreement are:
- a) price setting and mark-up sharing: Fischer, as a buyer of Salomon bindings, agrees with Salomon on the selling prices of Fischer bindings to retailers. [...] (Article 4 of the Memorandum);
  - b) Distribution: Fischer and Salomon agree [...] (Article 5.2 of the Memorandum); the addendum to the Memorandum provides that Fischer and Salomon [...]
  - c) R&D: Salomon and Fischer agree to lead joint research and development projects for a new cross-country ski/binding/boot-interface system (Article 6 of the Memorandum);
  - d) SNS partnership: [...] (Article 7 of the Memorandum);
  - e) Sponsorship in racing: [...] (Article 8 of the Memorandum).
  - f) Steering committee: [...]. (Article 9 of the Memorandum).
  - g) Termination clause: [...]

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<sup>9</sup> However, the cooperation of Fischer and Salomon is still at an early stage as the project mentioned is at the stage of prototype.

139. The above described agreements create strong links between Fischer and Salomon. Considering the extent of the cooperation in relation to price determination, distribution and marketing of the respective products, the agreements facilitate the alignment of their competitive behaviour (determination of price, brand positioning, etc.).

**Effects of the transaction on the markets of sales to retailers**

*National markets for cross-country boots*

140. According to the calculations of the Commission, and consistent with the parties' own submission, Amer's market shares in the national cross-country boots markets are marginal, as the market share increment amounts generally only to 1 to 2%. The exceptions are Austria ([0-10]%) and Spain ([0-10]%), where Amer's market shares are slightly higher.

141. In all Member States where the parties have overlapping activities, there are important competitors, notably Fischer, Rossignol, Matshus, J alas and Alpina.

142. The Commission considers that because the market share increment stemming from Amer's very limited presence in the cross-country boot segment is very small, the structure of the markets will not be affected to any appreciable extent. Therefore, neither non-coordinated nor coordinated effects are likely to take place post-merger. None of the competitors or customers contacted by the Commission have raised any concerns. Therefore, for the foregoing reasons the Commission considers that competition concerns are unlikely to arise in the markets for cross-country boots.

*National markets for cross-country skis*

143. The parties have combined market shares exceeding 15% in a number of national markets for cross country skis. All these markets have been reconstructed on the basis of the sales data provided by the parties and their competitors (see table below).

**Market structure of the retail markets of  
cross country skis  
(2004; % of sales in value)**

|                       |          |         |          |          |          |          |
|-----------------------|----------|---------|----------|----------|----------|----------|
| <b>Austria</b>        | Amer     | Salomon | A/S      | Fischer  | Ross.    | Others   |
|                       | [30-40%] | [0-10%] | [30-40%] | [40-50%] | [0-10%]  | [10-20%] |
| <b>Germany</b>        |          |         |          |          | K2       | Ross.    |
|                       | [0-10%]  | [0-10%] | [20-30%] | [50-60%] | [10-20%] | [0-10%]  |
| <b>France</b>         |          |         |          |          | Ross.    | K2       |
|                       | [10-20%] | [0-10%] | [20-30%] | [30-40%] | [20-30%] | [0-10%]  |
| <b>Finland</b>        |          |         |          |          | K2       | Karhu    |
|                       | [10-20%] | [0-10%] | [20-30%] | [20-30%] | [10-20%] | [10-20%] |
| <b>Italy</b>          |          |         |          |          | K2       | Ross.    |
|                       | [10-20%] | [0-10%] | [10-20%] | [30-40%] | [20-30%] | [0-10%]  |
| <b>Sweden</b>         |          |         |          |          | K2       | Ross.    |
|                       | [10-20%] | [0-10%] | [10-20%] | [20-30%] | [30-40%] | [0-10%]  |
| <b>Spain</b>          |          |         |          |          | Ross.    |          |
|                       | [40-50%] | [0-10%] | [40-50%] | [40-50%] | [0-10%]  |          |
| <b>Poland</b>         |          |         |          |          | K2       | Ross.    |
|                       | [10-20%] | [0-10%] | [10-20%] | [0-10%]  | [40-50%] | [10-20%] |
| <b>Czech Republic</b> |          |         |          |          | K2       | Ross.    |
|                       | [10-20%] | [0-10%] | [10-20%] | [10-20%] | [20-30%] | [10-20%] |

