WRITTEN QUESTION P-2329/09
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to the Commission

Subject: Market manipulation involving VW shares in Germany

On 26 October 2008 Porsche announced that it had increased its stake in Volkswagen by 7.48% to 42.6% of the ordinary shares and that it had cash-settled options (CSOs) on a further 31.5%. Its aim was to secure a controlling majority of 75% of the shares. Given the well-known fact that the *Land* of Lower Saxony holds a 20.1% stake in VW, this left a free float of less than 5.8% of the shares, as against the figure of roughly 40% previously suggested by Porsche. Unaware of the small free float, and in expectation of falling share prices, many traders had taken short positions on VW shares, positions which on 26 October 2008 accounted for an estimated 15% of the ordinary shares. On 27 and 28 October 2008 a super short squeeze occurred during which holders of short positions were left with no choice but to purchase shares from the very small free float. VW ordinary shares, which on Friday, 24 October 2008 had closed at a price of € 210.85, closed on Tuesday, 28 October 2008 at € 945 (Xetra), having peaked during the day at more than € 1005. At the close of business, as a result of the enormous increase in market capitalisation, ordinary shares in Volkswagen achieved a Dax 30 weighting of 26%. This forced, for example, index-linked funds to buy up VW shares at up to 10 times their real value and sell other Dax-quoted shares at a loss. On 29 October 2008 Porsche announced its intention of exchanging all but 5% of its CSOs in VW shares for cash. In this way, Porsche realised the value of those CSOs, which had increased by least 500%, and according to estimates secured additional profits before tax of between € 6.1 and € 10 billion. The losers were all the traders who had taken short positions and institutional (banks, pension funds and insurance companies) and private investors in index-linked funds containing ordinary shares in VW. To date, neither the German Government nor the German Bundesanstalt für Finanzdienstleistungen (BaFin - Federal Financial Services Supervisory Authority) have raised concerns about what happened.

1. In view of these occurrences, does the Commission take the view that Directives 2003/6/EC[1] and 2004/72/EC[2] have been properly and effectively transposed into national law and are being properly and effectively implemented in Germany?

2. If not, how will the Commission ensure that Directives 2003/6/EC and 2004/72/EC are properly transposed and implemented in the Federal Republic of Germany?

3. If yes, is it the Commission's intention that occurrences such as those outlined above should be entirely lawful on EU markets?

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1 OJ L 96, 12.4.2003, p. 16.
2 OJ L 162, 30.4.2004, p. 70