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To the European Commission

by email

Statement of the European Dealer Council VW/Audi e.V. about information exchange in the context of dual distribution

February 18th 2022

Dear Mr Lycke,

Thank you for inviting us to comment from our perspective on the Information Exchange Guidance.

The Exchange of information in the context of dual distribution has now one of the most important affects for our Association and our dealers as well, especially in the discussion with our OEM about a future distribution model in accordance with the new VBER regulations.

In our network and so to speak for our dealers, we used to have and maintain the data of our customers for decades. This circumstance ensured us a direct communication with customers and enabled us the opportunity to offer the right products and services. The approach from some OEMs of getting direct access to customer data might be comprehensible but is from our perspective not necessary to adapt the goods/services to the customer's requirements, or to provide warranty or after-sales services.

Our general views are as following:

- OEMs try to bypass regulations by implementing another distribution system, e.g. particular vehicle models sold in non-genuine agency and keeping a quantitative selective distribution model for other models, maybe a lower amount because of higher costs for them.
- This approach to act in different models leads to their aspiration, gaining customer data and car data. Thus, an exchange of information only supports the manufacturer and ultimately he intends to be the owner of the data. These data are an asset for distributors (dealers), which won't be considered in case of termination of a dealer contract or Agency Agreement. A so-called goodwill will be lost, because of circumvent regulations.

- The only approach for a manufacturer/OEM to sell products directly to customers will be probably through an Agency System. Actually, that enables the OEM to interact with customers directly, but on the other hand bears significant risks for him. In a non-genuine agency distribution system various financial and business risks remain with the „agent“, e.g. market penetration, lead management, staff education, in general costs of franchise.
- So, a more detailed clarification of information exchange in a dual distribution system would be appreciated from our Association.
- The manufacturer/OEM can't define in general for what purpose data are needed and make use of it in order to guide the customer only through its own eco-system and the distributors will depend more and more on a data-driven distribution governance.
- A digital-driven OEM supported its dealer network in the past with IT-systems (distribution providing systems). Within these systems we shared already information, but most of it based on VIN and non of the information have been personal, only if the customer gave both parties its explicit consent. The distributors are depending on the provision of those IT-systems in the future. But we won't accept that those information exchange will be used for a Retail Price Maintenance.
- In addition to the previous bullet point, RPM will be circumvented by an OEM if he intends to implement a non-agency system out of the scope of the BER. Considering that, dealers must be seen as competitors to the manufacturer, because in order to make the car deal with the customer, he needs to adjust his final price.

To summarize the above said, the information exchange must be block exempted.

We welcome the initiative of CECRA to advise the EC on our common concerns. Thank you for your support!

European Dealer Council Volkswagen I Audi e.V.



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