

**MMC's remedies letter:  
extracts from a letter from the Secretary of the MMC  
to interested parties, 14 June 1991**

1. In Annex 2 to my letter of 15 April I outlined a number of public interest issues identified by the Commission in relation to their inquiries into the supply of new car parts in the United Kingdom. The annex concluded by saying that the Commission would have to consider possible action to remedy or prevent any effects that might be found to be adverse to the public interest. Annex 2 did contain in general terms, some details of possible remedies to the practices identified. I now enclose a list of more specific (and in some cases slightly modified) hypothetical remedies, on which I should welcome your views.

2. The purpose of consulting you at this stage is to seek your views on the practicability and effects of the possible measures outlined, should they be required, rather than on whether the assessment of the public interest gives rise to a need for any remedies (on which you have already been asked to comment in the earlier letter). I should add that the Commission recognise that not all recipients of my letter of 15 April engage in all the practices to which the possible remedies relate.

3. The list enclosed includes hypothetical remedies on which recommendations might be made falling under three heads:

(a) recommendations which the Secretary of State could himself take action to implement (in this context Recital 29 of EC Regulation 123/85 may be relevant);

(b) recommendations which might be drawn to the attention of the EC Commission by the Secretary of State as indicating that Regulation 123/85 was not currently operating as had been intended; and

(c) recommendations which might be taken into account by the Secretary of State in any consideration by EC member states of arrangements to be adopted after the expiry of the Regulation.

4. The Commission are aware that some of these possible remedies could be applied within the United Kingdom while others would require application in all or a number of EC member states simultaneously. In this connection I enclose as relevant background material a note by Directorate General IV of the EC Commission on the interpretation of EC Regulation 123/85 which they have agreed may be made available to the parties to the inquiry, although it has not yet been approved for publication as the views of the EC Commission. We shall be sending a copy of the enclosure to this letter to the EC Commission and shall, of course, make clear that this Commission has reached no view as yet on the public interest issues involved.

5. I am sending copies of this letter to the companies listed in the Appendix to my letter of 15 April and shall also be consulting the RMIF, the Consumers' Association, the National Consumers' Council and representatives of component manufacturing interests on some of the possible remedies.

## SUPPLY OF NEW CARS

### **Possible measures to remedy or prevent adverse effects that might be identified in connection with the second complex monopoly situation**

**NB: The Commission have not as yet formed any views on whether such adverse effects exist or whether any of these remedies are in fact required.**

1. Removal of restrictions on dealers promoting sales outside their territory (including sales in other EC member states) and no discrimination on out of area sales, eg all sales to count towards bonus.

2. Obligation on suppliers with selective distribution systems to make available at corresponding prices in any EC member state, to meet a customer's order for ultimate registration in the United Kingdom, an RHD version of some or all of the models within their contract programme offered in that member state.

3. Freedom for United Kingdom dealers to import for their own customers, either from other dealers or the supplier's distribution company in any other EC member state, cars already made available to United Kingdom specification, at prices comparable to those of the corresponding models on sale in that member state.

4. In support of possible remedy 2 or 3, the supplier's distribution company in an EC member state to take responsibility for meeting in that member state individual 'parallel import' requests for such cars from United Kingdom residents or from United Kingdom franchised dealers, either itself (for example, in the way that tax-free sales are already handled) or by nominating a dealer at the location where the customer requires delivery to fulfil the order in return for a reasonable handling charge.

5. Removal of the supplier's restrictions confining a dealer to selling only to his supplier's other dealers or to the final consumer, when making sales outside the EC member state in which the dealer is located.

6. Removal of or limitation on the supplier's right to vary dealership agreements unilaterally, or to terminate dealerships except on reasonable grounds related to the dealer's performance; alternatively, dealers to be entitled to compensation in such cases.

7. Removal or relaxation of restrictions on the number and location of a supplier's dealerships held by any one person or company; removal of a supplier's requirement that a dealer divest dealerships acquired by purchase save for reasonable cause; removal of a supplier's right to approve the purchaser of a dealership or to refuse approval for the transfer of a dealership, in each case save for reasonable cause.

8. Removal or relaxation of limits imposed by the supplier on the volume of its cars sold by a single dealership or dealer group.

9. Removal or relaxation of restrictions by the supplier on the number and location of other suppliers' dealerships held by a dealer either entirely or on dealerships outside the dealer's defined territory; removal or relaxation of restrictions on a dealer's providing other car-related goods and services (such as car hire or car wash facilities) generally or outside the dealer's defined territory.

10. Removal or relaxation of the supplier's requirement that dealers provide both sales and servicing of new cars.

11. Removal of the supplier's requirement on dealers to promote or give preference to other car-related goods and services specified by the supplier (such as finance plans or extended warranties).

12. Prohibition of the imposition by the supplier of new car sales and stocking targets segmented by model or model range.

13. Requirement that suppliers' delivery charges be related to costs of delivery to individual dealer.
14. Requirement that quantity discounts be made available by suppliers to all purchasers irrespective of type of purchaser (fleet/dealer/private customer).
15. Removal of, or limitations on, the supplier's right to sell directly to particular categories of customers, eg fleets or national accounts.
16. Abolition of recommended retail (list) prices; the supplier to invoice the dealer at the published wholesale price.
17. Measures to improve information available to consumers:
  - (a) publication of information on level and range of discounts recently given to private and fleet consumers and on direct sales;
  - (b) publication by consumer advisory bodies of information on discounts available, secured from their memberships, or from surveys or other sources;
  - (c) information to be made available, eg included in advertising, on cash value of financial benefits and other special offers, possibly through a Code of Conduct drawn up by the Office of Fair Trading.
18. United Kingdom suppliers to publish at regular intervals the prices at which models to United Kingdom specifications would be available to individual United Kingdom buyers who wish to source 'parallel imports' from France, Belgium, Netherlands or Germany.
19. Recommendation that the EC Commission review the application of EC Regulation 123/85 (the block exemption) to suppliers' distribution agreements with dealers, if these appear to give rise to adverse effects within the United Kingdom of the kind specified in Article 10 of that Regulation.
20. Non-renewal of the block exemption in 1995 or its replacement by an amended form of block exemption.