144. As can be seen from the table above, the combined market shares of the parties are below [20-30]% in every country apart from Austria, Germany, France and Spain. In these markets other important competitors such as Rossignol, K2, Karhu and Peltonen are present, besides Fischer, so that the Commission considers that competition concerns stemming from non-coordinated effects are unlikely to arise on these markets.
145. On the basis of the data submitted by the cross-country skis manufacturers, the combined market shares of the parties in Austria reach [30-40]% (Amer: [30-40]%; Salomon: [0-10]%). The Austrian company Fischer holds a market share of [40-50]% in Austria. Other competitors are Rossignol (market share of [0-10]%) and other brands (trade-brands, local competitors: [10-20]%).
146. In Germany, the market share of Amer is [10-20]% and that of Salomon amounts to [0-10]%. Fischer's market share is [50-60]%. The other main competitor is K2/ Madshus with a market share of [10-20]% followed by Rossignol ([0-10]%). Nordic competitors (Peltonen, Karhu) are also active on the market.
147. In France, the merged entity's market share is [20-30]% (Amer: [10-20]%; Salomon: [0-10]%). Fischer holds a market share of [30-40]%. Rossignol and K2/ Madshus have a market share of respectively [20-30]% and [0-10]%.
148. As regards Spain, the parties have some [40-50]% of the market (Amer: [35-45]%, Salomon: [0-10]%). Fischer has [40-50]% of the market and Rossignol [0-10]%.



149. In these four countries, the Commission considers that the proposed operation does not increase the risk of price increases through non-coordinated effects: the merged entity would still face competition from Fischer, Rossignol, K2/Madshus and trade brands, as well as the potential entrance of brands that are active in neighbouring countries (e.g. no Nordic brands are yet active in Austria).

*Coordinated effects*

150. As regards coordinated effects, and without taking into account the set of agreements between Fischer and Salomon, the Commission considers that the characteristics of the product market are not conducive to coordinated effects, even in those countries where the combined market share of Amer/Salomon and Fischer reaches a very high level ([80-90]% in Austria, [70-80]% in Germany, [55-65]% in France and [80-90]% in Spain, see above).
151. First, competition on the markets of cross-country skis is characterised by technological and brand-related dynamics which leads to product differentiation, steady introduction of innovations and clear brand positioning. Most of these non-price competition parameters are decided on an European wide basis and are not specific to one country. The Commission does not exclude a priori the possibility of coordinated effects on prices on some national markets characterized by the existence of non-price competition. Nevertheless, without taking into account the set of agreements between Fischer and Salomon, the Commission believes, for reasons detailed below, that the factors driving competition on the markets of cross-country skis make coordination improbable.
152. Second, the high combined market shares of the first two competitors in Austria and Germany and of the first three competitors in France are not underpinned by a high degree of market share symmetry. In Austria the new entity has a market share of [30-40]% and Fischer is leader with [40-50]%; in Germany the distance between these two companies is higher: Fischer's market share is [50-60]% and Amer/Salomon's market share is [20-30]%; in France Amer/Salomon has a market share of about [20-30]%, Fischer of about [30-40]% and Rossignol of about [20-30]%.
153. Third, the likelihood of coordination is further diminished by potential competition. Albeit "green-field" entries in the market for cross-country skis appear unlikely due to the limited dimensions of the markets, the cost associated (in terms of advertising, establishing a distribution channel, etc.) and the presence of strong national players, entry by some players active in neighbouring markets, which already own established brands for other winter sports goods and have links with retailers is more likely.
154. As regards transparency on the market, the Commission notes that even if the number of products on the market is limited, the market is sufficiently diversified to render monitoring of competitors' actions difficult. In addition, dynamic pricing makes it difficult to align pricing paths.
155. On the other hand, following the proposed operation, the link between Fischer and Salomon will be extended to Amer—that is, the main competitor in cross-country skis to Salomon and Fischer in Austria, Germany and France). Amer is the second largest competitor in Austria and Germany and the third largest competitor in France. Despite the characteristics of the markets as evidenced above, this situation gives rise to serious doubts concerning the possibility that the new market structure will lead to coordinated

