EUROPEAN COMMISSION

Brussels, 25.10.2021
C(2021) 7822 final

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 Where possible the information omitted has been replaced by ranges of figures or a general description.

FIH Mobile Limited
West Road 802, P.O. Box 31119
Grand Pavilion, Hibiscus Way
Grand Cayman KY1-1205
Cayman Islands

Stellantis N.V.
Singaporestraat 92-100
P7 1175 RA Lijnden
The Netherlands

Subject: **Case M.10416 – STELLANTIS/FIH/JV**
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 20 September 2021, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which Stellantis N.V. ('Stellantis', the Netherlands) and FIH Mobile Limited ('FIH', Cayman Islands), will

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').

Commission européenne, DG COMP MERGER REGISTRY, 1049 Bruxelles, BELGIQUE
Europese Commissie, DG COMP MERGER REGISTRY, 1049 Brussel, BELGIË

Tel: +32 229-91111. Fax: +32 229-64301. E-mail: COMP-MERGER-REGISTRY@ec.europa.eu.

acquire within the meaning of Article 3(1)(b) and 3(4) of the Merger Regulation joint control over Mobile Drive Netherlands B.V. (the "JV", the Netherlands), a newly created joint venture (the "proposed transaction")[3]. Stellantis and FIH are designated hereinafter as the 'notifying parties' or 'parties' to the proposed transaction.

1. THE PARTIES

(2) Stellantis is a global automotive group active in designing, engineering, manufacturing, distributing and selling automotive vehicles, components and production systems worldwide.

(3) FIH is principally active globally in design, development, manufacturing, assembly and after-sales services for computer, communications and consumers electronics companies. FIH is ultimately controlled by Hon Hai Precision Industry Co. Ltd (Taiwan).

(4) The JV will develop digital cockpits and personalised connected services and aims to accelerate go-to-market timelines for advanced in-car and connected-car technologies.

2. THE OPERATION

(5) […]* pursuant to which each of them will hold 50% of the shares of the JV. Each party will also have equal representation at the board of directors. The resolutions of the board – including the business plan and the operating budget of the JV – require the affirmative vote of at least one director appointed by each party, which means that, as a matter of principle, each party can veto matters requiring the approval of the board. As a result, the JV will be jointly controlled within the meaning of the Merger Regulation.[4]

(6) The JV will have all the resources necessary to operate independently on the market. In particular, it will have its own management dedicated to the JV's day-to-day operations, its own staff remunerated directly by the JV, access to third-party financing and all assets required to carry out its activities. Moreover, the JV will carry out its own activities and directly face the market. Furthermore, the JV will be operating on a long-lasting basis independently on the market as it is the Parties' intention that the JV's term shall be of […] from the date of its incorporation, […] upon mutual agreement between the Parties. Therefore, the JV will be full functional within the meaning of the Merger Regulation.[5]

3. THE CONCENTRATION

(7) The proposed transaction concerns the creation of a joint venture performing on a lasting basis all the functions of an autonomous economic entity, and will be jointly

---

3 Publication in the Official Journal of the European Union No C 393, 29.09.2021, p. 12.

* Should read: "Stellantis and FIH signed on 18 May 2021 a Framework Cooperation Agreement and on 24 August 2021 a Joint Venture Agreement".

4 Form CO, paragraphs 34 and following. […].

5 Form CO, paragraphs 42 to 63.

controlled by the Notifying Parties within the meaning of Article 3(1)(b) and 3(4) of the EU Merger Regulation.

4. UNION DIMENSION

(8) The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million [Stellantis: EUR 134 202 million; FIH: EUR 158 662 million][6]. Stellantis and FIH each has a Union-wide turnover in excess of EUR 250 million [Stellantis: EUR […]; FIH: EUR […]], but they do not achieve more than two-thirds of their aggregate Union-wide turnover within one and the same Member State. The notified operation therefore has a Union dimension.

5. RELEVANT MARKETS

(9) The JV will be active in the markets for driver information systems and cloud computing services, which are for integration in vehicles. Therefore, the JV's activities can be considered as situated upstream from the production of vehicles, a market where Stellantis is present.[7]

5.1. The market for driver information systems

(10) The supply of driver information systems relates to the integration of in-vehicle information and entertainment functions and/or devices. It includes displays, in-vehicle infotainment ("IVI") hardware required for the integration into a vehicle (frames, sensors, etc.) and IVI software required to operate the displays.

(11) The Notifying Parties submit that the precise market delineation can be left open.

