EUROPEAN COMMISSION

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PUBLIC VERSION

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

Samvardhana Motherson Automotive Systems Group B.V.
Am Germanenring 3
D-63486 Bruchköbel
Germany

Subject: **Case M.11084 – SMRP / SAS AUTOSYSTEMTECHNIK**
Commission decision pursuant to Article 6(1)(b) of Council Regulation No 139/2004[1] and Article 57 of the Agreement on the European Economic Area[2]

Dear Sir or Madam,

(1) On 14 June 2023, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Samvardhana Motherson Automotive Systems Group B.V. ("SMRP" or the "Notifying Party", Netherlands), wholly owned by Samvardhana Motherson International Limited ("SAMIL", India), will acquire within the meaning of Article 3(1)(b) of the Merger Regulation sole control of the whole of SAS Autosystemtechnik GmbH ("SAS", Germany), a wholly-owned indirect subsidiary of Faurecia SE ("Faurecia", France)[3] (the "Transaction"). SMRP and SAS are designated hereinafter as the "Parties".

[1] OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and 'common market' by 'internal market'. The terminology of the TFEU will be used throughout this decision.
[2] OJ L 1, 3.1.1994, p. 3 (the "EEA Agreement").
[3] Publication in the Official Journal of the European Union No C 218, 21.6.2023, p. 7.

1. THE PARTIES

(2) **SMRP** is indirectly wholly owned by SAMIL, the main holding company of the Samvardhana Motherson Group ("Motherson"). Motherson is a global producer and supplier of a wide range of automotive components, including instrument panels, door panels, centre consoles, and decorative trims. SMRP has minor activities in the assembly of cockpit modules.

(3) **SAS** is mainly active in the assembly of interior modules, including cockpit modules (its main business), centre consoles, and other interior modules for passenger cars and light commercial vehicles. SAS is wholly owned by Faurecia Automotive GmbH, which is in turn a wholly owned subsidiary of Faurecia.

2. THE CONCENTRATION

(4) On 19 February 2023, SMRP and Faurecia Automotive GmbH entered into a Put Option Agreement pursuant to which SMRP makes an irrevocable offer to acquire 100% of the shares of SAS. The Put Option Agreement includes, as its Exhibit 1, the Share Purchase Agreement describing the Transaction's terms and conditions, as agreed between the Parties. Both Parties have publicly announced that they have agreed to conclude the Transaction.[4]

(5) The Transaction, by which SMRP will acquire sole control of the whole of SAS, qualifies as a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

3. UNION DIMENSION

(6) The Transaction has a Union dimension pursuant to Article 1(2) of the Merger Regulation. The undertakings concerned have a combined aggregate worldwide turnover of more than EUR 5,000 million (SMRP: EUR 7,555 million; SAS: […]) and each of the Parties has a Union-wide turnover of more than EUR 250 million (SMRP: EUR […] million; SAS: EUR […] million). Neither of the undertakings concerned achieves more than two-thirds of its aggregate EU-wide turnover within one and the same Member State.

4. RELEVANT MARKETS

4.1. Introduction

(7) Both SMRP and SAS provide cockpit module assembly services to Original Equipment Manufacturers ("OEMs") active in the manufacture and supply of passenger cars and light commercial vehicles:

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[4] Cf. Motherson's press release of 19 February 2023, as accessed in July 2023: https://www.smrpbv.com/uploaded_files/investor_pdfs/corporate-announcements/2022_2023/200_1_Motherson%20%20reaches%20an%20agreement%20to%20acquire%20SAS.pdf. Cf. Faurecia's press release of 19 February 2023, as accessed in July 2023: https://www faurecia.com/en/newsroom/faurecia-sell-its-sas-cockpit-modules-division-motherson-group.

(a) In the EEA, SAS has assembly plants in the Czech Republic, France, Germany, Portugal, the Slovak Republic, and Spain and was, at the time of notification, assembling cockpit modules for 32 vehicle programmes.[5]

(b) Though its activity is mostly focused on the production and supply of automotive components to OEMs, SMRP also provides a limited amount of cockpit module assembly services in the EEA. At the time of notification, SMRP assembled cockpit modules in […] (Spain) for three vehicle programmes of […].[6]

(8) A cockpit module is the front interior part of the vehicle. Depending on the vehicle type, a modern cockpit consists of the instrument panel (with a speedometer, a clock, a radio, etc.), steering column, heating, ventilation and air conditioning (HVAC) unit, cable wire harness, ventilation channel, front passenger airbag(s), glove compartment, combined instruments, navigation system, several switches and trim strips, and the dashboard. Other technologies, such as the assistance and infotainment systems, are often integrated into or connected to the cockpit.[7]

(9) Cockpit module assembly is the activity by which the relevant automotive components – as depicted in Figure 1 below – are combined to form a cockpit module – illustrated in Figure 2 below. Once assembled, the cockpit module is subsequently sent for incorporation in a vehicle being produced concurrently in an automotive OEMs' production line. Key to this activity is the need for cockpit modules to be delivered "Just-in-Time" or "Just-in-Sequence" from the providers of cockpit module assembly services to the OEMs – *i.e.*, the module is assembled and incorporated in a vehicle at the correct sequential moment in an OEMs' assembly line.

Figure 1 – Cockpit components

[…]

Figure 2 – Cockpit module

[…]

Source: Form CO, Pictures 1 and 2

(10) Automotive OEMs may choose to assemble cockpit modules in-house or outsource in whole or in part this activity to providers of cockpit module assembly services. Typically, OEMs will only contract the services of an external assembler after organising competitive procurement tenders that start with the submission of Requests for Quotation ("RFQs") to potential suppliers.

(11) The assembly of cockpit modules requires, *inter alia*, (i) skilled labour, (ii) expertise in logistics, and (iii) a production line in the vicinity of the relevant OEM's plant to perform the assembly of the components that form the cockpit module.

5 Form CO, paragraph 57.
6 Form CO, paragraph 58.
7 See Form CO, paragraph 171 and Case M.10488 – Faurecia / Hella, paragraph 19.

4.2. Product market definition

4.2.1. The Commission's previous practice

(12) In previous decisions, the Commission has considered the provision of cockpit module assembly services to be a separate product market.[8]

(13) In case M.10488 – *Faurecia / Hella*, the Commission considered, but ultimately left open, the question of whether the relevant market for the provision of cockpit module assembly services comprises both third-party assembly services and OEMs' in-house assembly, or only the former (the "merchant" market).[9]

4.2.2. The Notifying Party's views

(14) For SMRP, the assembly of cockpit modules is a pure service activity, distinct from the supply of the constituent automotive components (*e.g.*, instrument panels). According to the Notifying Party, OEMs issue separate RFQs and enter into separate agreements for the supply of cockpit module components and for the provision of cockpit module assembly services. As such, they are not substitutable from either a demand or a supply-side perspective.[10]

(15) Moreover, for the Notifying Party, the market for cockpit module assembly services is separate from the market for the assembly of other types of interior modules, such as centre consoles and door modules, because OEMs typically issue separate RFQs for the assembly of cockpit modules and the assembly of other types of interior modules.[11]

(16) The Notifying Party claims that the market for cockpit module assembly services should not be further sub-segmented by type of vehicle, such as between the assembly of cockpit modules for passenger cars or for light commercial vehicles because there are no material technical differences justifying a distinction.[12]

(17) The Notifying Party considers that the market for the provision of cockpit module assembly services includes both the assembly carried out by the automotive OEMs themselves (in-house provision of assembly services) and the provision of assembly services by non-OEM third-party providers, such as the Parties (the merchant market). The Notifying Party asserts that in-house assembly services exert the strongest competitive constraint on external cockpit module assemblers, for the following reasons:

(a) Most of the cockpit module assembly services are carried out by OEMs in-house;[13]

(b) The provision of cockpit module assembly services is a niche market, ancillary to the OEMs' main manufacturing activities;[14]

(c) OEMs' decisions to carry out the assembly of cockpit modules in-house or outsource it, are largely driven by economic and strategic considerations,

8 Case M.10488 – Faurecia / Hella, paragraph 20, Case M.9730 – FCA / PSA, paragraph 1727.
9 Case M.10488 – Faurecia / Hella, paragraphs 23-24.
10 Form CO, paragraph 82.
11 Form CO, paragraph 83.
12 Form CO, paragraph 96.
13 Form CO, paragraph 85.
14 Form CO, paragraph 91.

e.g., by measuring the costs of in-house cockpit module assembly against the costs of outsourced assembly, availability of floor space, and availability of specialised personnel;[15]

(d) OEMs can easily increase their capacity to assemble in-house, as the investment costs for installing a new cockpit module assembly line are not significant;[16] and

(e) After the completion of a given production programme, OEMs can and do switch, not only to alternative external cockpit module assemblers, but also from external to in-house cockpit module assembly.[17]

(18) The Notifying Party therefore contends that the relevant product market is the market for the provision of cockpit module assembly services, including OEMs' in-house assembly, without any further segmentation. It submits, however, that the precise product market definition can be left open given that the Transaction does not raise competition concerns, even if only the merchant market for the provision of cockpit module assembly services is considered.[18]

4.2.3. The Commission's assessment

4.2.3.1. Possible segmentations

(19) The Commission has assessed whether the market for the provision of cockpit module assembly services (i) is distinct from the market for the supply of automotive cockpit components, (ii) should be segmented based on vehicles' propulsion technology and size, and (iii) comprises both the merchant market providers and the OEMs that assemble cockpit modules in-house.

