



Antitrust: Commission sends Statement of Objections to BMW, Daimler and VW for restricting competition on emission cleaning technology

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The European Commission has informed BMW, Daimler and VW (Volkswagen, Audi, Porsche) of its preliminary view that they have breached EU antitrust rules from 2006 to 2014 by colluding to restrict competition on the development of technology to clean the emissions of petrol and diesel passenger cars.

Commissioner Margrethe **Vestager** in charge of competition policy said: *"Companies can cooperate in many ways to improve the quality of their products. However, EU competition rules do not allow them to collude on exactly the opposite: not to improve their products, not to compete on quality. We are concerned that this is what happened in this case and that Daimler, VW and BMW may have broken EU competition rules. As a result, European consumers may have been denied the opportunity to buy cars with the best available technology. The three car manufacturers now have the opportunity to respond to our findings."*

The Commission's preliminary view is that BMW, Daimler and VW participated in a collusive scheme, in breach of EU competition rules, to limit the development and roll-out of emission cleaning technology for new diesel and petrol passenger cars sold in the European Economic Area (EEA). This collusion occurred in the framework of the car manufacturers' so-called "circle of five" technical meetings.

In particular, the Commission has concerns regarding the following technologies:

- **Selective catalytic reduction ('SCR') systems** to reduce harmful nitrogen oxides (NOx) emissions of **diesel passenger cars** through the injection of urea (also called "AdBlue") in the exhaust gas stream. In the Commission's preliminary view, BMW, Daimler and VW coordinated their AdBlue dosing strategies, AdBlue tank size and refill ranges between 2006 and 2014 with the common understanding that they thereby limited AdBlue-consumption and exhaust gas cleaning effectiveness.
- **'Otto' particle filters ('OPF')** to reduce harmful particle emissions from the exhaust gases of **petrol passenger cars** with direct injection. In the Commission's preliminary view, BMW, Daimler and VW coordinated to avoid, or at least to delay, the introduction of OPF in their new (direct injection) petrol passenger car models between 2009 and 2014, and to remove uncertainty about their future market conduct.

The Commission's preliminary view is that the car manufacturers' behaviour aimed at restricting competition on innovation for these two emission cleaning systems and in doing so, denied consumers the opportunity to buy less polluting cars, despite the technology being available to the manufacturers.

Such market behaviour, if confirmed, whilst not entailing price fixing or market sharing, would violate EU competition rules prohibiting cartel agreements to limit or control production, markets or technical development ([Article 101](#)(1)(b) of the Treaty on the Functioning of the European Union and Article 53(1)(b) of the EEA Agreement).

The behaviour is to be distinguished from forms of cooperation between companies aimed at improving product quality and innovation which do not raise concerns under EU competition law, as explained in detail in the Commission's Guidelines on horizontal co-operation agreements.

This investigation is limited to an alleged violation of competition law. It is not about possible breaches of environmental legislation. The cartel investigation is also separate and distinct from other ongoing investigations, including those by public prosecutors and other authorities into car manufacturers and the use of illegal defeat devices to cheat regulatory testing.

The sending of a Statement of Objections does not prejudice the outcome of the investigation.

Background

In [October 2017](#), the Commission carried out inspections at the premises of BMW, Daimler, Volkswagen and Audi in Germany, as part of its initial inquiries into possible collusion between car manufacturers on the technological development of passenger cars. The Commission opened an in-depth investigation in [September 2018](#).

A Statement of Objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the parties concerned in writing of the objections raised against them. The parties can then examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities.

If, after the parties have exercised their rights of defence, the Commission concludes that there is sufficient evidence of an infringement, it can adopt a decision prohibiting the conduct and imposing a fine of up to 10% of a company's annual worldwide turnover.

There is no legal deadline for the Commission to complete antitrust inquiries into anticompetitive conduct. The duration of an antitrust investigation depends on a number of factors, including the complexity of the case, the extent to which the undertaking concerned cooperates with the Commission and the exercise of the rights of defence.

The Commission has carried out a series of major investigations into cartels in the automotive parts sector. The Commission has already fined suppliers of automotive [bearings](#), [wire harnesses in cars](#), flexible foam used (inter alia) in [car seats](#), [parking heaters](#) in cars and trucks, [alternators and starters](#), [air conditioning and engine cooling systems](#), [lighting systems](#), occupant safety systems to certain [Japanese](#) and [European car manufacturers](#), [braking systems and spark plugs](#).

More information on the investigation will be available on the Commission's [competition website](#), in the public [case register](#) under the case number [AT.40178](#) – Car Emissions.

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