

Competition rules -The European Ombudsman calls on the Commission to give adequate reasons to consumers

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In Strasbourg, the European Ombudsman, **Jacob SÖDERMAN**, concluded an investigation into a complaint by Mr R., a German national, against the European Commission. In Mr R.'s opinion, some major German car manufacturers and foreign importers of these cars are engaged in unlawful, anticompetitive practices, refusing to sell to German residents trying to buy a car abroad or setting higher prices for them and thus discriminating them. Mr R. had complained about this to the Commission. However, in his view, the Commission was mainly passive and the action taken by it was inappropriate. Mr R. also contested the Commission's view that he only represented his own interests and that he should therefore pursue his grievances in national courts instead of presenting them to the Commission. The complaint was forwarded to the Commission. In its opinion, the Commission stressed that it was in fact investigating the alleged, unlawful practices complained of. The complainant however maintained his allegations of passivity. Mr R. also complained of a letter sent to him by the Commission at a later stage. In this letter, the Commission stated that it did not consider it feasible to open a formal investigation into the anticompetitive practices alleged by Mr R., and invited him to make observations on this preliminary conclusion. From the Ombudsman's inquiry into the case, it appeared that the Commission had indeed conducted investigations into the alleged practices. One investigation, amongst others, had disclosed unlawful behaviour for which Volkswagen was severely fined. Furthermore, some of the other investigations were still going on. Taking also into account that the Commissioner responsible had publicly stated that other possible cases would be pursued, the allegation of passivity against the Commission seemed unjustified. In view of these findings, there appeared to be no maladministration by the European Commission. In his closing decision, the Ombudsman issued further remarks to the Commission concerning the letter complained of by Mr R.. The Ombudsman found that, as a matter of good administrative behaviour, the Commission could consider to give more comprehensive and adequate reasons than it had given in the present case, to enable the complainant to reply adequately to them. He also suggested to the Commission, in cases of general concern, to take into consideration the difficulties for consumers to pursue cases in national courts; in particular where they would have to bring the case in a different Member State from the one where they live. *For further information, please contact Peter Dyrberg, Principal Legal Adviser, tel.+32 2 284 2003*