4.2.3.2. Cockpit module assembly services and supply of automotive cockpit components

(20) The Commission considers, based on the market investigation results, that the assembly of cockpit modules and the manufacture and supply of automotive cockpit components are in distinct relevant product markets. Some respondents highlighted the fact that the provision of assembly services is a service-based activity that does not require having manufacturing capabilities (only facilities and equipment where the assembly of different components is made), while the supply of components typically involves the development, manufacture, and subsequent delivery of said components. Moreover, a significant majority of customers and competitors agreed that, typically, tenders for the provision of cockpit module assembly services are separate from tenders for the supply of the multiple components that, when combined, form a cockpit.[19]

4.2.3.3. Vehicles' propulsion technology and size

(21) The Commission finds that it is not appropriate to further segment the market for the provision of cockpit module assembly services on the basis of the vehicle's propulsion technology. Most respondents to the market investigation state that

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15 Form CO, paragraphs 85 and 89.
16 Form CO, paragraph 85 and 111-112.
17 Form CO, paragraph 88.
18 Form CO, paragraph 81.
19 Non-confidential version of the responses to questions B.1-B.4 of the eRFI to Competitors and non-confidential version of the responses to questions B.1-B.4 of the eRFI to Customers.

there are no reasons, technical or other, to distinguish between internal combustion engine ("ICE") vehicles and low-emission vehicles ("LEV") because, even though the components for low-emission vehicles might be different, the nature of the assembly services is alike regardless of the vehicles' propulsion technology.[20] Similarly, nothing in the results of the market investigation contradicts the Commission's conclusions in previous cases, where the impact of concentrations was assessed with reference to the provision of cockpit module assembly services, without a segmentation by size of vehicles.[21]

4.2.3.4. OEMs' in-house assembly of cockpit modules

(22) The Commission has assessed whether the market for cockpit module assembly services comprises both the merchant market providers and the OEMs that assemble cockpit modules in-house as actual or at least potential competitors.

(23) As part of its assessment, the Commission sought to understand how much of the total assembly of cockpit modules is carried out internally by OEMs; whether OEMs compare the cost of assembling in-house with the cost of outsourcing assembly; whether it is easy for OEMs to switch from in-house to external assembly (and vice-versa); and whether providers of cockpit module assembly services perceive OEMs as competitive threats.

(24) As explained in the following paragraphs, the results of the market investigation were mixed. On the one hand, the Commission has gathered elements that indicate that in-house cockpit assembly may exert a degree of competitive constraint on the activity of external assemblers, notably the following: (i) most passenger cars and light commercial vehicles' cockpit modules in the EEA are assembled by OEMs in-house, (ii) practically all OEMs assemble part of their vehicles' cockpit modules in-house, and (iii) most OEMs will carry out "make or buy" studies before deciding whether to assemble cockpit modules in-house or outsource this activity. On the other hand, there are elements that suggest that in-house assemblers do not exert a significant competitive constraint and that, therefore, their activity is not within the relevant product market, notably the following: (i) OEMs are not active, and it is unlikely that they will enter soon, in the merchant market for the provision of cockpit module assembly services, (ii) OEMs might not have an immediate incentive to switch to in-house production because the cost of assembly is small compared to the total cost of passenger cars or light commercial vehicles, and (iii) once a decision to outsource cockpit assembly in a plant is made, subsequent programmes tend to continue using external cockpit module assemblers. Both sets of elements are further discussed below.

Proportion of assembly that is carried out in-house

(25) The Commission's investigation confirmed the Notifying Party's claim that the majority of OEMs, while not being active in the merchant market for the provision of cockpit module assembly services, assemble cockpit modules in-house for their own manufacturing activities. While some OEMs do so for the entirety of their car

[20] Non-confidential version of the responses to questions B.6-B.7 of the eRFI to Customers and non-confidential version of the responses to questions B.6-B.7 of the eRFI to Competitors.

[21] Case M.10488 – Faurecia / Hella, paragraphs 22-24 and Case M.9730 – FCA / PSA, paragraph 1727.

production (*e.g.*, […]),[22] most other OEMs have both in-house and external suppliers (*e.g.*, […], […], […], […], […], and […]).[23]

(26) The Notifying Party estimates that, out of all passenger cars and light commercial vehicles' cockpit modules assembled in the EEA in each year between 2020 and 2022, approximately [70-80]% were assembled by OEMs in-house.[24] The market investigation largely confirmed this, with all but two respondent OEMs indicating that between 80% and 100% of their vehicles have cockpit modules that are assembled internally.[25]

"Make or buy" studies

(27) The market investigation confirmed that before the start of production of a new vehicle model, OEMs compare the cost of assembling cockpit modules in-house with the cost of purchasing these services from external assemblers. Most OEM respondents revealed that they carry out "make or buy" studies before start of production at least "sometimes". Out of these, a few replied that they will do it either "typically" or "always".[26]

(28) Most OEM respondents replied negatively to the question of whether, since 2018, they organised tenders for the provision of cockpit module assembly services that were ultimately awarded to OEMs' in-house divisions. Out of the three OEMs that have replied affirmatively, all mentioned that this was exceptional and occurred in less than 1% of the tenders organised since 2018.[27]

Ability and incentive to switch from external to in-house assembly (and vice-versa)

(29) In addition, the Commission received contradictory evidence on whether OEMs might have the ability and the incentive to easily switch between in-house and external assembly.

(30) As regards the ability to switch, the fact that the nature of the assembly process is the same for in-house and external suppliers, as well as the fact that OEMs already carry out cockpit module assembly in-house, suggests that OEMs may easily switch at the end of a given programme. The basic principles and structure of assembly processes do not vary from OEM to OEM, *i.e.*, although each assembly line is set up specifically for a customer/plant, the assembly units and the tools or equipment used are common across OEMs.[28] The ability to switch, however, is also contingent on other factors, notably the availability of space to install an assembly line at the relevant OEM's plant, and/or of skilled labour.[29]

(31) Other elements in the Commission's file, however, indicate that, once a decision to outsource cockpit assembly in a plant is made, subsequent programmes tend to continue using external cockpit module assemblers. The largest customer of

22 Form CO, paragraph 71.
23 The only exception is […]. See, *e.g.*, Form CO, paragraph 134.
24 Form CO, paragraph 121.
25 Non-confidential version of the responses to question D.1 of the eRFI to Customers.
26 Non-confidential version of the responses to question B.8 of the eRFI to Customers.
27 Non-confidential version of the responses to questions B.12-B.13 of the eRFI to Customers.
28 Form CO, paragraph 79.
29 Form CO, paragraphs 89 and 131; non-confidential version of the minutes of the meeting with a competitor of 11 May 2023, paragraph 10.

cockpit module assembly services ([…], that represents [60-70%]/[70-80%] of the total demand for cockpit module assembly services in the EEA)[30] assumes that plants with outsourced cockpit module assembly will use such services in the future: "*The decision on whether to assemble cockpits in-house or outsource assembly is a plant-specific and historically driven decision.* […] *does not consult the market or carry out a "make or buy" study for every new programme* (…)".[31] One of the Parties' competitors has expressed a similar view: "*The decision of OEMs to either "make or buy" cockpit services is a historical decision. Indeed, once the OEM plant is set up, it becomes more and more difficult to change this strategy in the future.* (…) *Once such decision has been made, it is difficult to switch between in-house/outsourced assembly due to additional floorspace and needed headcount*".[32] As such, the Commission takes the conservative view that OEMs exercise a smaller constraint to external cockpit module assembly suppliers once the decision to outsource at a given plant was made.

