

Daimler Mercedes Benz Executive Arrested for Suspected Price Fixing

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The Office of Fair Trading has confirmed that it is looking into suspected price-fixing in relation to the supply of trucks by commercial vehicle manufacturers in the UK. The OFT is carrying out civil and criminal investigations under the Competition Act 1998 and the Enterprise Act 2002. The offices of Daimler Mercedes Benz in Milton Keynes were raided on Tuesday 14 September and one individual has apparently been arrested and released on bail in connection with alleged cartel activity. According to press reports, the OFT has also sought information from other manufacturers based outside the UK.

Under the 2002 Act, the OFT and the Serious Fraud Office have powers to prosecute individual executives who participate in cartel arrangements with competitors. This is in addition to the power to impose civil sanctions on companies. The 2002 Act powers were intended to make businesspeople more conscious of competition law by exposing not only their companies but also themselves to punishment in the case of infringement. In the case of individuals, the punishment involves up to five years in prison and disqualification for up to 15 years from being company directors or being involved in the running of a company.

In 2007, a prosecution resulted in prison sentences of up to three years and fines for three individuals involved in a cartel that distorted the marine hose market: those individuals have also been disqualified for up to seven years. This remains the only such prosecution that has been successful to date. More recently, the prosecution under the Enterprise Act against British Airways executives for price fixing in relation to fuel surcharges collapsed in May 2010 following an issue relating to the disclosure of evidence. It is of interest that a criminal investigation has been opened in the Mercedes Benz case, as following the collapse of the BA case in particular the OFT is under increased pressure to carry out a diligent and reliable investigation before making the decision to bring a criminal prosecution. It is understood that the OFT has a number of other potential criminal cartel cases under examination.

This development underlines the importance of companies having compliance programmes and having regular reviews of their agreements, and especially of any contacts their staff have with competitors. If you wish to have further information about compliance programmes or competition law generally please contact the competition team in our London office.

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