

*Case No IV/M.686 -
NOKIA / AUTOLIV*

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**REGULATION (EEC) No 4064/89
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 05/02/1996

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.02.1996

PUBLIC VERSION

MERGER PROCEDURE
ARTICLE 6(1)(b) DECISION

To the notifying parties

Dear Sirs,

Subject : Case No IV/M.686 - NOKIA / AUTOLIV

Notification of **03.01.1996** pursuant to Article 4 of Council Regulation No 4064/89

1. The notified operation concerns the creation of a joint venture, Autoliv Nokia AB, by Nokia Audio & Electronics AB, an undertaking controlled by the Nokia group, and Autoliv AB. The new joint venture will take over Nokia's airbag control electronic business, including all its assets and staff.
2. After examination of the notification, the Commission has concluded that the notified operation falls within the scope of application of Council Regulation No.4064/89 and does not raise serious doubts as to its compatibility with the common market and the functioning of the EEA Agreement.

I. THE PARTIES

3. Nokia Audio & Electronics AB manufactures systems for the automotive industry including airbag control electronics. It is part of the Nokia group, an international telecommunications and electronics group (Nokia). Nokia group's business activities include systems used in mobile and fixed networks, mobile phones, cables for telecommunications and consumer and industrial electronics.
4. Autoliv Group is a Swedish incorporated group manufacturer and supplier of occupant restraint systems to the automobile industry (Autoliv). Restraint systems comprise seat

belts, airbags and other associated safety devices including child restraint systems integrated with the car seat.

II. CONCENTRATION

a) Joint control

5. The proposed concentration is structured in a Shareholders Agreement between Nokia Audio & Electronics AB and Autoliv. The parties will share equally shareholdings and voting rights in the joint venture. Matters of major importance, such as investments exceeding 118 000 ECU, the annual budget and the appointment of the managers of the company, shall require the parties unanimous decision. It follows that the joint venture will operate under the joint control of Nokia and Autoliv and that therefore the operation constitutes a joint venture within the meaning of Article 3 of the Merger Regulation.

b) Concentrative joint venture

6. As set out in the Asset Purchase Agreement the joint venture will acquire Nokia's airbag control electronic business on a lasting basis. The joint venture will have its own marketing and sales organization. It will carry out research and development independently and in cooperation with others. The agreements are for an indefinite period of time. However, at present, the Autoliv Group is the only customer of the joint venture, which is acceptable during the start-up period of a joint-venture. Autoliv buys airbag electronic control units to combine them with their own airbag modules to provide complete airbag systems. Sales to Autoliv will be made on normal commercial conditions. The parties intend to broaden the joint venture's customer base in the future. They expect sales to third parties, mainly car manufacturers, to amount to more than 50% of the joint venture's production within three years. This period can be regarded as reasonable to achieve significant sales to third parties. The Commission inquiry has shown that, while there is no clear trend in the industry, a number of important car manufacturers currently purchase and intend to purchase airbag electronics separately from the airbag modules. They prefer to keep the system integration in-house as it increases their flexibility in terms of technology and price. It is therefore likely that the joint venture will indeed increase its customer base to include significant sales to companies other than Autoliv.
7. Nokia will sublease to the joint venture the premises presently occupied by its airbag control electronics division. It will provide the joint venture with accounting and other administrative services. The Sourcing Service Agreement will give the joint venture certain rights to use Nokia's channel for purchases of certain materials. However, these materials represent only about 50 % of the value of all inputs purchased and 30 % of the final sales price of an airbag control electronic unit. Furthermore, the joint venture will have the possibility to terminate the agreements and carry out the functions on its own or move from Nokia's premises. Thus, the joint venture will perform, on a lasting basis, all the functions of an autonomous economic entity.
8. No coordination of competitive behaviour between Nokia and Autoliv will result from this operation, since Nokia participates in the airbag control electronics field of activities only through the joint venture. The operation is therefore a concentration within the meaning of Article 3 of the Merger Regulation.

III. COMMUNITY DIMENSION

9. The undertakings concerned have a combined aggregate worldwide turnover in excess of 5 000 million ECU (Nokia 5.5 billion Ecu, Autoliv 1.05 billion Ecu). Both Nokia and Autoliv have a Community-wide turnover in excess of 250 million ECU, but do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

IV. COMPATIBILITY WITH THE COMMON MARKET

Relevant product market

10. The joint venture is active in the relevant market for airbag control electronics. Airbag control electronics generally consists of an electronic control unit with a sensor. They are built into cars where they are linked via a cable to the airbag module which they trigger in case of an accident. Airbag modules (which are produced inter alia by Autoliv) consist of a gas generator and a bag with a cover for the steering wheel or the instrument panel. Both airbag control electronics and airbag modules are sophisticated products which are adapted to each individual car model. Therefore, for security and quality reasons, all replacements and spare parts are supplied by the individual car manufacturer, directly or indirectly. Thus, all replacements and spare parts originate from the individual car manufacturer who obtains them from its supplier of airbag systems. Therefore, no independent replacement market for airbag control electronics exists.

Relevant geographic market

11. In previous cases (most recently Case n° IV/M.666 JOHNSON CONTROLS/ROTH FRERES), the Commission has considered the scope for markets for car components as European-wide. Although market shares could differ substantially between different Member States, this would depend on the number of contracts signed with car manufacturers having an European-wide buying policy.
12. In the market for airbag electronic control units the Commission inquiry has shown that all customers buy these products on a European- or World-wide level and that prices and delivery conditions are homogeneous within the EEA. The relevant geographic market is, therefore, at least the EEA.

Assessment

13. The parties combined market share within the EEA territory on the airbag control electronics market will be 13%. However, the new entity will compete in the sector with other international strong groups with high market shares such as Siemens (the market leader with a share of around 40%), ELO Ford, Temic and Bosch.
14. Autoliv is active in the market for airbag modules where it holds a strong position (around 40% in the EEA). This operation will, however, not enhance significantly Autoliv's present position in this related market. First, Autoliv has strong competitors in the airbag module market which include Petri (20-25%) TRW (15-25%), MST (around 15%), Morton International and Allied Signal. Secondly, Autoliv's main customers are big car manufacturers that did not express any concern about the possible effects of the merger during the Commission's inquiry. In view of this, the operation does not raise serious doubts about its compatibility with the common market.

V. ANCILLARY RESTRAINTS

15. The notifying parties have requested that the clauses and agreements described below be considered as ancillary to the concentration.
16. Nokia grants free of charge to the joint venture a non-exclusive and non-assignable (no right to sub-licence) world-wide right and licence to make use of, exclusively in the field of airbag control electronic business, any and all know-how belonging to Nokia. This license shall automatically terminate if and when Nokia's shareholding in the joint venture falls below 50% and/or upon termination of the agreement, whichever earliest.
17. None of the parties to the agreements shall incumber or dispose off any of the shares of the joint venture held by it except on predetermined conditions. The parties will keep confidential and not disclose or use information relating to the business during the term of the agreements and two years thereafter.
18. To the extent that these clauses include any restriction of competition they may be considered as directly related and necessary to the implementation of the concentration.

VI. CONCLUSION

19. It follows from the above that the proposed concentration would not create or strengthen a dominant position as a result of which competition would be significantly impeded in the common market or in a substantial part of it.

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 functioning of the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation No 4064/89.

For the Commission,