



**Issue:** Alleged restrictions placed by a motor vehicle distributor on its authorised dealers concerning sales through intermediaries.

**Relevant provision:** Section 4, Competition Act 2002 and Article 81, EC Treaty

**Outcome of investigation:** Case closed in June 2009 due to insufficient evidence of a breach of competition law.

### **Outline of case**

The Competition Authority received a complaint in 2008 alleging that a motor vehicle distributor was restricting its authorised dealers in Ireland from selling new motor vehicles through intermediaries.

An intermediary or purchase agent acts on behalf of a consumer. A consumer who wishes to purchase a new motor vehicle of a specific marque can, instead of going directly to an authorised dealer of the marque in question, deal with an intermediary. The intermediary may be an independent motor dealer or an authorised dealer for another marque. In the context of competition law, as set out in Commission Regulation 1400/2002 (“the Motor Vehicle Block Exemption Regulation”), to be classed as an intermediary the dealer must purchase the vehicle for a specific consumer so that the authorised dealer can register the vehicle in that consumer’s name and the dealer must not buy the vehicle with the aim of reselling it. Intermediaries often take delivery of, transport and/or store the vehicle on behalf of the consumer.

Given that a sale by an authorised dealer through an intermediary is equivalent to a sale directly to an end retail consumer, the view of the Competition Authority, which is in line with the provisions of the Motor Vehicle Block Exemption Regulation, is that motor vehicle distributors must not restrict their authorised dealers from making such sales. Distributors can however oblige their authorised dealers to ensure that an intermediary has a prior valid authorisation from the consumer to purchase and/or collect the specified vehicle on their behalf.

While the written agreements between motor vehicle distributors and their authorised dealers that the Competition Authority examined stated that sales through intermediaries are allowed, some of the information provided to the Competition Authority during this investigation raised concerns that in practice such sales were at times restricted. However, there was insufficient evidence uncovered in this investigation that such restrictions were in place. Furthermore, information in the Competition Authority’s possession indicated that where there may have been restrictions during the recent years of high demand for new motor vehicle sales, the drop in demand in 2009 greatly reduced the likelihood that any such restrictions are currently in place. Therefore the Competition Authority closed this investigation. It should however be noted that the Competition Authority always reserves the right in this as in other cases to reopen investigation files should new information be brought to its attention.