



Auto industry could risk EU antitrust scrutiny if it fails to supply data

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IN BRIEF

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The European Commission is alert to developments in the auto industry as cars increasingly connect to networks and gather information that could be used by insurers, repair shops or advertisers.

"We will, of course, keep an eye on a situation where a limited number of players have privileged access to key inputs, for example data," a senior EU official told a conference* in Brussels today.

Natalia Lazarova, who heads a unit overseeing the motor vehicle sector in the EU's antitrust department, said the regulator would ensure that "refusals to supply such limited resources don't infringe competition laws."

Lazarova also said the commission would be "keeping an eye on agreements" that look to exploit the revolution in the car industry to grab the market.

The commission has previously taken antitrust action to ensure that information from carmakers is made available to authorized repair shops to ensure the market for spare parts and after-sales services remains competitive.

But cars are gathering increasing information through sophisticated sensors and connections to mobile networks leading to a broader set of data that is of interest beyond the auto-repair sector.

John Clark, an official in the same EU team, said the need for repair data remained and there

was existing EU guidance on the antitrust approach to that sector. But the breadth of data now gathered could be valuable for other industries such as leasing, insurance or entertainment.

"Such information may be better used to calculate insurance premia; to allow the vehicle owner, which may be a third party – such as Lyft or Uber – to build a picture of a driver's needs; or you may allow for targeted advertising," Clark said.

While there are separate questions of who owns the data and whether drivers consent to its collection, antitrust lawyers are likely to concentrate on the monetization of that data.

"Carmakers already have access to a lot of data...but they may want to put their hands on and keep even more data, [which] they can use for their own benefit or to sell to other people," Lazarova said.

She said the market dynamic where other companies – such as Apple and Google, or insurers and financiers – were entering the car market created the "possibility of conflict and possible conditions for antitrust violations."

Leasing companies are understood to be concerned that car manufacturers may abuse their market power by imposing unfair licensing terms for their data.

"There are other players that are active in this field – car repair, insurance, leasing, rental and finance – that may feel that they are in a more disadvantaged position in this new connected world," Lazarova said.

"What lawyers and we are going to be looking at is if there has been an abusive refusal to supply data from companies that hold the majority of such data," she said.

Lazarova stressed that there was a "very broad set of case law" on how the EU approaches such supply refusals.

"We cannot foresee everything that is going to happen," she said. "It is not unlikely that we will be seeing cases where infringements are happening."

Last month, the commission presented a policy paper on connected cars, acknowledging the challenges of new technologies and the protection of personal data. It is planning a follow-up initiative to improve access to, and the reuse of, vehicle data for both commercial and non-commercial purposes.

***Competition Law Challenges in the Motor Vehicle Sector 2018,** Comp Law, Brussels, June 26, 2018.*