(32) As regards the incentive to switch, OEMs might not have an immediate incentive to switch to in-house production because the input cost (the cost of the cockpit module assembly services) is small relative to the total cost of the final product (the vehicle). SAS estimates that the average cost of cockpit assembly services provided by SAS in the EEA amounts to only approximately [0-5]% of the total vehicle manufacture cost.[33] The market investigation respondents confirmed that cockpit module assembly services only account for a small share of the total cost of a vehicle.[34]

(33) In any event, there is some evidence of OEMs having recently switched from outsourced to in-house cockpit assembly, after completion of the production processes, in the following plants: […] (2019/2020), […] (2015-2019), […] (2016), and […] (2016).[35]

External assemblers' perception of OEMs as a competitive threat

(34) Further, the evidence collected during the investigation is also mixed with regard to how in-house cockpit module assembly divisions from OEMs are perceived by external cockpit module assemblers. On the one hand, certain SAS internal documents identify OEMs as a competitive force in the market. In particular:

(a) [SAS' internal document with strategic business information];[36]

(b) [SAS' internal document with strategic business information];[37] and

(c) [SAS' internal document with strategic business information].[38]

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30 See Table 3, below.

31 Non-confidential version of […]'s response to question B.9 of the eRFI to Customers.

32 Non-confidential version of the minutes of the meeting with a competitor of 11 May 2023, paragraph 10.

33 Form CO, footnote 44.

34 See, *e.g.*, non-confidential version of the minutes of the meeting with a competitor of 11 May 2023, paragraph 14.

35 Form CO, paragraph 88 and non-confidential version of an OEM's response to question B.15 of the eRFI to Customers.

36 Form CO, Annex 5.4(iv), slide 7.

37 Form CO, Annex 5.4(v), slide 50.

38 Form CO, Annex 5.4(vi), pages 16 and 29.

(35) On the other hand, those same documents are typically focused on the threat of rival external cockpit module service providers,[39] referring to the OEMs' in-house share as not belonging to SAS' "addressable market".[40] Further, in the market investigation, the Parties' competitors do not expressly identify OEMs as competitive forces in the market.[41] In addition, nothing in the Commission's file suggests that OEMs are expected to enter the merchant market in the future.

(36) In light of the market investigation's mixed results, it can be left open whether the relevant product market includes the OEMs' in-house cockpit module assembly services. This is because, even in the most conservative hypothesis – *i.e.*, excluding in-house assembly services from the relevant market –, the Commission considers in-house cockpit module assembly as part of its competitive assessment. In either this hypothesis or in any alternative market definition, the proposed Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement.

4.2.3.5. Conclusion

(37) The Commission considers that, for the purposes of this decision, the exact product market definition for cockpit assembly can be left open as the proposed Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible market definition. The Commission will therefore assess the effects of the proposed Transaction on the basis of (i) a market for the provision of cockpit module assembly services comprising only third-party cockpit module assembly services and (ii) a market for the provision of cockpit module assembly services comprising both third-party and OEMs' in-house cockpit module assembly services, both excluding the supply of automotive cockpit components, and without any further segmentation based on vehicles' propulsion technology and size.

4.3. Geographic market definition

4.3.1. The Commission's previous practice

(38) Previously, the Commission has considered, but ultimately left open, the question of whether the market for the provision of cockpit module assembly services is global or EEA-wide in scope.[42]

4.3.2. The Notifying Party's views

(39) The Notifying Party considers the geographic market for the provision of cockpit module assembly services to be global or at least EEA-wide in scope.[43]

(40) The Notifying Party submits that OEMs issue RFQs to providers of cockpit assembly services across the EEA, "*regardless of whether they already have an operational facility in the EEA, or in the country or area close to the relevant OEM*

39 See Section 5.4.2 below.

40 *E.g.*, Form CO, Annex 5.4(iv), page 40.

41 Non-confidential version of the responses to questions B.8-B.9 of the eRFI to Competitors.

42 Case M.10488 – Faurecia / Hella, paragraph 28; Case M.9730 – FCA / PSA, paragraphs 1730 *et seq.*; Case M.800 – Siemens / Sommer Allibert, paragraph 15; Case M.2059 – Siemens / Dematic / VDO / Sachs, paragraphs 122-125.

43 Form CO, paragraphs 102 and 114.

plant". In addition, cockpit assemblers based in other regions are regularly invited to participate.[44]

(41) The RFQs do not include specific eligibility criteria relating to the pre-existence of capacity within a given radius from the relevant OEM plant, given that a plant can be leased after the award of the contract and before the start of production.[45] The Parties add that, since the relevant activity consists of the "*assembly and logistics of different components, there is no manufacturing involved and very few tools are necessary (...)"*, cockpit module assembly suppliers "*can and do participate in tenders without owning a facility close to the OEM plant in question and open a new facility without significant capital investment and time required after winning the tender*".[46]

(42) The Parties submit, however, that the precise geographic market definition can be left open because, since SMRP only provides cockpit module assembly services in the EEA, the Transaction does not raise competition concerns irrespective of whether the relevant geographic market is global or EEA-wide.[47]

4.3.3. The Commission's assessment

(43) The Commission considers that the relevant geographic market is likely EEA-wide. A majority of the respondents to the Commission's market investigation found the relevant geographic market to be at least EEA-wide, indicating that there are no reasons to consider a narrower market definition.[48]

(44) In the same vein, a majority of OEMs in the market investigation indicate that they send RFQs for tenders for the assembly of cockpit modules in the EEA to suppliers that have experience in assembling cockpit modules in or outside the EEA.[49] This is in line with the perception of most of the Parties' competitors participating in the market investigation.[50] Further, a significant majority of both competitors and customers asserted that assembly contracts can be awarded to bidders with no cockpit module assembly lines in the proximity of the OEMs' relevant car plants, as long as the potential bidders show they can install said assembly lines before the start of production. In the Commission's view, this confirms the Notifying Party's claim that the relevant geographic market is not narrower than the EEA.[51]

(45) Conversely, some market participants noted that prices can differ across world regions and even within the EEA, depending on the cost of labour in each region.[52]

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44 Form CO, paragraph 103.
45 Form CO, paragraph 104.
46 Form CO, paragraph 110.
47 Form CO, paragraph 114.
48 Non-confidential version of the responses to question C.1 of the eRFI to Customers and question C.1 of the eRFI to Competitors.
49 Non-confidential version of the responses to question C.6 of the eRFI to Customers.
50 Non-confidential version of the responses to question C.6 of the eRFI to Competitors.
51 Non-confidential version of the responses to question C.4 of the eRFI to Customers and of the eRFI to Competitors. The results of the market investigation, however, were inconclusive as to whether third-party suppliers are able to compensate the cost of establishing a new cockpit module assembly line with the revenues typically received in the duration of a contract (see, in this respect, the non-confidential version of the responses to question C.7 of the eRFI to Competitors).
52 Non-confidential version of the responses to question C.3 of the eRFI to Customers and question C.3 of the eRFI to Competitors.

(46) The Commission considers that, for the purposes of this decision, the exact geographic market definition can be left open, as the proposed Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement under any plausible market definition. The Commission will therefore assess the effects of the proposed Transaction on the basis of the narrowest plausible geographic market definition, corresponding to the EEA.

5. COMPETITIVE ASSESSMENT

5.1. Affected markets

(47) The Transaction gives rise to one horizontally affected market in the EEA, the market for the provision of cockpit module assembly services (regardless of whether the relevant product market also comprises OEMs' in-house cockpit module assembly services). It does not give rise to non-horizontal affected markets.[53]

(48) The market investigation did not reveal the need to assess whether the Transaction may originate coordinated effects. As such, the Commission's competitive assessment focused on whether the Transaction may give rise to horizontal non-coordinated effects in the market for the provision of cockpit module assembly services.

5.2. Analytical framework

(49) The legal test for the assessment of horizontal effects of a concentration is set out in the Merger Regulation and in the Guidelines on the assessment of horizontal mergers under the Council Regulation on the control of concentrations between undertakings ("Horizontal Merger Guidelines").[54]

(50) With regard to non-coordinated effects, "[a] *merger may significantly impede effective competition in a market by removing important competitive constraints on one or more sellers who consequently have increased market power*."[55] To assess whether the concentration could result in non-coordinated effects, the Commission considers the Parties' market shares and concentration levels.[56] Market shares and

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53 The Commission concludes that, *stricto sensu*, there is no vertical relationship between the supply of automotive components used in cockpit modules or in other automotive modules (*e.g.*, instrument panels, decorative parts, wire harnesses, centre console bodies, door panels, and door trim parts) and the provision of cockpit module assembly services. This is because (i) automotive OEMs organise separate tenders for the supply of the different components, that are also separate from the tenders for the provision of assembly services (as confirmed by a significant majority of the OEMs in the market investigation), and (ii) OEMs direct the external module assemblers to purchase the majority of the cockpit components on terms that the OEMs have previously agreed with the component supplier. In other words, cockpit module assembly service providers have no (or insignificant) discretion regarding the components they purchase and subsequently incorporate in the cockpit modules. Therefore, these components are not "inputs" for the cockpit module assembly business, nor are the cockpit module assembly service providers the "customers" of the component suppliers. See, in this regard, the non-confidential version of the responses to questions B.3-B.5 of the eRFI to Customers. Conglomerate concerns were excluded on the same basis.