behaviour by Fischer and the new merged entity to coordinate their behaviour on the markets for cross country skis.

156. As a result of the extension to Amer of the cooperation agreements between Salomon and Fischer, both Amer/Salomon and Fischer will have access to strategic information on the production decisions, as well as on the cost structure of their main competitor. As a result of the cooperation agreements, the parties are in possession of commercial information which determines their competitive behaviour. Close and detailed knowledge of each others' cost structures, common price policy, as well as possession of other commercially sensitive information on marketing, new product development, branding and brand positioning allows them to anticipate and align their competitive behaviour. Possession of the above referred information could allow the parties to closely monitor each others behaviour and quickly detect any deviation from the common policy.
157. Finally, for the same reasons given above for alpine skis and bindings, the Commission considers that the presence of large retailers does not result in significant buyer power in the markets for cross-country skis.
158. For the above reasons, the Commission has concluded that the notified operation would raise serious doubts in the markets for cross country skis in Austria, Germany and France.
159. As regards Spain, the Commission has estimated that the number of pairs of skis sold on this market in 2004 was around 2 500, which amounts to EUR 150 000 (compared to EUR 10 million for the German market). Furthermore, the market shares calculated are very rough estimates as 100 pairs of ski represent 4% of the market. This means that, even if the new entity, together with Fischer, apparently holds [80-90] of the market, there is little room for non-competitive behaviour as these shares are very unstable due to the size of the market. Therefore, under these very special circumstances, the Commission concludes for the purposes of this decision that coordinated effects on the market for cross country skis in Spain are unlikely to arise.

#### *National markets of cross-country bindings*

##### *Non-coordinated effects*

160. As mentioned above, an important feature of the sales of cross-country bindings is that they are generally driven by the sales of cross-country boots: once the consumer chooses its boots, the options for bindings are narrowed down to the bindings that have a standard (i.e. NNN or SNS) compatible with the boots.
161. The impact of the operation is that the pool of boot manufacturers that use SNS standard will be stronger, so that the market shares of SNS bindings in countries where Amer is active will also increase. The players that are currently active on the bindings markets are Salomon and Fischer for the SNS standard, and Rottefella, Rossignol, and Amer for the NNN standard. Fischer, Rossignol and Amer procure their bindings from Salomon and Rottefella and sell them under their own brand name.
162. The activities of Amer on bindings are very limited. Amer reaches its highest market shares in Austria ([0-10]%), Germany ([0-10]%) and Spain ([0-10]%). By contrast,

Salomon is the market leader in most European countries as it is historically the primary provider of SNS bindings and SNS standard is the most popular standard (approximately 70% of the European market for patented bindings, whereas the NNN standard represents 30% of the sales).

163. In Austria, the combined market share of the new entity would be [55-65]%. Fischer holds there a market share of [20-30]%, and Rottefella<sup>11</sup> of [10-20]%
164. In Germany, the combined market share of the new entity would be [60-70]%. Fischer holds a market share of [10-20]%, and Rottefella of [10-20]%
165. In Spain, the combined market share of the new entity would be [70-80]%. Fischer is not active on this market, and Rossignol holds a market share of [20-30]%
166. On these markets, the Commission considers that the risk of price increases through non-coordinated effects is unlikely as Amer's activities in bindings are very limited. The position of the merged entity in bindings is substantially equivalent to that of Salomon alone before the merger. More importantly, the Commission considers that the existing competitors and particularly Fischer and Rottefella are in a position to offset any attempts by the merged entity to raise prices. They are established competitors. Therefore, competition concerns giving rise to non-coordinated effects are not likely to arise in any of the cross-country bindings markets.

