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NASDAQ STOCKHOLM'S

DECISION

2 February 2023

DISCIPLINARY COMMITTEE

2023:02

Nasdaq Stockholm

Bilia AB (publ)

DECISION

The Disciplinary Committee does not order any sanctions against Bilia AB.

Motion

The shares in Bilia AB ("Bilia" or the "Company") are admitted to trading on Nasdaq Stockholm (the "Exchange"). Bilia has signed an undertaking to comply with the Exchange's rules for issuers applicable from time to time (the "Rule Book").

The Exchange has argued that Bilia violated section 3.1.1 of the Rule Book by not publishing inside information as soon as possible. With reference to section 35 in Supplement D of the Rule Book, the Exchange has moved that the Disciplinary Committee evaluate the alleged violations of the Rule Book and impose an appropriate sanction.

Bilia has stipulated to the facts in the case.

A hearing in the matter was held before the Disciplinary Committee on 18 January 2023, at which the Exchange was represented by Head of Enforcement & Investigations Elias Skog, Senior Associate General Counsel Christine Malmberg, and Regulatory Compliance Specialist Tobias Ställborn. Bilia was represented by CFO Kristina Franzén, General Counsel Sofie Ecke, and *Advokat* Anders Strid.

Reasons for the decision

The Rule Book

Pursuant to section 3.1.1 of the Rule Book, an issuer shall disclose inside information in accordance with Article 17 of Regulation (EU) No. 596/2014 of the European Parliament and of the Council of 16 April 2014 (“MAR”).

Pursuant to Article 17 of MAR, an issuer shall inform the public as soon as possible of inside information which directly concerns the issuer in a manner which enables fast access and complete, correct and timely assessment of the information by the public.

According to Article 17(4) of MAR, an issuer may, on its own responsibility, delay disclosure to the public of inside information provided that:

- a) immediate disclosure is likely to prejudice the legitimate interests of the issuer;
- b) delay of disclosure is not likely to mislead the public; and
- c) the issuer is able to ensure the confidentiality of that information.

Considerations

On 23 November 2020 at 7:45 p.m., the Company published a press release with information that Volvo Cars had given notice of termination of the Company's dealer agreements in Sweden and Norway on 19 November 2020. The press release contained a reference that the information was of the type that the Company was obligated to make public pursuant to MAR and on the following trading day the Company's share price fell by more than 26 percent. On 1 October 2021, the Company issued a press release containing information that the Company had reached a new agreement with Volvo Cars, under which the Company would be permitted to conduct new car sales and service of Volvo cars at 44 locations but not otherwise.

Bilia has argued: Bilia received notice of termination by Volvo Cars of the dealer agreements for Sweden and Norway on the afternoon of Thursday, 19 November 2020. The notice of termination period was stated to be 24 months, which was the period stipulated in the agreements for notice of termination without cause. Bilia had not received any advance notice from Volvo Cars that there were any concerns about Bilia's handling of the authorizations or that Volvo Cars wanted any changes in the cooperation. Thus, the notice of termination came as a surprise to Bilia. Immediately upon receipt of the notice of termination, Bilia made a determination that the information regarding the notice of termination constituted inside information. Bilia immediately examined the issue of whether the inside information should be disclosed as soon as possible or whether there were reasons to delay disclosure under Article 17.4 of MAR. Bilia concluded that it was not likely that a delay in publication would mislead the public and that Bilia could ensure that the information about the termination remained confidential. Bilia was also able to conclude that there were two circumstances in which immediate disclosure would be likely to harm Bilia's legitimate interests. These two circumstances concerned, on the one hand, the uncertainty as to the financial consequences of Volvo Cars' notice of termination and the scope of the termination in the light of competition law rules and, on the other hand, the substantial uncertainty as to the meaning and intentions behind Volvo Cars' notice of termination and the need to clarify this through contacts with Volvo Cars.

