

Case 226/84

British Leyland Public Limited Company  
v  
Commission of the European Communities

(Dominant position — Type approval for motor vehicles)

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Summary of the Judgment

- 1. Competition — Dominant position — Legal monopoly enjoyed by motor-vehicle manufacturer for the issue of certificates of conformity for vehicles produced by it — Relevant market — Market for services separate from market for the products to which those services relate — Economic dependence of retailers on producer (EEC Treaty, Art. 86)*
- 2. Competition — Dominant position — Abuse — Selective distribution system — Obstacles to re-importation of vehicles by non-authorized retailers (EEC Treaty, Art. 86)*
- 3. Competition — Dominant position — Abuse — Undertaking enjoying a legal monopoly — Fees disproportionate to the economic value of the service provided (EEC Treaty, Art. 86)*

1. In a Member State a motor-vehicle manufacturer which, as far as vehicles produced by it are concerned, enjoys a legal monopoly as a result of the applicable rules for the issue of the certificates of conformity which are

required for the registration of such vehicles must, having regard to the position of economic dependence in which retailers are placed, be regarded as occupying a dominant position in the market of services indispensable for

retailers, which is a market ancillary to but separate from that of the sale of vehicles.

2. A motor-vehicle manufacturer may not rely on the selective distribution system it has set up in a Member State in order to create, by not renewing type approval, obstacles to the re-importation of vehicles from other Member States by retailers outside its distribution network.

The fact that its selective distribution system has been accepted by the Commission cannot justify such a practice which constitutes an abuse of a dominant position.

3. An undertaking abuses its dominant position where it has a legal monopoly and charges for its services fees which are disproportionate to the economic value of the service provided.

## REPORT FOR THE HEARING delivered in Case 226/84 \*

### I — Summary of the facts and written procedure

1. Registration of vehicles in Great Britain is subject to an approval system governed by section 47 of the Road Traffic Act 1972, as amended by the Road Traffic Act 1974, and Statutory Instrument No 1092 of 1979, Motor vehicles (Type Approval) (Great Britain) Regulations (hereinafter referred to as 'the NTA regulations').

Pursuant to section 47 (4), the manufacturer of a vehicle must apply to the Secretary of State for Transport for a British national type approval (NTA) certificate recording the fact that the vehicle complies with the relevant type approval requirements and specifying the permitted variations from the type vehicle. Before issuing the certificate,

the Secretary of State satisfies himself that the vehicle complies with the relevant type approval requirements and that adequate arrangements have been made to ensure that other vehicles purporting to conform with that vehicle will so conform.

Pursuant to section 47 (5), the manufacturer may issue, on the basis of the NTA certificate, certificates of conformity stating, in respect of each vehicle manufactured by him, that it conforms with the approved type vehicle.

Condition 2 (2) of the NTA certificate requires the manufacturer to pre-notify to the Department of Transport any alteration which he intends to make to the model.

\* Language of the Case: English.