54 OJ C 31, 05.02.

55 Horizontal Merger Guidelines, paragraph 24.

56 Horizontal Merger Guidelines, paragraphs 17-21. In order to measure concentration levels, the Commission applies the Herfindahl-Hirschman Index ("HHI"). The Commission is unlikely to

concentration levels provide useful first indications of the market structure and competitive importance of the merging parties and their competitors. Historic data may be used if market shares have been volatile, for instance when the market is characterised by large, lumpy orders.[57] Several other factors identified in the Horizontal Merger Guidelines are considered, such as whether the Parties are close competitors, whether customers have the ability to switch suppliers or to promote entry, and whether the concentration would eliminate an important competitive force.[58]

5.3. Market shares

5.3.1. *The Notifying Party's view*

(51) The Notifying Party submits that the Transaction "*results in a limited horizontal overlap in the assembly of cockpit modules in the EEA*"[59] that does "*not raise (horizontal) competition concerns*."[60] First, the Notifying Party submits that the "*Parties' combined market share in the EEA was below 20% during the last three years (2020-2022)*,"[61] and that their global market share "*was less than* [5-10]*% in 2022*."[62] Both market shares include OEMs' in-house cockpit assembly as the Parties consider that "*in-house cockpit assembly by OEM and third-party cockpit assembly belong to the same product market*."[63] In the Notifying Party's view, "*it is sensible to include in-house production*" as "[o]*therwise, the competitive constraints exerted by OEMs would be totally disregarded*."[64] Second, the Notifying Party claims that the Commission's market investigation in case M.10488 – *Faurecia / Hella* supports the conclusion that "*the market could plausibly comprise both in-house and third-party assembly*."[65] Third, the Notifying Party claims, *arguendo*, that the Transaction does not raise competition concerns if only the "*merchant segment*" is considered. In the Notifying Party's view, "[d]*espite having the highest share amongst the third-party cockpit module assemblers in the EEA (*[60-70]*% in 2022)*," external cockpit module assemblers "*face significant competitive pressure from OEMs' own captive assembly capabilities and competing third-party cockpit assemblers in the EEA*."[66]

5.3.2. *The Commission's assessment*

(52) The Commission's findings in case M.10488 – *Faurecia / Hella* were confirmed in the present case: the Transaction involves the acquisition of the leading provider of

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identify horizontal competition concerns in a market with a post-merger HHI below 1000. The Commission is also unlikely to identify horizontal competition concerns in a merger with a post-merger HHI between 1000 and 2000 and a delta below 250, or a merger with a post-merger HHI above 2000 and a delta below 150, except where special circumstances are present. However, HHI levels, in combination with the relevant deltas, are used merely as an initial indicator of the absence of competition concerns and do not give rise to a presumption of either the existence or the absence of such concerns.

57 Horizontal Merger Guidelines, paragraph 15.

58 Horizontal Merger Guidelines, paragraphs 28-31 and 37-38.

59 Form CO, paragraph 118 (emphasis removed).

60 Form CO, paragraph 120 (emphasis removed).

61 Form CO, paragraph 121.

62 Form CO, paragraph 122.

63 Form CO, paragraph 124.

64 *Ibid*.

65 Form CO, paragraph 125.

66 Form CO, paragraph 126.

cockpit module assembly services (SAS) by one of its largest competitors (SMRP).[67]

(53) Table 1 and Table 2 below, show the Parties' and their competitors' shares in 2020-2022, under three plausible scenarios:

(a) The most conservative scenario (Merchant), where only the merchant market is considered and, in addition, Mobis is not considered as an independent external assembler because has only provided cockpit module assembly services to a parent company, the Hyundai Motor Group;[68]

(b) A second scenario (Merchant (incl. Mobis)), where only the merchant market is considered and Mobis is considered as a competitor; and

(c) The least conservative scenario (Merchant + in-house), where not only the merchant market, including Mobis, is considered, but also in-house assembly.

Table 1 - Cockpit Module Assembly Services Market Shares (EEA, 2020-2021)

	2020				2021			
Supplier	**Units**	**Merchant**	**Merchant (incl. Mobis)**	**Merchant + in-house**	**Units**	**Merchant**	**Merchant (incl. Mobis)**	**Merchant + in-house**
SMRP	[…]	[10-20]%	[10-20]%	[0-5]%	[…]	[10-20]%	[10-20]%	[0-5]%
SAS	[…]	[50-60]%	[50-60]%	[10-20]%	[…]	[60-70]%	[50-60]%	[10-20]%
Combined	**[…]**	**[70-80]%**	**[60-70]%**	**[10-20]%**	**[…]**	**[70-80]%**	**[60-70]%**	**[10-20]%**
Mobis	[…]		[10-20]%	[0-5]%	[…]		[10-20]%	[0-5]%
IAC	[…]	[5-10]%	[5-10]%	[0-5]%	[…]	[5-10]%	[5-10]%	[0-5]%
Dräxlmaier	[…]	[0-5]%	[0-5]%	[0-5]%	[…]	[0-5]%	[0-5]%	[0-5]%
Grupo Antolin	[…]	[0-5]%	[0-5]%	[0-5]%	[…]	[0-5]%	[0-5]%	[0-5]%
HBPO	[…]	[0-5]%	[0-5]%	[0-5]%	[…]	[0-5]%	[0-5]%	[0-5]%
Marelli	[…]	[0-5]%	[0-5]%	[0-5]%	[…]	[0-5]%	[0-5]%	[0-5]%
Sitech	-	-	-	-	-	-	-	-
Others	[…]	[10-20]%	[10-20]%	[0-5]%	-	-	-	-
OEMs	[…][69]			[70-80]%	[…][70]			[70-80]%
Total	[…]	**100%**	**100%**	**100%**	[…]	**100%**	**100%**	**100%**

Source: Annex 8.7 of the Form CO (based on modified IHS data)[71]

67 See case M.10488 – Faurecia / Hella, paragraph 48.

68 The Commission's assessment has remained inconclusive as to whether Mobis is an actual competitor in the market. Mobis currently only provides cockpit module assembly services to Hyundai and Kia, brands of its parent company Hyundai Motor Group. However, it is not clear whether the latter controls Mobis within the meaning of the Merger Regulation. According to the Notifying Party, most of the Hyundai Motor Group's common stock is held by public and private shareholders that are not related to the Hyundai Motor Group, with only one Hyundai Motor Group affiliate (Kia) holding more than 10% of Mobis' common stock (see Form CO, paragraph 128). Mobis, on the other hand, has informed the Commission that it belongs to the Hyundai Motor Group (non-confidential version of the minutes of the meeting with Mobis of 11 May 2023, paragraph 3). However, this question can be left open for purposes of this decision, since it does not affect the Commission's conclusions on the Transaction.

69 The volume of OEMs' internally assembled cockpit modules includes Mobis as a captive supplier (*i.e.*, to reflect the most conservative scenario for the merchant market). For completeness, Table 1 also includes the percentage of OEMs' internal cockpit module assembly if Mobis is considered as a non-captive supplier, in which the total 2020 volume of OEMs' internally assembled cockpits is […].