Bilia started to investigate these issues on the day it received the notice of termination. A law firm was hired to investigate the meaning of the termination and its effect from a competition law perspective, and a dialogue was initiated with Volvo Cars' management to obtain clarification of Volvo Cars' position on continued cooperation with Bilia. The law firm's work

was carried out during the period 19-23 November 2020 and was completed on Monday, 23 November. Among other things, the investigation showed that, from a competition law perspective, Volvo Cars would not be able to deny Bilia entry into the service network in the event of a renewed application for authorization to carry out service workshop activities for Volvo cars. In a subsequent contact on the same day between the general counsel at Bilia and a corporate lawyer at Volvo Cars, the corporate lawyer at Volvo Cars indicated that he shared Bilia's understanding of the issue and that, in light of this, Volvo Cars was unlikely to deny Bilia access to the service network and that Bilia was welcome to re-apply for authorization, which Volvo Cars would, all else being equal, be obliged to grant. Consequently, in practice the termination only applied to new car sales of Volvo cars, which at the time accounted for approximately 5 percent of the operative operating profit of the Bilia Group, but not the service business, which accounted for 41 percent of the Group's operating profit. In addition, Bilia received information from Volvo Cars that it was open to the idea of continuing the cooperation in the sale and servicing of Volvo cars after the expiry of the notice of termination period despite the notice, and that the notice could in part be regarded as a notice to renegotiate. In light of the investigation and the dialogue with Volvo Car, Bilia issued the relevant press release on 23 November at 7:45 p.m., in which it now could be stated, *inter alia*, that Bilia intended "to continue with the service and damage operations [...] of the Volvo brand even after the two-year notice of termination period". "Bilia will apply for a renewed authorization for workshop services, which includes service and damage operations", "has initiated discussions about future cooperation with Volvo after the notice of termination period", and that Bilia "has had a long-term and developing cooperation with Volvo, we expect that going forward we can find forms of collaboration to jointly develop services that exceed our common customers' expectations and needs". The information provided in the press release was the information that was possible to make public at that time.

The Exchange has argued: According to the Exchange, it is only in exceptional cases that legitimate interests can be deemed to exist for an issuer to decide to delay disclosure of inside information concerning an event which not only may occur, but has in fact already occurred. The Exchange concludes that the notices of termination in question in this case - irrespective of whether they constituted a negotiation maneuver or could be called into question under competition law - indisputably constituted genuine and unilateral legal acts over which the Company had no control and which, as such, also would not be affected by the Company's competition law investigation unless Volvo Cars withdrew the notices of termination. The fact that under such circumstances the Company wanted to investigate the conditions under which Volvo Cars would be enticed to withdraw the notices of termination - or to enter into a new cooperation with the Company - cannot be deemed to have constituted a legitimate reason to delay publication in respect thereof. In this context, it is also noted that there is no evidence in the matter that indicates that the notices of termination were anything other than serious on the part of Volvo Cars. As a basis for its delay in disclosure of the notices of termination, the Company has further argued that the Company wanted to include in the disclosure information regarding the conclusions of its competition law investigation and the consequences that the notices of termination would have for the Company. However, the Exchange notes that the Company's publication on 23 November 2020 did not include any such information. In light of the above, it is the Exchange's assessment that the Company did not have legitimate reasons to delay disclosure of the notices of termination in question. In such circumstances, the Company was obliged to disclose information about the notices of termination as soon as possible. Since the Company's disclosure first took place four days after the inside information arose, this was not done as soon as possible. Accordingly the Company violated Article 17 of MAR and thus section 3.1.1 of the Rule Book.

Even if the Company were deemed to have had legitimate reasons to delay the disclosure of the notices of termination, the Exchange notes that the Company included disclosure of financial information for its sales of Volvo cars, but omitted such information regarding its service business. In the opinion of the Exchange, this cannot be deemed to have constituted a clarification of the financial consequences the notices of termination were deemed to have, and not to have, on the Company. The press release therefore did not enable a complete and correct assessment of the inside information in question as required by Article 17 of MAR. In any event, the Company thus breached section 3.1.1 of the Rule Book in this respect.

