

**Question for written answer P-006435/2011
to the Commission**
Rule 117
Carl Haglund (ALDE)

Subject: Agreements that prevent the sale of car parts abroad

In the last sentence of its answer to Question P-004652/2011, the Commission states that 'this holds true for both domestic and cross-border sales in the EU'. I would like to draw the Commission's attention to the grounds for prohibiting the Finnish company from buying spare parts from Walter Burmaister GmbH. The reason given is not the purchaser's standing as an authorised or non-authorised distributor or even the purpose to which the parts are put. The Finnish company has been expressly refused permission to purchase car parts because the company is located 'abroad' and Mercedes-Benz, in accordance with its 'internal rules', can withdraw Mercedes Benz dealership status from distributors that sell car parts abroad.

This is, in other words, the type of behaviour described in point 7 of the 'Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles' (2010/C 138/05), which states that 'suppliers wishing to influence a distributor's competitive behaviour may, for instance, resort to threats or intimidation, warnings or penalties. They may also delay or suspend deliveries or threaten to terminate the contracts of distributors that sell to foreign consumers or fail to observe a given price level'. Mercedes Benz has confirmed by telephone that these are its internal rules, but refuses to provide the Finnish company with a written notification of the reasons for these rules.

1. Does the Commission have any opinion on the situation described above in which a German distributor is prohibited from selling spare parts 'abroad', on the basis of Mercedes-Benz's 'internal rules'?
2. Given that Recital 9 of Regulation (EC) No 1400/2002 sought to prevent a supplier from terminating an agreement because a distributor or a repairer engages in 'pro-competitive behaviour', such as active or passive sales to foreign consumers, without 'objective and transparent' reasons that are 'clearly set out in writing', has the Commission asked Mercedes Benz to indicate in writing why it prevents its distributors from selling car parts 'abroad'?