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QUICK LINKS

European Commission and CMA issue fines in end-of-life vehicles recycling cartel settlements

On 1 April 2025, the European Commission announced that it had fined multiple car manufacturers and a trade association around €458 million for participating in a 15-year long cartel concerning end-of-life vehicle recycling. On the same day, the UK Competition and Markets Authority (CMA) concluded its own parallel investigation into similar conduct affecting the UK market, issuing fines totalling over £77 million. The decisions highlight the growing focus of competition authorities on cartel enforcement in the age of the green transition.

Background

On 15 March 2022, the Commission and the CMA announced that they had conducted parallel unannounced inspections (dawn raids) at the premises of companies and trade associations active in the automotive sector in several EU Member States and in the UK.

The regulators stated that they suspected breaches of competition law had taken place in relation to arrangements for recycling vehicles known in the industry as 'end-of-life vehicles' or ELVs. ELVs are vehicles that are no longer fit for use, either due to age, wear and tear, or damage. These vehicles are dismantled and processed for recycling, recovery, and disposal, in line with regulatory requirements.

The Commission and the CMA's coordinated investigations were triggered by a leniency application filed in September 2019 by Mercedes-Benz, being the first company to 'blow the whistle' on the cartel.

The infringements: advertising claims and the 'Zero-Treatment-Cost' strategy

Following their parallel investigations, the Commission and the CMA both concluded that the car manufacturers had colluded in two key respects:

- *Advertising claims*: the regulators found that the car manufacturers had illegally agreed to refrain from advertising how much recycled material is used in new cars and how much of an ELV can be recycled, recovered and reused. According to the Commission, this was intended to "*prevent consumers from considering recycling information when choosing a car*", ultimately lowering the pressure on companies to go beyond legal requirements and invest in green initiatives. The agreement was set out in a document called the 'ELV Charta', a form of 'gentleman's agreement' which sought to "*avoid a competitive race*" amongst the manufacturers in relation to advertising claims of this kind. Certain manufacturers challenged others when they breached the ELV Charta.

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- *Buyers' cartel*: vehicle manufacturers operating in the EU and in the UK are required to offer their customers a free service for recycling their ELVs. The Commission and the CMA found that certain manufacturers had illegally agreed not to pay car dismantlers for processing the ELVs of customers, in effect implementing a buyers' cartel in relation to this service. This effectively meant the companies providing this service were unable to negotiate a price with manufacturers. The companies also shared commercially sensitive information on their individual agreements with car dismantlers and coordinated their behaviour towards them.

The Commission and the CMA each found that these arrangements breached the rules prohibiting anti-competitive agreements, as set out in Article 101 of the Treaty on the Functioning of the EU (for the EU) and Chapter I of the Competition Act 1998 (for the UK).

Fines and discounts

All companies admitted their involvement in the cartel and agreed to settle the case.

As a result of these infringements, the Commission issued fines to 14 major car manufacturers, including BMW, Ford, Honda, Hyundai / Kia, Jaguar Land Rover, Mazda, Mitsubishi, Opel, Renault / Nissan, Stellantis, Suzuki, Toyota, Volkswagen and Volvo. The Commission also fined the European Automobile Manufacturers' Association (ACEA) for facilitating the cartel through organising regular meetings and contacts between the manufacturers involved and intervening when manufacturers acted outside the terms of the cartel. The parties all benefited from a settlement discount of 10%. Volkswagen received the steepest fine totalling almost €128 million.

Under the Commission's leniency programme, Mercedez-Benz received full immunity for blowing the whistle on the cartel, and Stellantis (including Opel), Mitsubishi and Ford benefitted from a further discount for their cooperation. Renault received a discount on the basis that it was able to evidence that it had explicitly asked for an exemption from the agreement not to advertise the use of recycled material in new cars.

The CMA similarly issued fines to 10 of these major car manufacturers and the ACEA, as well as to the Society of Motor Manufacturers & Traders for attending meetings and participating in the settling of a handful of disputes between cartel participants. The fines included a settlement discount of 20%. As for the EU investigation, Mercedes-Benz benefited from the CMA's leniency policy and obtained full immunity.