The *Disciplinary Committee* finds that in this case it is undisputed that the information concerning notice of termination by Volvo Cars of the cooperation agreement constituted inside information. As to whether Bilia had legitimate reasons to delay disclosure of the information, the Exchange has not argued that a delay in disclosure would mislead the public, or that Bilia could not ensure that the information would remain confidential during the period of delay. Consequently, the issue is whether immediate disclosure of the inside information would have been likely to prejudice legitimate interests of Bilia (Article 17.4 (a) of MAR).

In the opinion of the Disciplinary Committee, it is only in very exceptional cases that it can be deemed justified for an issuer to decide to delay publication of inside information concerning an event which not only may occur, but has in fact already occurred. As a starting point, this must also be deemed to apply in a case such as the present one, where an unforeseeable event occurs and the information regarding the event constitutes inside information. As a rule, in such a situation there is no scope for delaying the disclosure, other than in order to create some room for deliberation for a very limited period of time (cf. the Disciplinary Committee's statements in 2017:06, 2020:04 and 2022:05).

In the present case, however, the circumstances are special in that there was initially considerable uncertainty as to the precise meaning of the information which Bilia received, without any prior warning. The decision to delay disclosure following receipt of the notice of termination from Volvo Cars was thus taken in order to clarify whether the termination would affect only new car sales of Volvo cars, which accounted for approximately 5 percent of the Bilia Group's operating profit at the time, or also the service business, which accounted for 41 percent of the operating profit. On the same day that Bilia clarified that in practice the notice of termination would only apply to new car sales, the insider information in question was made public.

Thus, Bilia found itself in a situation where there were two possible ways of interpreting the information in question, with substantially different meanings for the Company and its financial instruments. According to the Disciplinary Committee, in such circumstances, the Company's assessment that immediate disclosure would have prejudiced the Company's legitimate interests may be accepted. The Disciplinary Committee attaches particular importance to the responsibility of Bilia, in the particular circumstances of this case, to disclose correct, relevant and clear information that was not likely to mislead the market. The Committee finds that an immediate disclosure of the information available to the Company on 19 November followed by a supplementary press release on 23 November would have risked creating uncertainty in the market, which would not have been consistent with the purpose behind Article 17 of MAR.

In light of this, the Disciplinary Committee's conclusion is that the Company's decision to delay the disclosure of the inside information in question under these particular circumstances is deemed to have been in compliance with Article 17 of MAR.

The Exchange has further argued that the press release published by the Company on 23 November 2020 did not allow for a complete and correct assessment of the inside information in question as required by Article 17 of MAR. The press release contained the information that Bilia had at the time regarding the scope and meaning of the notice of termination, financial information regarding new car sales, which was the part of the business Bilia considered to be affected by the termination, as well as the Company's forecast at the time regarding future cooperation with Volvo Cars and information that Bilia continued to expect to achieve its financial targets. Although, in the opinion of the Disciplinary Committee, the press release could advantageously have been more detailed with regard to the explanation of the financial effects of the notice of termination, the Disciplinary Committee does not find that the deficiency was so serious that the press release was drafted in direct violation of the Rule Book.

The Disciplinary Committee finds that Bilia acted in compliance with the Rule Book.

On behalf of the Disciplinary Committee,

A handwritten signature in blue ink, appearing to read 'Marianne Lundius', is shown within a light gray rectangular box.

Marianne Lundius

Former Justice Marianne Lundius, Justice Johan Danelius, former authorized public accountant Svante Forsberg, *Advokat* Wilhelm Lünig, and *Advokat* Magnus Lindstedt participated in the committee's decision.

Secretary: Associate Professor Erik Lidman