

GANVAM CONTRIBUTION TO EC CONSULTATION ON EXCHANGE OF INFORMATION

1. We are very concerned about the exchange of information. Threats to competence are more important than benefits to production and distribution of vehicles and services.
2. Independently of the market share, if exchange of information affects competence, the amount of information, the scope and possibility of anonymization should be assessed.
3. There is a clear negative effect on competition between manufacturer and official network on their vertical agreement. Subsidiaries of the manufacturers acting in the same level of distribution will have the same information than the manufacturer. This is unacceptable.
4. If anonymization criteria don't prevail, competition will be affected. Prices will be aligned because with access to information and the pricing policy of manufacturers, margin of manoeuvre of distributors doesn't exist.
5. Both the information considered necessary or unnecessary, could restrict competition if it's not anonymized. Purchase and supply systems, stock processes, discounts and pricing policy should be affected.
6. Austrian Supreme Court has recently declare that pricing policy of a vehicle manufacturer is not in conformity with competence legal framework
7. The Spanish Competence Authority has recently identify a cartel of vehicle manufactures because of the exchange of information that, among other effects, reduced margins of distributors, this to the detriment of consumers. See "***Expediente S/0482/13 Fabricantes de automóviles***": [S/0482/13 - FABRICANTES AUTOMÓVILES | CNMC](#)ⁱ

Both sales and aftersales key indicators taken from the distributors by the majority of Spanish Manufacturer has ended -from the Spanish NCA point of view- in an anti-competitive behaviour of the makes, because they use this information to build their pricing policies, remuneration to distributors and quality criteria deployed versus customers.

8. There are other ways to check the fulfilment of quality criteria of distributors such us mistery client, audits, etc.
9. Technology and DMS taking automatically all the information form distributor data bases should not be exempted and should be carefully controlled. More carefully if distributor sells different makes.
10. There is a potential danger that manufacturer may use the exchange of information also in other areas than sales of new vehicles, but also in other areas such us financing, online marketplace, used cars or new mobility formats.

ⁱ **Expediente S/0482/13 Fabricantes de automóviles**: [S/0482/13 - FABRICANTES AUTOMÓVILES | CNMC](#)

In 2015, 21 Spanish manufacturers were sanctioned by the CNMC to pay 171 million euros for participating in an *"exchange of confidential, future and strategic information in the areas of business management, after-sales and marketing, between the years 2006 and 2013"*, as pointed out in the resolution of July 23th, 2015 issued by the Competition Chamber of the National Commission for Markets and Competition, in Case S/0482/13 "Car manufacturers".

The Supreme Court highlighted that the cartel allowed to know in advance the commercial strategy of the competitors, the main figures and economic results obtained in the markets of new and used vehicles sales and after-sales -workshops and spare parts sales-, the profits by departments in total amounts and in percentage, the figures of expenses, the net profit before taxes, as well as the commercial margins of the dealer network of the brands participating in the exchange of information. It concluded that the disclosure of this information to the other competing companies broke with business logic and violated the basic rules of the functioning of the market, "by allowing them to adapt their conduct according to the information received and to the detriment of the final customer".

End customers might complain that they could have benefited from less aggressive commercial policies or lower discounts in general, or lower quality services. And of course, franchised dealer or workshop could ask about the damage suffered as a result of this exchange of information between manufacturers.