



EUROPEAN COMMISSION
COMPETITIONDG

The Director-General

Brussels, 8 July 2021
COMP.G.4/GM

[addressee]

Subject: Case AT.40178 – Car Emissions

Dear Sir, Dear Madam,

on 8 July 2021, the Commission adopted a decision in the cartel investigation referred to in the subject line. The decision concerns anti-competitive behaviour in connection with the development of selective catalytic reduction (SCR)-systems for diesel passenger cars. The anti-competitive conduct took place from 25 June 2009 to 1 October 2014 ('the relevant period'). The conduct involved five German car manufacturers: Daimler AG ('DAIMLER'), Volkswagen group with its operative group companies Volkswagen AG ('Volkswagen'), Audi AG ('Audi') and Dr. Ing. h.c. F. Porsche AG ('Porsche') (Volkswagen, Audi and Porsche together 'VW') and BMW AG ('BMW').

DAIMLER, VW and BMW (together 'the Parties') coordinated their market conduct in respect of SCR-systems used in passenger cars with diesel engine. They coordinated AdBlue tank sizes and ranges between two refills and exchanged information about assumed average AdBlue-consumption for the European Economic Area ('EEA'). The conduct was by its very nature capable of restricting competition with regard to product characteristics of their new diesel passenger car models relating to AdBlue tank sizes and refill ranges and relating to NO_x-cleaning beyond regulatory requirements and, thereby, of limiting technical development in the field of NO_x-cleaning with SCR-systems for new diesel passenger cars in the EEA and of limiting customer choice.

DAIMLER, VW and BMW discussed a number of topics and aspects relevant for the development of SCR-systems. The decision of 8 July 2021 concerns only the conduct set out in it (and summarised above).

With regards to the other areas of cooperation between DAIMLER, VW (or Volkswagen and Audi) and BMW in relation to the development of SCR-systems DG Competition sees no reason to further investigate as competition law infringement the following conduct, after having assessed the information available to it:

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- the **joint development of a software platform for AdBlue dosing as such;**

Relevant reasons are that:

- the actual use of the software platform rests on a data application („Bedatung“) for the specific car model, which each car manufacturer implements individually; and
- it is not apparent that the joint development of the software platform as such restricts the effectiveness of SCR-systems.

- the **decision to focus joint development on liquid SCR-systems;**

Relevant reasons are that:

- the undertakings involved remain free to develop other SCR-technologies and bring them to the market; and
- the undertakings involved remain free to develop other NO_x-cleaning technologies than SCR-systems and bring them to the market.

- the **standardisation of the AdBlue filler neck;**

Relevant reasons are that:

- the standardisation of the AdBlue filler neck enables the use of uniform refill bottles and pumps and therefore leads to considerable efficiency enhancements and cost savings, since for refilling AdBlue, all bottles on sale can be selected and all AdBlue pumps can be used; and
- it is not apparent that standardised AdBlue filler necks have a negative impact on the effectiveness of SCR-systems.

- the **joint preparation of charge sheets for parts of SCR-systems;**

Relevant reasons are that:

- the jointly prepared charge sheets set minimum quality requirements and that each party remains free to define further-reaching requirements; and
- the jointly prepared charge sheets concern parts of SCR-systems and it is not apparent that they determine or restrict the effectiveness of SCR-systems.

- the **discussion of quality standards for AdBlue;**

Relevant reasons are that:

- quality standard requirements for AdBlue enable AdBlue producers to offer a product suitable for all diesel passenger cars equipped with liquid SCR-systems; and
- it is not apparent that quality standards for AdBlue have a negative impact on the effectiveness of SCR-systems.

- the discussion of **warning strategies** aimed at ensuring the timely refill of AdBlue;

Relevant reasons are that:

- it is not apparent that the AdBlue warning strategy would constitute a relevant criterion of differentiation for customers when selecting a diesel passenger car; and
 - a standardised warning strategy can be advantageous for customers when switching cars.
- the discussion of the **build-up of an appropriate infrastructure** for AdBlue-supply;

Relevant reasons are that:

- the car manufacturers require solutions for refilling AdBlue to bring diesel passenger cars with SCR-systems to the market;
 - for customer refill an adequate refill infrastructure must be put in place;
 - this applies to the extent that data required for determining the AdBlue demand to be expected are only shared in anonymised and aggregated form.
- the discussion and preparation of a common position of the car manufacturers concerning **future legislative proposals** concerning car emission cleaning;

Relevant reason is that

- the discussion and preparation of a common position are limited to influencing future legislative measures and must not be used to coordinate market conduct.

For further advice on compliant shaping of cooperation between competitors, see Regulation No. 1217/2010 of 14 December 2010 on the application of Article 101(3) of the Treaty (OJ L 335, 18.12.2010, p. 36) and the Commission Notice on the application of Article 101 of the Treaty on horizontal cooperation (OJ C 11, 14.1.2011, p. 1).

This letter reflects the views of DG Competition as Commission service in charge of competition and does not constitute a Commission decision.

Yours faithfully,

Olivier GUERSENT