#### *Coordinated effects*

167. As regards coordinated effects, the Commission considers that, despite the set of agreements between Amer and Fischer (see above), the likelihood of coordination is not increased by the operation essentially for the same reasons indicated for the low likelihood of coordination in cross-country skis.
168. In addition, the Commission considers that some of the characteristics of the bindings market differ from those in the skis market. In particular, as explained above, the choice of the binding depends on the choice of the boot. Therefore, the market shares are more volatile in the bindings market than in the skis market, because if a boot manufacturer decides to switch to another standard, this has an important impact on the market shares in the binding markets. The investigation shows that such a switch has taken place in the past. More particularly, the large retailer Intersport has switched from using the NNN standard to the SNS standard in Germany and Austria. Therefore, unlike in the cross country skis markets, the market positions of the players may change due to the changes in the cross-country boots markets.
169. Furthermore, the Commission notes that Rossignol, K2/Madshus and Alpina, three important players in cross-country skiing that use the NNN system, are already present in the German and Austrian markets for cross-country skis and boots and – with significant market shares – in neighbouring product or geographic markets. Although in the Austrian and German markets for cross-country bindings Salomon's SNS-technology currently is the predominant binding standard, the investigation shows and the above given example demonstrates that there are no technical or financial barriers

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<sup>11</sup> Under its own brand and under the brand of Rossignol.

to an expansion of the NNN standard as a consequence of a hypothetical increase in price of the SNS standard.

170. Moreover, the Commission notes that in 2001, Salomon introduced a further development of its SNS binding standard (“SNS Pilot”). The new system currently covers [10-20]% of the Salomon’s production of bindings. Also, Salomon and Rottefella, with their respective partners, have recently introduced substantial innovations of products. Therefore, there is evidence of product innovation which renders coordination more difficult.

171. For all the above reason, the Commission considers that the notified operation does not raise serious doubts on markets of cross-country bindings as to its compatibility with the common market and the EEA.

## **VI. MODIFICATIONS TO THE ORIGINAL CONCENTRATION**

172. In order to remove the serious doubts raised by the proposed concentration and described above, Amer has submitted undertakings pursuant to Article 6(2) of the EC Merger Regulation, which are intended to remove the competitive concerns identified above. The undertakings are attached to this decision and form an integral part thereof.

### *Undertakings*

173. In order to address the competition concerns raised by the Commission, Amer has undertaken the following:

- a) elimination of the articles of the Memorandum dated 3 February 2003 relating:
  - the determination of the prices of the skis and bindings supplied to each other based on [...],
  - the coordination on the distribution level,
  - the [...],
  - the [...] clause as regards the racing segment,
  - the implementation of the agreement through [...];
- b) implementation of the commitments within an interim period of [...].

### *Assessment of remedies*

174. These modifications to the agreements mean that, essentially, the Memorandum of Understanding will be changed into a supply agreement for skis: the supply of skis by Fischer to Salomon and Amer will continue, but that the elements in the agreements, which facilitate coordination of the commercial strategies (determination of price, brand positioning, etc.) will be removed.

175. In particular, the elimination of information’s exchange on prices, costs and commercial behaviour and of other clauses limiting the independence of behaviour should significantly reduce the risks of coordinated effects on the market. The Commission considers that stronger commitments, e.g. severing the links between

Amer/Salomon and Fischer altogether, are not necessary and could even be counter productive in that they may weaken Fischer: the loss of the OEM sales of skis to Salomon may lead to a reduction of its production of about [5-15]%, and the end of the supply of Salomon bindings would force Fischer to switch to another standard without necessarily being conducive to more competition between the two standards.