70 Please see footnote 69 above *mutatis mutandis*. The 2021 volume of OEMs' internally assembled cockpits is […].

Table 2 - Cockpit Module Assembly Services Market Shares (EEA, 2022)

Supplier	2022			
	Units	Merchant	Merchant (incl. Mobis)	Merchant + in-house
SMRP	[…]	[10-20]%	[10-20]%	[0-5]%
SAS	[…]	[60-70]%	[50-60]%	[10-20]%
Combined	**[…]**	**[70-80]%**	**[60-70]%**	**[10-20]%**
Mobis	[…]		[10-20]%	[0-5]%
IAC	[…]	[5-10]%	[5-10]%	[0-5]%
Dräxlmaier	[…]	[0-5]%	[0-5%]	[0-5]%
Grupo Antolin	[…]	[0-5]%	[0-5%]	[0-5]%
HBPO	[…]	[0-5]%	[0-5]%	[0-5]%
Marelli	-	-	-	-
Sitech	[…]	[0-5]%	[0-5]%	[0-5]%
Others	[…]	[0-5]%	[0-5]%	[0-5]%
OEMs	[…][72]			[70-80]%
Total	**[…]**	**100%**	**100%**	**100%**

Source: Annex 8.7 of the Form CO (based on modified IHS data)[73]

(54) As shown in Table 2, in the most conservative scenario, the Transaction involves the combination of the leading provider of cockpit module assembly services, SAS, with a [60-70]% share in 2022, with its largest rival, SMRP, that has a [10-20]% share in 2022. This results in a combined market share of [70-80]% in 2022, and a corresponding increase in concentration levels of a market that is currently very concentrated.[74]

(55) As set out in the Horizontal Merger Guidelines, "*very large market shares — 50 % or more — may in themselves be evidence of the existence of a dominant market position.*"[75] It follows that SAS' market share prior to the Transaction, and the Parties' combined market shares, provide a strong indication that the Transaction would reinforce an existing dominant position. However, market shares are only

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71 To provide estimates of the market share estimates, the Notifying Party used IHS data tracking the total production of light vehicles supplemented with SAS internal market intelligence, gathered from responses to RFQs, discussions with OEMs, public sources, etc. The dataset was further refined by adjusting the volumes of cockpit modules assembled by SMRP to conform to actual volumes.

72 Please see footnote 69, *mutatis mutandis*. If Mobis is considered as a non-captive supplier, the 2022 volume of OEMs' internally assembled cockpits is […].

73 Please see footnote 71 above.

74 Pursuant to paragraph 16 of the Horizontal Merger Guidelines, to measure the concentration levels in the provision of cockpit module assembly services the Commission applied the HHI. The HHI associated with the Parties' shares in the EEA shows that, pre-Transaction, the market has a concentrated structure: its 2022 HHI indicators are of [4000-5000] in the most conservative scenario and of [3000-4000] if Mobis is considered as part of the relevant market. The Transaction results in a significant increase in concentration levels, with post-Transaction HHI of [6000-7000] in 2022, corresponding to a Delta HHI of [1000-2000] (if Mobis is considered as part of the relevant market, the post-Transaction HHI level is [3000-4000] and the Delta HHI is [1000-2000]). These HHI and HHI delta levels exceed significantly the thresholds mentioned in paragraphs 19 and 20 of the Horizontal Merger Guidelines, and as such are evidence that the Transaction significantly changes the structure of the market for the provision of cockpit module assembly services.

75 Horizontal Merger Guidelines, paragraph 17.

first indicators and constitute evidence of the existence of a dominant position if there are no exceptional circumstances weighing against their evidentiary value.[76]

(56) In the Commission's view, for the following reasons, the market shares in the present case provide only a partial perspective of the competitive constraints that providers of cockpit module assembly services face in the EEA, and in particular of the Parties following the Transaction, in a market where suppliers compete for the market.

(57) *First*, market shares for the period 2020 to 2022 do not capture fully the competitive interactions that occurred during this period. This is because the market shares in Table 1 and Table 2 measure the volume of cockpit modules assembled by providers of cockpit modules assembly services in each given year. However, the volumes reflected therein (i) pertain to tenders organised by OEMs that occurred in different points in time and (ii) typically do not include tenders that occurred in the two previous years – *i.e.*, sales volumes in 2022 refer at the earliest to contracts awarded in 2020. This is both because (a) contracts with OEMs for the provision of cockpit modules assembly services generally have a duration that is equivalent to the period in which the vehicle programme is in production,[77] and (b) there is a time lag between the moment in which a contract is awarded by the OEM and the start of the cockpit module assembly by the external provider of cockpit module assembly services.[78] It follows, in the first place, that any tenders organised by OEMs since 2020 are only represented to a very limited extent in the data in Table 1 and Table 2. In the second place, it also follows from the fact that contracts are awarded for multiple years that winning any given contract will only change the volumes of cockpit modules assembled to a limited extent, which makes pure volume-based market shares not particularly well suited to depict the competition that has occurred (this is reflected in the stable volumes of cockpit modules assembled by SMRP and SAS, as well as rivals such as IAC or Dräxlmaier).

(58) *Second*, the Commission considers that tenders for the supply of cockpit module assembly services are infrequent and, therefore, that the market shares in Table 1 and Table 2 do not provide a complete picture of the competitive interactions that have occurred since 2020. The data submitted by the Parties[79] and data collected during the market investigation confirm that tenders are infrequent:[80] in the period between 2018 and 2023, (i) SAS participated in [20-30] tenders (approximately […] per year), (ii) SMRP participated in [<5], and (iii) among the Parties' rivals, the cockpit module assembler that participated in most tenders in the period between 2018 and 2023 only participated in [5-10] tenders in the EEA in total[81] (others participated in less).[82] Because tenders are infrequent and contracts are typically awarded for long durations (as noted in paragraph (57)), orders are

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76 Case T-210/01 General Electric v Commission EU:T:2005:456, paragraph 115.

77 Non-confidential version of the minutes of the meeting with an OEM of 11 May 2023, paragraph 7.

78 See, *e.g.*, non-confidential version of an OEM's response to question D.11 of the eRFI to competitors.

79 Form CO, Annex 8.10.

80 Non-confidential version of the responses to question D.7 of the eRFI to Customers and to question D.11 of the eRFI to Competitors.

81 Non-confidential version of the response of a cockpit module assembly service provider to question D.11 of the eRFI to competitors.

82 Other cockpit module assembly service providers participated in four and five tenders respectively. See non-confidential version of the response of two cockpit module assembly service providers to question D.11 of the eRFI to competitors.

"lumpy." As tenders are infrequent and orders lumpy, current sales volumes represented in Table 1 and Table 2 do not capture fully the competitive constraints that providers of cockpit module assembly services face when competing in tenders.

(59) *Third*, despite the high market share of SAS, the cockpit module assembly market is characterised by the presence of a relatively high number of service providers. Prior to the Transaction, both Parties faced competition from five rival cockpit module assembly providers (IAC, Dräxlmaier, Grupo Antolin, HBPO, Marelli or Brose Sitech) (six, if Mobis is included). As OEMs organise tenders to select external cockpit module assembly providers,[83] the continued presence (and entry, such as that of Brose Sitech)[84] of smaller suppliers indicates that OEMs have contemplated a relatively wide array of suppliers. This suggests that even low volume suppliers find it possible to remain in the market and, by participating in tenders organised by OEMs, to exercise a degree of constraint on rival providers of cockpit module assembly services that may not be captured fully by the market shares.

(60) *Fourth*, Table 1 and Table 2 show the very important weight of in-house cockpit module assembly in the industry: [70-80%] of all cockpit modules assembled in 2022 were assembled by the OEMs' in-house divisions (and Mobis) (or, alternatively, [70-80%] of all cockpit modules assembled if Mobis is regarded as being active in the relevant product market). Further, nearly all OEMs with production capacity in the EEA use in-house cockpit module assembly.[85] Although, as noted in Section 4.2.3.2, paragraph (31), the Commission takes the conservative view that OEMs exercise a smaller constraint to external cockpit module assembly suppliers once the decision to outsource at a given plant was made, OEMs play a particularly important role in shaping the dynamics of the market. As discussed in Section 5.6 below, OEMs (i) organise the tenders, and (ii) have internal divisions with full knowledge of the conditions that are necessary to provide cockpit module assembly services. In such context, the Parties' market shares may not be fully representative of the constraints experienced by providers of cockpit module assembly services when participating in tenders organised by OEMs.

(61) It follows from the above that the particular nature of the cockpit module assembly market is such that exceptional circumstances exist that – when taking a conservative approach – the high combined market shares and the corresponding levels of concentration of the Transaction do not reflect the ability to exercise market power.

5.4. Closeness of competition

5.4.1. *The Notifying Party's views*

(62) The Notifying Party submits that it faces competitive pressure "*from third-party assemblers with existing cockpit assembly business in the EEA, such as*

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83 Non-confidential version of the response to question B.3 of the eRFI to Customers.

84 As per Table 1 and Table 2, Brose Sitech started assembling cockpit modules in 2022. Brose Sitech is a JV between Volkswagen and the Brose Group that was set up in March 2021 (see, *e.g.*, https://www.volkswagen-newsroom.com/en/press-releases/brose-and-volkswagen-ag-sign-joint-venture-agreement-6917).

