

An open letter to the motor industry,

You may recall that last year Mercedes-Benz and five of its commercial vehicle dealers were fined for engaging in unlawful cartel activity. You can read about the investigation [here](#)

### What you need to know

Cartelists deprive consumers and other businesses of the benefits of fair competition. In the long run, cartels also undermine competitiveness in the wider economy. With the help of industry bodies including the SMMT, the Competition and Markets Authority (CMA)<sup>1</sup> is keen to work with the British motor industry to ensure it remains vigilant against cartel activity, and that everyone in the industry understands what they need to do to comply with the law.

In this particular case, businesses sought to limit competition for the sale of vans or trucks. For example, in one instance two dealers agreed that they would include a 'substantial' margin in quotations to customers based in each other's area. In another, two dealers agreed that they would not prospect customers from each other's area.

I would like to highlight three important points from this case:

- **It can be easy to cross the line between legitimate and illegitimate contacts.** Particular risks of cartel conduct arise where there are informal relationships and contacts between staff from competing companies. Competition law requires competing businesses - including franchisees of the same manufacturer - to set their business strategies independently. Discussing future pricing intentions is particularly problematic.
- **You can fall foul of the law even if your involvement in the conspiracy is relatively limited.** One company was found guilty largely because an employee had attended - and was involved in organising - a single meeting where the anti-competitive arrangement was reached.
- **Smaller businesses do not get a 'free pass' on competition law.** The CMA will take firm action against cartels, irrespective of the size of the companies involved or the geographic scope of the case.

The consequences for involvement in cartel activity can be severe. Businesses can incur fines of up to 10% of global turnover. Individuals can be imprisoned for up to 5 years and risk unlimited fines; directors may face disqualification from managing a company for up to 15 years. In this particular case, the penalties totalled £2.8 million and wiped out up to 18 months' profit after tax of the dealers involved.

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<sup>1</sup> On 1 April 2014, the CMA took over the Competition Commission and the competition functions of the Office of Fair Trading.

## What you need to do

Of course, we know that most businesses want to abide by the law. Not only because it is the right thing to do, but also because it is in their commercial interests to do so. That is why it is so important to ensure that everyone in your company understands what they need to do to stay in the right side of the law. The CMA has published a [range of guidance](#), and a [brief case summary](#). Trade associations such as the SMMT can also assist you with education and training.

Also, if you have information about a cartel, please let us know.

- **If you think you have been involved in a cartel** - the CMA runs a leniency programme, and businesses and individuals that come forward to report their own involvement in a cartel may have their financial penalty reduced or avoid a penalty altogether. Provided they co-operate, the applicant's directors may also avoid disqualification and its employees and officers may be granted immunity from prosecution. You can obtain information about leniency [here](#).

In the *Mercedes-Benz commercial vehicles* case one of the companies avoided a penalty altogether by being the first to apply for leniency and subsequently assisting us. However, it is important to bear in mind that this case was not triggered by one company blowing the whistle – it was the result of our own intelligence work. The CMA's commitment to cartel enforcement means that the risk of getting caught is greater than ever.

- **If you have information about a cartel (which you are not involved in)** - contact the **CMA cartels hotline** on 020 3738 6888 or [cartelshotline@cma.gsi.gov.uk](mailto:cartelshotline@cma.gsi.gov.uk). The CMA also operates an [informant rewards programme](#) and individuals coming forward with information about cartel behaviour may qualify for a reward of up to £100,000. You can also find information about reporting other types of anti-competitive behavior [here](#).

The message from this case is clear and unequivocal: make sure that you comply with the law and that you instil a culture of compliance within your business. And if you believe your company is already involved in any form of cartel activity, make sure you tell the CMA about it – before someone else does.

Yours faithfully,

Stephen Blake  
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