176. Thus, for all the foregoing reasons, the Commission considers that the commitments of the parties are sufficient to remove the serious doubts that could arise as a result of the operation in the market for cross-country skis in Austria, Germany and France.

## **VII. CONCLUSION**

177. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement, subject to the condition of full compliance with the commitments annexed to the present decision and to the obligation of full compliance with the other sections of the said commitments. This decision is adopted in application of Articles 6(1)(b) and 6(2) of Council Regulation (EC) No 139/2004.

For the Commission  
signed  
Neelie KROES  
Member of the Commission

## COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Article 6(2) of Council Regulation (EC) No. 139/2004 (the “**Merger Regulation**”), Amer Sports Corporation (“**Amer**”) hereby provides the following commitments, (the “**Commitments**”) in order to enable the European Commission (the “**Commission**”) to declare the acquisition by Amer of the sole control of the Salomon business of adidas-Salomon AG (“**Salomon**”, and together with Amer, the “**Parties**”) compatible with the common market and the EEA Agreement by its decision pursuant to Article 6(1)(b) of the Merger Regulation (the “**Decision**”).

The Commitments shall take effect upon the date of adoption of the Decision.

The Commitments are submitted on the understanding that they will be returned prior to the Commission issuing the Decision if on further investigation the Commission concludes that the proposed concentration does not give rise to serious doubts as to its compatibility with the common market in the area concerned or if otherwise no longer considered necessary.

This text shall be interpreted in the light of the Decision to the extent that the Commitments are attached as conditions and obligations, in the general framework of Community law, in particular in the light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 4064/89 and under Commission Regulation (EC) No 447/89.

### **Section A. Definitions**

1. For the purpose of the Commitments, the following terms shall have the following meaning:

**Addendum to Memorandum of Understanding:** the addendum to the Memorandum of Understanding, dated 10 December 2003.

**Initial Period:** the period of [...] after the date of the Decision.

**Memorandum of Understanding:** Memorandum of Understanding between Fischer GmbH and Salomon S.A., dated 3 February 2003.

### **Section B. Termination and amendment of contracts**

2. Amer notes that the Memorandum of Understanding is of significant commercial importance to both Fischer and Salomon. Accordingly, during the Initial Period Amer undertakes to procure that Salomon use reasonable endeavours to agree with Fischer only such amendments to the Memorandum of Understanding that will eliminate the European Commission’s concerns about close links between Salomon and Fischer, as set forth more specifically in paragraph 4 below. Amer acknowledges that such amendments should go no further than strictly necessary to eliminate the Commission’s concerns.
3. Amer commits to use reasonable endeavours to procure the amendment of the Memorandum of Understanding as follows:

- a. Article 4 (Determination of products prices) will be deleted and replaced with a clause providing that [...]
  - b. Article 5.2 (Distribution) will be deleted together with the guidelines adopted pursuant to the Addendum to Memorandum of Understanding;
  - c. Article 8 (Racing) will be deleted;
  - d. Article 9 (Implementation) will be deleted;
  - e. Consequential changes shall be made throughout the agreement.
4. If by the end of the Initial Period, despite the reasonable efforts of Amer to procure the amendment of the Memorandum of Understanding in accordance with the provisions of paragraph 4 above, Amer and Fischer have not concluded an agreement that is in compliance with the terms of the Commitments, Amer undertakes to procure that Salomon serves notice of termination of the Memorandum of Understanding in accordance with Article 14 (Commencement and Termination) within one week after the end of the Initial Period.

**Section C. Related commitment**

5. In order to maintain the effect of the Commitments, Amer shall not enter into any new cooperation agreement in respect of cross country skis with Fischer until the Commission is satisfied that an absence of cooperation between Amer and Fischer is no longer necessary to render the proposed concentration compatible with the common market.

**Section D. Review**

6. The Commission may, in response to a request from Amer justified by exceptional circumstances or a radical change in market conditions, such as [...] waive, modify, or substitute any one or more of the undertakings in these Commitments.