85 See paragraph (24) above.

Dräxlmaier, Grupo Antolin, IAC, Mobis, Plastic Omnium (HBPO)."[86] In particular, the Notifying Party views […] as SAS' "*most critical competitor in the EU today,*" […].[87]

(63) Conversely, the Notifying Party claims that SMRP "*has insignificant activities in the assembly of cockpit modules*," limited to "*one OEM plant in* […] *(Spain) for three vehicles programmes of the* […]."[88] The Notifying Party asserts that SMRP's market share "*overstates its actual market position*."[89] In particular, the Notifying Party notes that (i) [Business details on the vehicle programmes served by SMRP];[90] and (ii) SMRP has only participated in [<5] tenders since 2018 (and [<5] tenders since 2013), and that only [<5] it participated in a tender for the provision of cockpit module assembly services in an OEM plant other than the […] plant […].[91] The Notifying Party states that SMPR's current business is the result of an acquisition in 2011 […].[92] By contrast, the Notifying Party notes that SAS is a particularly active respondent to OEMs' invitations to participate in tenders for the provision of cockpit module assembly services.[93]

5.4.2. The Commission's assessment

(64) To understand the competitive dynamics in the market for the provision of cockpit module assembly services, and the extent to which SMRP and SAS are close competitors and important to the competitive process, the Commission (i) assessed the bidding data available to the Parties and to certain third parties, (ii) sought to understand SMRP's position in this market and how OEMs view participation in their tenders, and (iii) analysed certain contemporaneous evidence of the Parties depicting the competitive landscape.

(65) For the reasons explained below, and in light of the results of the market investigation, the Commission considers that SMRP's contribution to the competitive process is very limited since SMRP's competitive behaviour indicates that it exercises a very small constraint on SAS prior to the Transaction.

(66) *First*, the Commission requested the Parties to provide data related to the tender procedures organised by OEMs for the provision of cockpit module assembly services (the "bidding data"). The Notifying Party provided a data set largely based on SAS tender data, supplemented with limited data from SMRP. The data set provided by the Notifying Party includes tenders that SAS tracked in the regular course of business from 2020 to date, and additional data that it was able to retrieve for the period 2015-2019.[94] With regard to the Parties' bidding data, the Commission notes that:

86 Form CO, paragraph 137.
87 Form CO, paragraph 138.
88 Form CO, paragraph 143.
89 Form CO, paragraph 144.
90 *Ibid*.
91 Form CO, paragraph 150. See paragraph (84) below.
92 Form CO, paragraph 147, 149.
93 Form CO, paragraph 152.
94 Form CO, footnote 85. The Parties bidding data is the result of internal market intelligence.

(a) In [a majority of] recorded tenders, the Parties' bidding data identifies rival providers of cockpit module assembly services as having participated in the tenders;[95]

(b) In the […] tenders where SAS identified the rivals it competed against, the most frequent rival is […], present in […] tenders. The second most frequent identified rival is […], present in […] tenders. The third most frequent rival identified is […], that features in […] tenders. Finally, […], […], and […] are all identified as having participated in […] tenders each;

(c) Regarding the outcome of these recorded tenders, SAS is the most successful tenderer, with an [70-90]%-win rate, and […] and […] are each recorded as having won each […] (a [0-10]-win rate);

(d) SAS competed against two to four rival suppliers for the provision of cockpit module assembly services (in one of the […] tenders where no rivals are recorded, the Parties' bidding data indicate that the OEM organising the tender also participated in the tender process). Of those […] tenders, […] had three participants, […] had four participants, and […] had two participants; and

(e) Finally, the data set includes […] tenders where a supplier was nominated, […] tenders that are ongoing, and one cancelled tender.

(67) The bidding data submitted by the Notifying Party is consistent with the claims that (i) […] is SAS' largest rival, and (ii) SMRP's participation in tenders is limited, [SMRP's tender strategy]. On the basis of the Parties' bidding data, therefore, it would seem that SAS and SMRP are not close competitors and that SMRP's presence as an external provider of cockpit module assembly services is not particularly important to the competitive process.

(68) However, to complete the Parties' bidding data, the Commission requested from third parties complementary bidding data on the participation in tenders for cockpit module assembly services. In the third-party data collected, regarding tenders since 2018 to June 2023, the Commission notes that:

(a) One rival cockpit module assembly service provider confirms that it participated in approximately half of the tenders in which it was identified in the Parties' bidding data (no ongoing tenders were included). The rival's bidding data (i) confirms SAS participated in all the tenders, (ii) confirms that most tenders had three or four participants, (iii) identifies other participants to the same tenders that are consistent with the Parties' bidding data, (iv) shows that this rival cockpit module assembly service provider participates in tenders for the assembly of cockpits in multiple locations, and (v) does not identify SMRP as having participated in any of the tenders.[96]

(b) Another rival cockpit module assembly service provider, that is not mentioned in the Parties' bidding data, confirms its participation in six tenders, all for a specific OEM. The data includes a tender in which,

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95 The fact that the Parties' bidding data does not identify rival cockpit module assembly services providers does not mean that SAS did not face competition for a specific tender, rather that it was unable to identify the competitors in question.

96 Non-confidential version of the response from a rival provider of cockpit module assembly services to question D.11 of the eRFI to Competitors. Of note, this rival does not identify SMRP as having participated in a tender in which it competed against both SAS and SMRP.

according to the Parties' bidding data, both SMRP and SAS participated. Further, the data indicates that the majority of the tenders in which this rival cockpit module assembly service provider participated were for a single plant of the OEM in question. Finally, the data shows that this provider of cockpit module assembly services continues to participate in tenders, although it has had no success to date.[97]

(c) Another rival cockpit module assembly service provider provided a more limited data set. Therein, this rival identifies its participation in a tender that figures in the Parties' bidding data, but in which this rival is not identified as having participated. Conversely, this rival's data set does not refer to its participation in two ongoing tenders where this rival is identified in the Parties' bidding data.[98]

(69) The Commission observes that although the data collected in the market investigation does not cover the entirety of the cockpit module assembly service market, it is consistent with the Parties' data in the following conclusions: (i) OEMs typically invite several candidates to their tender procedures, (ii) a rival cockpit module assembly service provider other than SMRP is SAS' closest rival, and (iii) SMRP is not among those providers of cockpit module assembly services that participate in multiple tenders across the EEA, which in turn makes it a more distant competitor to SAS than other rivals. Further, the third-party data sets from the market investigation also show more sources of competition to the Parties than those reflected in the Parties' own bidding data.

(70) *Second*, to complement the findings from the bidding data, the Commission requested qualitative data regarding the tender procedures and SMRP's position as a cockpit module service provider from participants to the market investigation. The responses from the market investigation confirm the findings from the bidding data assessed above.

(71) In the first place, OEMs confirmed that, unlike SAS, SMRP is not among the most credible cockpit module assembly service providers: whereas most respondents considered SAS as the most credible player in this market,[99] the OEM that identified SMRP as a credible service provider considered it behind other cockpit module assembly service providers (namely Brose Sitech and HBPO).[100] Most OEMs noted they were unaware that SMRP is active as a cockpit module assembler.[101] This is likely because SMRP's activities as a provider of cockpit module assembly services are limited to a single OEM plant, in […] (SMRP has not participated in that same OEM's tenders elsewhere, with the exception of a tender in […]), and [SMRP's business strategy].[102] The market investigation therefore indicates that SAS and SMRP are not close competitors and that SMRP's role in the competitive process is limited.

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97 Non-confidential version of the response from a rival cockpit module assembly service provider to question D.11 of the eRFI to Competitors.

98 Non-confidential version of the response from a rival cockpit module assembly service provider to question D.11 of the eRFI to Competitors.

99 Non-confidential version of the responses to question D.2 of the eRFI to Customers.

100 Non-confidential version of the response from an OEM to question D.2 of the eRFI to Customers.

101 Non-confidential version of the responses to question D.5 of the eRFI to Customers.

102 See paragraph (84) below.

(72) In the second place, OEMs confirmed that they typically send RFQs to more than three potential cockpit module assembly service providers,[103] and most OEMs mentioned that the number of respondents is the same as the number of cockpit module assembly service providers invited to a tender.[104] This confirms that, as noted above, despite SAS' success in the market, OEMs invite an appreciable number of candidates and that potential cockpit module assembly service providers respond to OEMs' requests, ensuring that there is competition in each new tender.

