STATUTORY INSTRUMENTS

1982 No. 1146

MONOPOLIES AND MERGERS

The Restriction on Agreements (Manufacturers and Importers of Motor Cars) Order 1982

Made - - - - - -	*9th August* 1982
Laid before Parliament	*16th August* 1982
Coming into Operation	
All Articles except Articles 3(b) and 4	*1st November* 1982
Articles 3(b) and 4	*1st April* 1983

Whereas the Secretary of State, in accordance with section 91(2) of the Fair Trading Act 1973**(a)**, published on 14 June 1982 a notice stating his intention to make this Order, indicating the nature of the provisions to be embodied in it and stating that any person whose interests were likely to be affected by it and who was desirous of making representations in respect of it should do so in writing before 14 July 1982:

And whereas the Secretary of State has considered the representations made to him in accordance with that notice:

Now, therefore, the Secretary of State, being the appropriate Minister within the meaning of section 56 of the said Act, in exercise of the powers conferred by sections 56(2) and 90(2) and (4) of, and paragraphs 1 and 2 of Part I of Schedule 8 to, the said Act and for the purpose of remedying or preventing adverse effects specified in a report of the Monopolies and Mergers Commission entitled "A Report on the matter of the existence or the possible existence of a complex monopoly situation in relation to the wholesale supply of motor car parts in the United Kingdom" as laid before Parliament and ordered by the House of Commons to be printed on 26 May 1982**(b)**, hereby makes the following Order:—

1. This Order may be cited as the Restriction on Agreements (Manufacturers and Importers of Motor Cars) Order 1982 and all articles thereof shall come into operation on 1st November 1982 except 3(*b*) and 4 which shall come into operation on 1st April 1983.

(a) 1973 c. 41.

(b) HC 318 Session 1981/82.

2. In this Order:—

"car parts" means replacements for parts which are fitted to a motor car as standard equipment when sold new, excluding equipment for in-car entertainment and liquids;

"franchisee" means any person who is or has been appointed by a manufacturer or importer of motor cars to deal in motor cars or car parts supplied to that person by the manufacturer or importer; and

"recall campaign" means the steps taken by a manufacturer or importer of motor cars to ensure that motor cars or car parts which in the opinion of the manufacturer or importer are likely to contain defects or to be defective, in circumstances in which they would not normally be expected, as a result of ordinary use, to contain defects or to be defective are taken to a franchisee for the purpose of inspection and, if necessary, rectification or replacement.

3. Subject to article 5 below, it shall be unlawful for any manufacturer or importer of motor cars—

(*a*) to make an agreement; or

(*b*) to carry out an agreement, whenever made

with a franchisee to the extent that the agreement contains a provision under or by virtue of which the franchisee is required to acquire all or any car parts exclusively from that manufacturer or importer, or exclusively from sources approved or specified by that manufacturer or importer.

4. Subject to article 5 below, any manufacturer or importer of motor cars or franchisee who is a party to an agreement containing a provision under or by virtue of which the franchisee is required to acquire all or any car parts exclusively from that manufacturer or importer, or exclusively from sources approved or specified by that manufacturer or importer, shall, to the extent that it contains such a provision, terminate it before 1st August 1983.

5. Neither article 3 nor article 4 above shall apply in relation to a provision in an agreement between a manufacturer or an importer of motor cars on the one hand and a franchisee on the other hand under or by virtue of which the franchisee is required to acquire a car part exclusively from that manufacturer or importer, or exclusively from sources approved or specified by that manufacturer or importer, for the purpose of

(*a*) fitting a car part to a motor car in pursuance of the manufacturer's or importer's warranty to which the motor car is subject; or

(*b*) supplying a car part in pursuance of a recall campaign.

Iain Sproat,
Parliamentary Under-Secretary of State,
Department of Trade.

9th August 1982.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes it unlawful, subject to the exceptions mentioned below, for a manufacturer or importer of motor cars to make or carry out an agreement with a franchisee to the extent that the agreement contains an "exclusive buying" provision relating to replacement car parts. It also requires manufacturers and importers of motor cars and their franchisees to terminate any such agreement to the extent that it contains such a provision.

The Order does not apply in relation to "exclusive buying" provisions which operate when a replacement car part—

(*a*) is to be fitted to a motor car in pursuance of the manufacturer's or importer's warranty; or

(*b*) is to be supplied by the franchisee as a result of a recall campaign conducted by the manufacturer or importer.

Copies of the report of the Monopolies and Mergers Commission upon which the Order is based (HC 318 Session 1981/82) may be obtained from Her Majesty's Stationery Office.

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