

Final report of the Hearing Officer in Case COMP/E-2/39.143 — Opel

(Pursuant to Articles 15 and 16 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings — OJ L 162, 19.6.2001, p. 21)

(2007/C 304/11)

The draft Decision presented to the Commission under Article 9 of Council Regulation (EC) No 1/2003 ⁽¹⁾ relates to the supply of technical information for the repair of General Motors Europe's (GME) Opel and Vauxhall brand vehicles.

The Commission opened an investigation into GME's provision of its technical information to independent repairers on 22 December 2004, following the publication of a study by the German research institute IKA. On 1 December 2006, the Commission opened proceedings under Chapter III of Regulation (EC) No 1/2003 and adopted a preliminary assessment as referred to in Article 9(1) of Regulation (EC) No 1/2003. This assessment set out the Commission's competition concerns, which were that GME seemed to have excluded all but its authorised repairers from full access to its technical information. The Commission's preliminary assessment was sent to GME on 1 December 2006.

In response to this, GME submitted commitments on 9 February 2007.

On 22 March 2007, the Commission published a notice in the *Official Journal of the European Union*, pursuant to Article 27(4) of Regulation (EC) No 1/2003, inviting interested companies to transmit observations on this notification within one month of its publication. The comments received in response to this invitation mainly confirmed the effectiveness of the commitments proposed by GME.

The Commission has now come to the conclusion that, in view of the commitments proposed by GME, and without prejudice to Article 9(2) of Regulation (EC) No 1/2003, there are no longer grounds for action.

In a Decision under Article 9 of Regulation (EC) No 1/2003, a breach of the competition rules is not established, but the Parties accept to remedy the concerns expressed by the Commission in a preliminary assessment. There is in this process a willingness on both sides to simplify the administrative and legal requirements which are inherent in a full investigation of a suspected infringement. This is the reason why in several Decisions taken already by the College ⁽²⁾, it has been accepted that due process is satisfied when the Parties inform the Commission that they have received sufficient access to the information they considered necessary to propose commitments in order to meet the concerns expressed by the Commission.

This case has also been dealt with in the same manner, GME having submitted a Declaration to the Commission to this effect on 24 May 2007.

In the light of the above, I consider that the rights to be heard have been respected in this case.

Brussels, 11 July 2007.

Karen WILLIAMS

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ Cf. decision of 22 June 2005 in Case COMP/39.116 — Coca-Cola and decision of 19 January 2005 in Case COMP/37.214 — DFB.