(73) *Third*, SAS' internal documents created prior to the Transaction confirm the view that SMRP is not a particularly active rival. The documents also confirm that the field of competitors is relatively large. In a document titled [SAS' internal document with strategic business information],[105] [SAS' internal document with strategic business information]."[106] The same document identifies other rivals in the EEA such as […].[107] The terms in which these rivals are referred to seem to reflect that SAS views them as stronger rivals than SMRP. For example, [SAS' internal document with strategic business information].[108] In a similar document from SAS, titled [SAS' internal document with strategic business information], SAS identifies […] as its "*Main Competitors*," and […] as its potential "*Challengers*."[109] In this presentation, although SMRP is identified as a competitor, only […] are subject to an in-depth assessment of the challenge they pose to SAS' business.[110]

(74) The Commission concludes that according to (i) the Parties' bidding data, (ii) the qualitative data collected from the market investigation, and (iii) internal SAS' documents, the Parties are not close competitors and SMRP exercises a limited constraint on SAS.

5.5. Barriers to entry or expansion

5.5.1. *The Notifying Party's views*

(75) The Notifying Party asserts that, in addition to the established providers of cockpit module assembly services, the merged entity will face a significant competitive constraint from potential rivals that do business outside the EEA and from suppliers active in other fields of module assembly such as "*global interior players with significant cockpit assembly business outside the EEA (*[…]*) that have the capabilities and are expected to expand into Europe in the coming years*".[111] Further, the Notifying Party notes that "[m]*ost third-party assemblers are also producers of core components of cockpit modules for OEMs and therefore have the necessary cockpit module know-how and customer relations required to offer competing assembly services to OEM customers in Europe*."[112] According to the Notifying Party, due to the absence of technological or regulatory barriers, "*all assembly providers have the necessary logistics know-how ranging from bringing parts from the mandated supplier to the cockpit assemble line and internal parts*

103 Non-confidential version of the responses to question D.3 of the eRFI to Customers.
104 Non-confidential version of the responses to question D.4 of the eRFI to Customers.
105 Form CO, Annex 5.4(iv), p. 28.
106 Form CO, Annex 5.4(iv), p. 42.
107 *Ibid*.
108 *Ibid*.
109 Form CO, Annex 5.4(vi), p. 17.
110 Form CO, Annex 5.4(vi), pp. 19-28.
111 Form CO, paragraph 137, 154, 156.
112 Form CO, paragraph 139.

management to bringing the final module to the assembly line."[113] In addition, "*logistics providers (such as* […]*) have the capability of engaging in cockpit assembly services*."[114]

(76) The Notifying Party identifies […] as an example of the ability to enter disruptively in the market, leveraging on the fact that […].[115] The Notifying Party cites […]'s entry, as well as […] and […], as examples of a recent increase in competition. The Notifying Party also indicates that the Commission found, in case M.9730 – *FCA/PSA*, that all OEMs have the ability "*to sponsor the entry of an alternative supplier of cockpit assembly services*."[116] The Notifying Party further notes that having "*a pre-existing cockpit assembly plant with one OEM can be useful when such OEM determines the cockpit assembler for a new programme*,"[117] as OEMs often award to new or recent entrants such as […] or […] cockpit assembly in such programmes.

(77) Finally, the Notifying Party asserts that any "*financial risks related to market entry are limited since the duration of a cockpit assembly contract (typically between five and ten years) ensures that investment costs are fully amortised well before the expiry of the contract*."[118]

5.5.2. *The Commission's assessment*

(78) The Commission considers that actual and potential suppliers can be nominated by OEMs and have the conditions to start supplying OEMs – in sufficient scale and in a timely manner –, exerting a sufficient competitive constraint over the merged entity. This is particularly the case because, with each new tender, OEMs promote competition for the market. This is for the following reasons.

(79) *First*, the nature of the cockpit module assembly work required by OEMs is such that it is relatively easy for OEMs to sponsor entry or the expansion from existing or potential providers of cockpit module assembly services.

(80) In the first place, the market investigation confirmed that cockpit module assembly services are not particularly differentiated: all OEMs stated that the scope of work required from external service providers is the same, or mostly the same, as the work undertaken by their in-house divisions;[119] and half of rival cockpit module assembly providers stated that the scope of the cockpit module assembly services they provide do not vary substantially between OEMs.[120] In a context of non-differentiated services, it is easier for an OEM to replace one supplier by another at the end of a given programme. As competition is taking place for the market – *i.e.*, through tenders that award large volume contracts that span multiple years (as noted in paragraph (57) above) – the non-differentiated nature of cockpit module assembly services enables rivals that are either not present, or have small market shares, to place significant competitive pressure on established cockpit module assembly services providers.

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113 Form CO, paragraph 155.
114 Form CO, paragraph 157.
115 Form CO, paragraphs 138, 160.
116 See decision in case M.9730 – FCA/PSA, paragraph 1820.
117 Form CO, paragraph 156.
118 Form CO, paragraph 159.
119 Non-confidential version of the responses to question B.11 of the eRFI to Customers.
120 Non-confidential version of the responses to question B.10 of the eRFI to Competitors.

(81) In the second place, the market investigation confirmed that OEMs are able to invite to their cockpit module assembly tenders a large number of potential service providers: potential cockpit module assemblers (i) are not required to have a presence next to the OEM plant in question (they can set up their own facilities before the start of production of a vehicle),[121] and (ii) are not constrained in their capacity to expand their output to assemble cockpits for additional OEMs,[122] as it is a pure service-based activity. This, in turn, explains that OEMs' tenders have several participants, as per paragraph (72) above, despite SAS' success relative to its rivals. It follows that the nature of the market is such that the benefits of scale typically associated with large market shares are less meaningful: as competition is taking place for those large volume contracts (*i.e.*, for the market), small or potential entrants have the ability to place a significant competitive constraint on established cockpit module assembly services providers.

(82) In the third place, the market investigation confirmed that OEMs could invite companies that are active in the assembly of other types of modules (such as front-end modules or centre console modules), or that have expertise in logistics, to participate in their tenders as potential suppliers of cockpit module assembly services.[123] OEMs therefore can sponsor the entry of potential suppliers and, by doing so, place a competitive constraint on existing suppliers.

(83) *Second*, several companies have recently entered the cockpit module assembly services market, despite its already relatively large number of active players. As noted above, Brose Sitech is a very recent entrant in this field.[124] HBPO entered the cockpit module market recently as well, in 2019.[125] Other cockpit module assemblers that currently do not have any sales, but have participated in several tenders, include *inter alia* Grupo Sese.[126] These entrants illustrate the fact that it is not particularly difficult to enter the cockpit module assembly market, and/or that it is equally feasible for companies without sales or track record in this specific activity to participate in the tenders organised by OEMs and place a competitive constraint on existing service providers.

(84) *Third*, the Commission analysed certain contemporaneous internal documents from the Parties that confirm that (i) OEMs play a role in sponsoring entry or expansion, and (ii) SAS viewed a wide array of rivals, in particular companies specialised in logistics, as potential rivals. [Details on SMRP's tender strategy].[127] [Details on SMRP's tender strategy].[128]

(85) With respect to potential rivals, an internal SAS presentation [SAS' internal document with strategic business information][129] identifies as the [SAS' internal document with strategic business information].[130]

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121 Non-confidential version of the responses to questions C.4 and C.6 of the eRFI to Customers, and to question C.4 of the eRFI to Competitors.

122 Non-confidential version of the responses to question D.12 of the eRFI to Competitors.

123 Non-confidential version of the responses to question D.13 of the eRFI to Customers.

124 See footnote 84 above.

125 See non-confidential version of the minutes of the pre-notification meeting of 14 May 2023, paragraph 2.

126 See non-confidential version of the response to question D.11 of the eRFI to Competitors.

127 See Form CO, Annex 5.4(x).

128 Form CO, paragraph 140.

129 Form CO, Annex 5.4(vii), p. 38.

130 Form CO, Annex 5.4(vii), p. 148.

(86) The Commission concludes, therefore, that (i) the nature of cockpit module assembly services is such that there are limited barriers to switching, to entry and to expansion, (ii) OEMs have successfully made use of such low barriers to promote entry, by nominating recent entrants to cockpit module assembly and/or actively promoting participation in their tenders (such as that of HBPO, Brose Sitech, and Grupo Sese), and (iii) established suppliers such as SAS view a wide range of current and potential rivals as constraining their businesses. Despite their high combined market shares, following the Transaction the Parties are likely to be constrained by several sources of actual or potential competition.