Comment

The case illustrates the EU and UK authorities' growing appetite to investigate – and where appropriate, issue fines for – novel types of anti-competitive conduct that may have an adverse impact on the green transition. Marking the Commission's largest settlement case in terms of companies involved in the settlement procedure, the decision also serves as a reminder of the incentives associated with leniency programmes and in particular the benefits of being 'first through the door' in terms of immunity from fines. Leniency applications are understood to be on the rise in the EU for the fourth year in a row.

The case also highlights the Commission's recent scrutiny of the role played by trade associations in facilitating anti-competitive coordination between industry players. Another Commission investigation related to automative starter batteries manufacturers, which also involves a trade association, is currently ongoing.

Finally, the parallel decisions in the ELV-recycling cartel case add to the growing body of cartel cases involving close cooperation between competition authorities, at a time when many cartel enforcers are exchanging investigative leads to replenish their pipeline of cases.

Announcing the Commission's infringement decision, Teresa Ribera, Executive Vice-President for Clean, Just and Competitive Transition, commented: "*We will not tolerate cartels of any kind, and that includes those that suppress customer awareness and demand for more environmental-friendly products. High quality recycling in key sectors such as automotive will be central to meeting our circular economy objectives, not only to cut waste and emissions, but also to reduce dependencies, lower production costs and create a more sustainable and competitive industrial model in Europe*".

Lucilia Falsarella Pereira, Senior Director of Competition Enforcement at the CMA, commented that agreeing with competitors the prices of services or colluding to restrict competition is illegal, but that the CMA *"recognise[s] that competing businesses may want to work together to help the environment - in those cases our door is open to help them do so"*.

OTHER DEVELOPMENTS

ANTITRUST

CMA issues informal guidance on environmental cooperation in the UK construction industry

On 28 March 2025, the CMA published informal guidance addressing the Builders Merchants Federation's (BMF) request under the 'open door' policy set out in the CMA's Green Agreements Guidance on the application of the Chapter I prohibition in the Competition Act 1998. The guidance relates to the BMF's proposal to recommend that the industry "*uses a single provider of supply chain assurance services*" under a "*single preferred platform*" model, where the BMF would initially work with supply chain assurance provider Verisio.

In its assessment, the CMA first noted that the proposal will not restrict competition by object. When assessing restrictions on competition by effect, the CMA considered that the proposal may - mainly due to the use of a single platform - have the effect that competing supply chain assessment providers may be foreclosed from providing similar services. The CMA found that the risk of significant competitive harms was likely to be low, such that it does not expect to take enforcement action against the proposal. Furthermore, the CMA concluded that the benefits of the proposed agreement could outweigh any harm to competition. In reaching its conclusion, the CMA considered, inter alia, safeguards to prevent the exchange of competitively sensitive information, noting BMF's commitments to restrict access to sensitive data, as well as certain additions to BMF's initial proposal, such as running open-source questionnaires and data portability. The CMA also considered BMF's self-assessment of whether the proposal might be exempt under section 9 of the Competition Act, which resulted in the CMA acknowledging that the proposal would lead to both cost benefits as well as environmental benefits, including climate change benefits.

For further details on the factors considered by the CMA in its assessment, as well as the potential implications of engaging with the CMA under its 'open door' policy, see our blog post.

GENERAL COMPETITION

CMA publishes guidance documents as new direct consumer protection regime under the DMCC Act enters into force

Major reforms to the UK consumer protection regime under the Digital Markets, Competition and Consumers Act 2024 (DMCC Act) came into force on 6 April 2025, providing the CMA with new powers directly to impose fines for breaches of UK consumer protection rules. The DMCC Act introduces an administrative enforcement model for consumer protection enforcement, which brings the regime more closely into line with the CMA's existing antitrust enforcement regime. As of 6 April, the CMA can directly determine breaches of consumer protection legislation without court proceedings and directly impose fines of up to 10% of a company's annual global turnover for breach of UK consumer protection laws, as well as additional daily fines for continued non-compliance. In addition, the CMA may impose redress measures directly for any breaches that occur after 6 April 2025. Over recent days and weeks, the CMA has published a document setting out its approach to direct consumer protection, as well as a roster of final guidance. For further details on the new regime, see our client briefing of 10 April 2025.

