

Watchdog: Auto probes reminiscent of detergents cartel

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Watchdog is a weekly column offering commentary from our editorial team on antitrust policy and enforcement across Europe. The opinions expressed here are those of the writers only

Whether or not officials were wearing facemasks, dawn raids came back with a vengeance post-pandemic this week with parallel announcements from the European Commission (EC) and UK Competition and Markets Authority (CMA) of raids in the automotive sector.

Up to now, we know that the European Automobile Manufacturers' Association (ACEA), Opel, Renault and Toyota all got the knock from EC officials, while BMW and Volkswagen confirmed they received questionnaires; meanwhile the CMA has raided Toyota and quizzed Ford. Encompassing carmakers based across several member states – Germany's Mercedes blew the whistle – the EC probe seems extensive.

Raids by definition come as a surprise, but these have a ring of déjà vu about them. Last time Watchdog scoped the timing of raids – before the pandemic hit – the results showed that the EC was most likely to come knocking on doors in February and March. Meanwhile, the carmakers might have recognised some of their early morning callers from previous visits.

“Over the past twenty years when I have been practising, the auto sector has been the subject of probes roughly every two to three years,” according to Martijn van de Hel, a partner with Amsterdam-based Maverick. “Coming after the recent emissions probe, this is quite an achievement, and suggests compliance systems are not all working so smoothly, aside from at Mercedes.”

The precise nature of the behaviour under scrutiny remains a mystery for now, though the CMA's note that the probe concerns arrangements for recycling old or written off cars or vans points to a number of possible tracks. These range from implementation of the EC's End of Life Vehicle (ELV) regulation, to auction processes for recycling. “What seems clear is that with the proliferation of recent auto probes this is unlikely to be brazen price-fixing,” according to van de Hel.

He said that the involvement of ACEA suggests brokerage by the industry association may lie at the heart of the conduct. Since cooperation with the purpose of recycling would not itself constitute abusive conduct, it is likely that discussions that had a lawful purpose are suspected of morphing to have an abusive effect.

According to van de Hel, that is redolent of the sanction meted out in 2011 by DG Competition on Unilever and Procter & Gamble

Sector: Government
Topics: Agencies, Cartels & Horizontal Agreements, Policy Developments, Watchdog

Grade: Confirmed

Companies

Volkswagen AG
TOYOTA MOTOR CORPORATION
BMW AG
Renault SA
Daimler AG
Toyota Motor Europe N/V S/A
Opel Automobile GmbH
Stellantis N.V.

Agencies

European Commission - Directorate General For Competition (EC - DG Comp)
European Commission
UK Competition And Markets Authority (CMA)

There are no files associated with this Intelligence

for fixing washing powder prices in eight EU countries, in a case which saw Germany's Henkel alert the EC to a laundry detergents cartel.

In that case, the price fixing began when the companies worked through a trade association to make their detergents more environmentally friendly. Having agreed on the reduction of environmentally harmful ingredients within the washing powder – the companies then crossed a line.

by Jeremy Fleming-Jones in Brussels

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