(12) In the past, the Commission distinguished the following potential product markets within driver information systems: (a) instrument clusters; (b) information displays; (c) infotainment systems, and (d) connectivity systems.[8]

(13) In its past decisional practice, the Commission has acknowledged that the geographic market for the manufacture and supply of automotive parts is at least EEA-wide and potentially worldwide.[9]

(14) The Commission considers that the exact market definition can be left open since the Transaction does not give rise to competition concerns under any plausible market definition.

---

6 Turnover calculated in accordance with Article 5 of the Merger Regulation.

7 The JV's activities would also be situated downstream from the electronic manufacturing services markets, where FIH operates. However, FIH's share in those markets is lower than 30% under any plausible market definition, so that vertical link does not give rise to any affected markets.

8 M.7182 - Visteon Corporation / Automotive Electronics Business of Johnson Controls (2014).

9 See for instance decisions in Case M.7182 - Visteon Corporation / Automotive Electronics Business of Johnson Controls, paragraphs 49-54, Case M.6714 - U-Shin / Valeo CAM (2013), paragraphs 27-32.

5.2. The market for cloud computing

(15) Cloud computing allows organisations to outsource their computing needs to third-party service providers. Customers that decide to deploy workloads in the cloud can choose from a wide range of services that enable them to manage autonomously to a greater or lesser extent the computing environment. IaaS ("Infrastructure-as-a-Service") and PaaS ("Platform-as-a-Service") are two different forms of cloud computing services offering a "stack" of hardware and software components/functionalities on-demand to customers.

(16) The Notifying Parties submit that the precise market delineation can be left open.

(17) In past decisions, the Commission considered the following potential distinctions within IT outsourcing services: (a) public cloud computing services, (b) IaaS, (c) infrastructure outsourcing services, and (d) application outsourcing services. However, the Commission ultimately left the product market definition open.[10]

(18) In past decisions, the Commission left open whether the geographic scope of the market was EEA wide or worldwide.[11]

(19) During the market investigation, providers of cloud computing services confirmed that these services are provided without distinction to customers active in a wide range of industries.[12]

(20) The Commission considers that the exact market definition can be left open since the Transaction does not give rise to competition concerns under any plausible market definition.

5.3. The markets for the manufacture and supply of passenger cars and LCVs

(21) The Commission has traditionally distinguished between the manufacture and supply of (i) passenger cars and of (ii) light commercial vehicles (LCVs). With respect to passenger cars, the Commission considers a potential sub-segmentation between (A) mini cars; (B) small cars; (C) medium cars; (D) large cars; (E) executive cars; (F) luxury cars; (S) sports cars and (M) multi-purpose cars.[13] With respect to LCVs, the Commission recently distinguished between small, medium and large LCVs.[14]

(22) In terms of geographical dimension, the Commission considers that these markets are rather national in scope,[15] while acknowledging that "*market shares at EEA level*

---

10 Case M.8994 – Microsoft / Github (2018), paragraph 61; Case M.7458 – IBM / INF Business of Deutsche Lufthansa (2014), paragraph 20; Case M.8180 –Verizon / Yahoo (2016), paragraph 72.

11 Case M.8994 – Microsoft / Github (2018), paragraph 64; Case M.7458 – IBM / INF Business of Deutsche Lufthansa (2014), paragraphs 30-32; Case M.8180 – Verizon / Yahoo (2016), paragraph 75.

12 See replies to question 7 of the Commission requests for information sent to providers of cloud computing services on 20 September 2021.

13 See for instance Case M.8449 - Peugeot / Opel (2017), paragraph 11; Case M.5518 - Fiat / Chrysler (2009), paragraph 12; Case M.5219 - VWAG / OFH / VWGI (2008), paragraph 8; Case M.5250 - Porsche / Volkswagen (2008), paragraph 18.

14 Case M.9730 – FCA / PSA (2020).

15 Case M.9730 – FCA / PSA (2020), paragraphs 159 and 1104.

provide a useful insight on the position of the different OEMs on the supply side of the distribution chain, which is a necessary component in order to assess market power".[16]

(23) The Notifying Parties agree with the Commission's decisional practice.

(24) The Commission does not see any reason to depart from its decisional practice.

6. COMPETITIVE ASSESSMENT: VERTICAL EFFECTS

(25) The JV is active in the development and supply to OEMs of driver information systems and cloud computing solutions for passenger cars and LCVs. Stellantis is active in the manufacturing and sale of passenger cars and LCVs in national markets across the EEA, in many of them with market shares exceeding 30%. Therefore, this vertical link gives rise to the following vertically affected markets: (i) upstream, the (global or EEA) markets for the development of driver information systems and cloud computing solutions; (ii) downstream, the national markets for the manufacturing and sale of passenger cars and LCVs.