CMA publishes annual plan for 2025-2026

The CMA has published its Annual Plan for 2025-2026 (the Annual Plan), outlining its strategic priorities for the coming year. The CMA's program will focus on action to drive growth and investment, whilst fulfilling its core tasks to promote competition and protect consumers. Aligned with the UK Government's draft strategic steer and

Industrial Strategy, the plan focuses on deploying competition and consumer protection powers to support businesses, unlock investment, and drive growth. Key priorities for the CMA include enhancing operational efficiency through greater pace, predictability, proportionality and improved processes (the 4Ps, as set out in the draft Strategic Steer from Government), alongside implementing the CMA's new powers under the DMCC Act. These measures will aim to stimulate growth in the UK digital economy and wider sectors while enhancing consumer confidence by supporting fair practices and business compliance.

The CMA has specified that it will concentrate its efforts on unlocking investment in critical infrastructure and priority industrial sectors, targeting areas where competition could spur innovation, remove capital barriers and help UK businesses scale. Notably, it plans to use its anti-bid rigging expertise and AI tools to address public procurement issues, potentially generating taxpayer savings and creating opportunities for new market entrants. The DMCC Act's new consumer protection regime will also be a focus area, with proportionate enforcement to safeguard consumers and maintain a level playing field for businesses. Emphasis is placed on balancing growth objectives with robust consumer rights, ensuring confidence for both households and enterprises.

To strengthen its impact, the CMA reaffirms its commitment to refining internal processes under the 4Ps framework, building on progress in merger control and extending improvements to digital and consumer functions. For instance, in the context of merger control and predictability, the Annual Plan confirms that the CMA will issue updated guidance on how it interprets and applies the jurisdictional tests of 'material influence' and 'share of supply' in June of this year.

The Annual Plan also makes clear that stakeholder engagement remains central, with continued collaboration through initiatives such as the CMA Growth and Investment Council and targeted outreach to startups and investors.

Japan Fair Trade Commission to regulate big tech companies under new smartphone-software competition law

On 31 March 2025, the Japan Fair Trade Commission (JFTC) designated three companies (Apple, Apple's Japanese subsidiary iTunes, and Google) as "Specified Software Operators" under its new ex-ante regulation, the Act on the Promotion of Competition for Specified Smartphone Software (the Smartphone Act), which is set to take full effect by 18 December 2025. According to the JFTC, the Smartphone Act is intended to overcome the limitations of the Japanese competition law (the Antimonopoly Act) in combatting anti-competitive practices, to enable "*the digital markets of the EU, US, and Japan to work in lockstep to set fair competition practices for platform operators*".

The Smartphone Act regulates four categories of software, namely mobile operating systems (OSs), application stores, browsers, and search engines. Similar to the EU Digital Markets Act, the Smartphone Act empowers the JFTC to designate certain software providers to whom the Act will apply, if they have at least 40 million domestic users per month. In its first designation decision, the JFTC designated Google as a software provider under all four categories, while Apple was designated in three categories (excluding search engines) and iTunes was also designated in relation to app stores.

Under the Smartphone Act, designated providers are required to submit annual compliance reports to the JFTC and are subject to certain obligations and prohibitions that are intended to remove barriers to entry and prevent self-preferential treatment. For example, designated app store providers are prohibited from preventing access to third-party app stores or billing systems, and OS and browser providers are required to offer choice screens and allow users to change default settings with simple procedures.

Interestingly, the Smartphone Act introduces the concept of "*justifiable measures*", meaning that measures necessary to achieve the objectives of security, privacy and youth protection, etc. are permitted provided that there are no "*less competition-restricting*" measures (although it is unclear at this stage how this will be interpreted by the JFTC). Violations of the Smartphone Act may result in cease-and-desist orders and a fine of 20% of the relevant Japanese revenue.

This is the not the first time Japan has attempted to regulate Big Tech. For instance, the Transparency Act was adopted in 2021 in relation to e-commerce platforms, app stores and digital ads platforms, emphasising self-regulation with a minimum degree of government involvement. Notably, the Smartphone Act takes a very different approach by providing for more substantive rules and greater enforcement powers. It will be interesting to see how vigorously the JFTC enforces the Smartphone Act after it comes into full effect in December.

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