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Antitrust: Commission ensures carmakers give independent garages access to repair information

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Antitrust: Commission ensures carmakers give independent garages access to repair information

The European Commission has adopted four decisions that legally bind DaimlerChrysler, Toyota, General Motors and Fiat to commitments to provide technical information about car repairs to all independent garages in the EU. The decisions were adopted under Article 9(1) of Regulation 1/2003. The commitments were given after a Commission investigation found that inadequate access to the full range of technical information could drive independent repairers from the market and that the agreements between the carmakers and their authorised repairers would therefore infringe EC Treaty rules on restrictive business practices (Article 81). The resulting reduction in competition between car repairers could lead to less choice and higher prices for consumers: independent repairers are often cheaper than authorised outlets, sometimes by over 50%. In addition, if repairs were carried out without the right technical information, this could lead to vehicles being driven in an unsafe condition, and add to air pollution and wasted fuel. The commitments will be binding until the motor vehicle block exemption (Commission Regulation (EC) 1400/2002) expires in May 2010. By that time, the vehicle emissions regulation (Council Regulation (EC) 715/2007) will have entered into force. This places an obligation upon vehicle manufacturers to provide independent repairers with standardised access to all technical repair information.

Competition Commissioner Neelie Kroes said: "Consumers benefit from competition between repairers, through lower labour charges and cheaper spare parts. These decisions provide a concrete and timely solution to the problems faced by independent repairers, who might lose their ability to compete without access to the relevant technical information".

The protection of competition on the EU car repair and maintenance markets is one of the aims of the motor vehicle block exemption regulation (Commission Regulation (CE) 1400/2002). Independent repair outlets are important to European consumers, because they exert competitive pressure on the franchised networks. Studies have shown, for instance, that prices charged by authorised outlets in Germany are on average 16% higher than those billed by independent repairers, while in the UK, the difference for a typical service job between independents and some of the highest priced brands of franchised dealer can be more than 120%. These differences are all the more significant when one considers that over a car's lifetime, repair and maintenance costs as much as the first owner paid for the car.

Cars are becoming increasingly complex, and even basic repairs require qualified technicians with brand-specific technical information. The Commission's preliminary finding in all four cases was that the carmakers seem to have withheld certain technical information from independent repairers and have provided the rest in a way that does not meet their needs. These apparent inadequacies could force independent repairers from the markets, resulting in considerable consumer harm. Such behaviour is prohibited by Regulation 1400/2002, which provides that full and non-discriminatory access must be given in a manner proportionate to independent repairers' needs.

Background

Today's decisions are based on Article 9 of Council Regulation 1/2003 and follow in-depth investigations into the provision made by DaimlerChrysler, Toyota, General Motors and Fiat for making technical repair information available to independent operators and take into account the outcome of consultations on the commitments (see [IP/07/409](#)). The commitments made binding by the decisions are broadly similar and have three core elements.

The first of these clarifies the notion of technical information and provides that all such information provided to authorised repairers must also be made available to independent repairers on a non-discriminatory basis.

Secondly, although car manufacturers may withhold information relating to anti-theft or performance-limiting functions of on-board electronics, they have to ensure that this does not prevent independent repairers from performing repairs not directly related to these functions.

Thirdly, the commitments ensure that independent repairers can obtain information that is both unbundled and priced in a way that takes into account the extent to which they use it. The websites chosen by the parties as their main means to provide technical information will be kept operational during the validity period of the commitments. Access will be based on time slots, with the price for one hour set at a level which ensures equality between independent and authorised repairers.

All four manufacturers have undertaken to accept a defined arbitration or mediation mechanism for disputes.

The decisions are an important safeguard for competition in the sector, and should spur manufacturers of other brands to look hard at their own practices as regards the provision of technical information.

A breach of commitments made binding pursuant to Article 9 of Regulation 1/2003 may lead the Commission to impose fines of up to 10% of a company's turnover.