(26) According to the Commission's Guidelines on the assessment of non-horizontal mergers under the Council Regulation on the control of concentrations between undertakings ('Non-horizontal Merger Guidelines'), foreclosure effects may occur where actual or potential rivals' access to supplies or markets is hampered or eliminated as a result of the merger, thereby reducing these companies' ability and/or incentive to compete.[17]

(27) In assessing the likelihood of an anticompetitive customer foreclosure scenario, the Commission examines, first, whether the merged entity would have the ability to foreclose access to downstream markets by reducing its purchases from its upstream rivals, second, whether it would have the incentive to reduce its purchases upstream, and third, whether a foreclosure strategy would have a significant detrimental effect on consumers in the downstream market.[18]

(28) In assessing the likelihood of an anticompetitive input foreclosure scenario, the Commission examines, first, whether the merged entity would have, post-merger, the ability to substantially foreclose access to inputs, second, whether it would have the incentive to do so, and third, whether a foreclosure strategy would have a significant detrimental effect on competition downstream.[19]

6.1. The notifying parties' views

(29) As regards input foreclosure, the notifying parties submit that the JV will have no ability to foreclose access to advanced driver information systems or cloud computing solutions post-Transaction since this activity will be newly created for the JV, which therefore has a 0% market share in these markets and will face other strong competitors.[20] Moreover, the notifying parties state that the JV will have no incentive to

16 Case M.9730 – FCA / PSA (2020), paragraph 161.
17 Non-horizontal Merger Guidelines, paragraph 18.
18 Non-horizontal Merger Guidelines, paragraph 59.
19 Non-horizontal Merger Guidelines, paragraph 32.
20 See Form CO, paragraphs 145-151.

foreclose the market, first, because that would mean for the JV to miss new business opportunities with other OEMs than Stellantis when there are many strong players providing similar services, second, because it stems from the agreements signed by the parties that their intention is that the JV develops their business also for third party OEMs, and third because FIH, not being present in the downstream markets, would have nothing to gain from any foreclosure strategy.[21]

(30) As regards customer foreclosure, the notifying parties consider that Stellantis will have no ability to foreclose the downstream market given that, first, it has a limited share at worldwide and EEA level in the manufacturing and sale of passenger cars and LCVs, and an equally or even more limited share of purchase for driver purchasing systems and cloud computing services, and second, it faces the competition of other strong worldwide players in the downstream markets. The notifying parties also submit that Stellantis will have no incentive to foreclose the downstream market and that there is no reason why Stellantis will not put the JV in competition with other suppliers.[22]

6.2. The Commission's assessment

(31) Based on the information provided by the notifying parties and the results of the market investigation, the Commission agrees with the notifying parties that the proposed transaction is unlikely to raise serious doubts as to its compatibility with the internal market with respect to these vertical relationships.

6.2.1. Input foreclosure

(32) The Commission notes that the JV will be a new player in the development and supply of driver information systems and cloud computing solutions, and that therefore it currently has a market share of 0%, regardless of how the markets are defined.[23] This means that, a priory, the proposed transaction will be procompetitive. In fact, as a result of the transaction, the OEMs will be able to count with one additional supplier of driver information systems and cloud computing services. Even if the JV were to restrict the sales of its products to Stellantis' competitors in the downstream market, they would still have available the same potential suppliers as they had pre-transaction.[24] Therefore, the parties have no ability to foreclose access to advanced driver information systems or cloud computing solutions to OEMs competing with Stellantis in the downstream market. This has been confirmed during the market investigation, where the competing OEMs consulted indicated that if the JV were to supply its driver information services and cloud computing solutions only to Stellantis, there would there be sufficient credible alternative players to satisfy their needs of those products.[25]

---

21 See Form CO, paragraphs 158-160.

22 Form CO, paragraphs 162-176.

23 Moreover, the notifying parties estimate the market share of the JV in the next foreseeable future to be also limited (less than 10% in driving information systems and less than [0-5]% in cloud computing solutions in the first three to five years following the creation of the JV).

24 The main competitors in the driver information system would be Bosch, Panasonic, Continental, LG, Faurecia and Samsung. The main competitors for cloud computing services are Amazon, Google, Microsoft Azure, Alibaba and Samsung.

25 See replies to question 3 of the Commission requests for information sent to OEMs on 20 September 2021.

6.2.2. Customer foreclosure

(33) Stellantis is present in the national markets for the manufacturing and sale of passenger cars and LCVs in the EEA, in some cases with high market shares.[26]

(34) The Commission considers, however, that in this case Stellantis' shares in the national markets for the sale of passenger cars and LCVs are not indicative of the parties' ability to foreclose access to the downstream market. The reason for this is that these shares do not reflect Stellantis' purchase power and therefore its ability to deprive the JV's customers from having access to a sufficiently large customer base.