5.6. Countervailing buyer power

5.6.1. *The Notifying Party's views*

(87) The Notifying Party submits that OEMs have the ability to exercise sufficient countervailing buyer power, such that OEMs are able to counter any hypothetical increase in market power resulting from the Transaction. *First*, the Notifying Party claims that OEMs can credibly threaten to insource cockpit module assembly in the two following manners: in the first place, "*an assembler faces competition from the OEM's in-house assembly and must remain cost-competitive against it in order to ultimately convince the OEM to award the tender*;"[131] in the second place, because external providers of cockpit module assembly services are in "*regular talks and negotiations with OEMs to convince them to outsource the assembly of cockpits that are currently still being assembled in-house*".[132]

(88) *Second*, the Notifying Party submits that the large majority of cockpit modules are assembled by OEMs and that "*the sourcing of assembly services from third parties is therefore easily substitutable (and regularly substituted) by the OEM's in-house assembly lines.*" The Notifying Party cites the example of two plants in […] for which […] switched from outsourced cockpit assembly to in-house assembly in 2020. Furthermore, the Notifying Party mentions two examples where OEMs have issued RFQs for cockpit assembly but ultimately decided against outsourcing. [133]

(89) *Third*, the Notifying Party claims that the Parties' cockpit assembly customers are among the largest multinational automotive groups, with "*a global presence and numerous manufacturing locations, with experienced design teams and powerful procurement departments, allowing them to exercise significant power in commercial negotiations*."[134]

(90) *Fourth*, the Notifying Party submits that OEMs have a clear visibility on costs and margins of their assemblers as they assemble cockpits in-house and regularly work with several assemblers across the EEA, giving OEMs "*strong advantages in the negotiation process."*[135]

5.6.2. *The Commission's assessment*

(91) As noted above in paragraph (60), the Commission notes that most OEMs' use of external cockpit assembly services is small: [20-30]% of cockpits (or [20-30]% if

131 Form CO, paragraph 124.
132 *Ibid*.
133 Form CO, paragraphs 131-135, 162.
134 Form CO, paragraph 163.
135 Form CO, paragraph 165.

Mobis is regarded as active in the merchant market) are assembled by external providers of cockpit module assembly services. The market investigation confirmed these findings.[136] Further, all respondents to the market investigation that outsource at least partially cockpit assembly confirmed that they carry out "make or buy" studies at least sometimes, with half of the respondents indicating they typically carry out such studies when deciding whether to assemble cockpits in-house or to outsource the assembly.[137] A majority of OEMs outsourcing cockpit assembly indicated that they would consider increasing their in-house capacity of cockpit module assembly if they would receive quotations with high prices. There is some evidence of OEMs switching from outsourced cockpit assembly to in-house assembly: […] (2019/2020), […] (2016-2019), […] (2016) and […] (2016).[138] These elements suggest that, depending on each OEM's plant specific constraints in terms of space and costs, OEMs could credibly threaten to resort to in-house assembly in the event of a hypothetical price increase.

(92) The Commission further notes the high degree of visibility that OEMs have on the cost structures of providers of cockpit module assembly services: in the market investigation, all responding providers of cockpit module assembly services indicated that they have to provide a high level of detail on their costs and margins when replying to RFQs. For example, one respondent replied that "[f]*or each assembly offer, a cost break down must be submitted explaining each of the concepts down to the smallest detail*."[139] Furthermore, because they also assemble cockpit modules in-house and, in their "make or buy" decisions, OEMs make in-depth analyses of the costs and benefits of outsourcing cockpit module assembly, OEMs are in a privileged position to understand and assess the costs that external providers of cockpit module assembly services submit as part of the tendering processes. This high transparency regarding costs and margins suggests that OEMs could quickly become aware of a potential price increase, to which they could respond – either by switching supplier or moving to or increasing in-house assembly.

(93) In addition, several providers of cockpit module assembly services indicated during pre-notification contacts that OEMs' ability to promote competitive outcomes is reflected as well in the fact that tenders for cockpit assembly include several rounds of negotiation where OEMs push for better prices. One provider of cockpit module assembly services indicated that "[a]*fter the suppliers submit their quotes, they* [OEMs] *will normally go back and forth and negotiate with the OEMs and sometimes there are up to 4-5 rounds of quotations*."[140] Another submitted that "*OEMs very often exercise pressure if they are not satisfied with the price quotes they receive from third-party suppliers. OEMs have target prices and try to drive down suppliers' prices to their cost objective. OEMs often "cherry pick" prices from different third-party suppliers and transmit input on the quotations they received from other suppliers (development costs, logistics, packaging, etc)*."[141]

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136 Non-confidential version of the responses to questions D.1 of eRFI to Customers.

137 Non-confidential version of the responses to questions B.8 and B.9 of eRFI to Customers.

138 Form CO, paragraph 88 and non-confidential version of an OEM's response to question B.15 of the eRFI to Customers.

139 Non-confidential version of the responses to questions D.7 and D.8 of the eRFI to Competitors.

140 Non-confidential version of the minutes of the meeting with a Competitor of 11 May 2023, paragraph 15.

141 Non-confidential version of the minutes of the meeting with a Competitor of 13 June 2023, paragraph 13.

(94) Finally, as can be seen in Table 3 and Table 4 below, demand for cockpit module assembly services is very concentrated, with […] representing [60-70]% of overall demand in the EEA (or [70-80]%, if Mobis is considered an in-house provider of cockpit module assembly services), and each OEM representing a significant share of each external suppliers' sales.

Table 3 – Purchasing shares of OEMs for cockpit assembly services (2022)

OEM	Units	%	% (excluding Mobis)
BMW	[…]	[…]	[…]
Mercedes	[…]	[…]	[…]
Fisker	[…]	[…]	[…]
Ford	[…]	[…]	[…]
Hyundai/Kia	[…]	[…]	
JLR	[…]	[…]	[…]
Stellantis	[…]	[…]	[…]
Tesla	[…]	[…]	[…]
Toyota	[…]	[…]	[…]
Volkswagen	[…]	[…]	[…]
Volvo	[…]	[…]	[…]
Total	[…]	100%	
Total (excl. Hyundai)	[…]		100%

Source: Annex 8.7 of the Form CO (based on modified IHS data)

Table 4 – Share of each OEM in the sales of external cockpit assembly suppliers (2022)

	Dräxlmaier	HBPO	IAC	Grupo Antolin	Mobis	SAS	Brose-Sitech	SMRP
BMW	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Mercedes	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Fisker	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Ford	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Hyundai / Kia	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
JLR	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Stellantis	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Tesla	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Toyota	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Volkswagen	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]
Volvo	[…]	[…]	[…]	[…]	[…]	[…]	[…]	[…]

Source: Annex 8.7 of the Form CO (based on modified IHS data)

(95) Because demand for external cockpit assembly services is very concentrated – *e.g.*, […] accounting for [70-80]% of SAS' cockpit assembly activities, [90-100]% of SMRP's and […]'s activities, and [60-70]/[70-80]% of overall demand for cockpit assembly – the sales of providers of cockpit module assembly services appear to be particularly sensitive to any one customer, which reinforces these customers' bargaining power.

(96) In view of the above elements and, in particular, the specificities of the cockpit assembly market, OEMs can be considered to have a certain degree of countervailing buyer power.

5.7. Conclusion on non-coordinated horizontal effects

(97) In light of the above, the Commission considers that the Transaction is unlikely to give rise to horizontal non-coordinated effects that would significantly impede effective competition, in particular as a result of the creation or strengthening of a dominant position, in the market for the supply of cockpit assembly services in the EEA. In particular, in the Commission's view, the evidence available suggests that (i) the Parties' high combined market shares and the corresponding levels of concentration of the Transaction do not reflect the Parties' ability to exercise market power, (ii) the Parties are not close competitors and, as such, SMRP exercises a limited constraint on SAS, (iii) rival providers of cockpit module assembly services play a competitive role that is significantly more important than is suggested by their market shares, (iv) there are limited barriers to switching and to entry, as is evidenced by the recent entry of new cockpit assemblers, and (v) OEMs can be considered to have a certain degree of countervailing buyer power.

(98) These findings are consistent with the views received during the market investigation. The majority of respondent competitors and OEMs stated that the Transaction will lead to no or to only a limited impact on the competitive situation on the market for the provision of cockpit modules assembly services or any other market.[142] In particular, the majority of OEMs indicated that the Transaction will not negatively impact the quotations received for cockpit assembly services, as sufficient competitors will remain in the market.[143] The Commission therefore concludes that the Transaction does not raise serious doubts as to its compatibility with the internal market or the functioning of the EEA Agreement.

6. CONCLUSION

(99) For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation and Article 57 of the EEA Agreement.

For the Commission

(Signed)
Margrethe VESTAGER
Executive Vice-President

142 Non-confidential version of the responses to questions E.1-E.4 of the eRFI to Competitors and of the eRFI to Customers.

143 Non-confidential version of the responses to question E.5 of the eRFI to Customers.