(35) In this regard, the Commission has indicated that the geographic scope of the manufacture and sale of passenger cars LCVs is national. However, the Commission has also indicated that "*manufacturing of LCVs takes place in a centralised manner. From the production sites, OEMs ship and distribute their vehicles throughout the EEA and neighbouring countries through their own wholesalers or via importers. Importers purchase their vehicles from manufacturers located all around the EEA, regardless of the location of the production sites. Therefore, conditions for the wholesale supply of automotive vehicles take place mainly at EEA level. This means that competition at this level, which is reflected in the EEA-wide market shares, cannot be ignored when assessing the impact of the Proposed Transaction in each national market*."[27]

(36) Stellantis' share in the manufacture of passenger cars and LCVs in the EEA is [20-30]% and [5-10]% at worldwide level.[28] The Commission agrees with the notifying parties that EEA-wide shares offer a more reliable proxy of the ability of the parties to foreclose access to the downstream markets. The JV will offer its products and services to the OEMs, regardless of the countries in which the vehicles may ultimately be sold, and that the products offered by the JV are generally to be incorporated to all categories of passenger cars and LCVs. This is indeed consistent with the results of the market investigation, where all OEMs consulted by the Commission have confirmed that they source their driver information systems and their cloud computing services globally or regionally (e.g. EEA).[29] At the same time, all suppliers of driver information systems and cloud computing services were of the view that the markets for these two products are global and that OEMs source their products globally.[30] Moreover, the majority of OEMs also indicated that they purchase driver information services and cloud computing services for all types of motor vehicles that they manufacture.[31]

(37) In correspondence with their limited shares at EEA-level, Stellantis share of purchase of the products developed by the JV are also limited. In the case of driver information

---

26 In the case of passenger cars, its shares range between 0% and 99% depending on the specific product market and Member State, and in LCVs between 0% and 89%. See Form CO, Annexes 13 and 14.

27 Case M.9730 – FCA/PSA, paragraph 160. Emphasis added by the Commission.

28 Form CO, paragraph 166. The main compeittors at EEA-level are Volkswagen ([20-30]%), Renault Nissan ([10-20]%), Ford ([5-10]%), Daimler ([5-10]%), BMW ([5-10]%), Hyunday ([5-10]%) and Toyota ([5-10]%).

29 See replies to question 1 of the Commission requests for information sent to OEMs on 20 September 2021.

30 See replies to questions 2 and 3 of the Commission requests for information sent to suppliers of driver information systems and cloud computing services on 20 September 2021.

31 See replies to question 2 of the Commission requests for information sent to OEMs on 20 September 2021. Consistently, all except one of the driver information systems and cloud computing solutions providers that replied to the Commission indicated that they manufacture their products both for passenger cars and for LCVs.

systems, its share of purchase represents approximately [5-10]% of the worldwide demand and [20-30]% of the EEA demand.[32] As to cloud computing services, Stellantis' share of purchase is particularly low (less than [0-5]%), since cloud computing services are sold to numerous other economic activities different than motor vehicle manufacturing.[33] Consequently, given this limited share of purchase, it appears that there are sufficient economic alternatives in the downstream markets for the JV's rivals to sell their output. This has been corroborated in the market investigation, where all driver information system and cloud computing solution providers which replied to the Commission indicating that, even if Stellantis were to concentrate all its purchases of driver information services from the JV, they would have an alternative customer base.[34]

(38) Even if the parties' had the abilities to foreclose access to downstream rivals, the Commission considers that their incentive to do so would also be limited, not only because of their modest market position downstream and – particularly – upstream, but also because FIH would not enjoy the benefits of any higher prices that Stellantis could hypothetically apply in the downstream markets as a result of any foreclose strategy.[35]

(39) In view of the above, the Commission considers unlikely that the proposed transaction can lead to input or customer foreclosure and therefore that it can give rise to any vertical effects in the upstream markets or downstream affected markets.

7. CONCLUSION

(40) 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

---

32 Form CO, paragraph 167.

33 Form CO, paragraph 168. Cloud computing service providers have indeed explained in the market investigation that they can sell their products to customers other than OEMs active in the motor vehicle industry (see replies to question 7 of the Commission requests for information sent to suppliers of cloud computing services on 20 September 2021).

34 See replies to question 4 of the Commission requests for information sent to suppliers of driver information systems and cloud computing services on 20 September 2021.

35 In addition, Parties point to some internal documents which reflect their intention that the JV will competitive bid for contracts with Stellantis and that it will contract with Stellantis "at arm's length" to maintain a competitive pricing (see Form CO, paragraphs 174-175).