INFORMATION AGREEMENTS (AGRICULTURAL MACHINERY)

Subject: Information agreements
Pricing policy

Industry: Agricultural machinery
(Implications for other industries)

Source: Commission Statement IP/99/690, dated 20 September 1999

(Note. Agreements for the exchange of market information, usually through trade associations, have always and with some justice been regarded with suspicion by anti-trust authorities. New guidelines from the Commission provide essentially that individual historic price information and aggregate market price information are permissible. Publication of these guidelines was prompted largely by the judgments of the courts in the cases referred to at the end of the Statement.)

At the Commission's request, tractor and agricultural machinery manufacturers and their associations have agreed to alter their information exchange methods in the European Union. The new methods will bring the exchanges into line with the competition rules and were to be implemented no later than 31 October 1999. They concern exchanges of data on individual competitors and exchanges of aggregate data. As a result of the agreement, the Commission will close the files opened in respect of the tractor and agricultural machinery manufacturers and their associations.

The Commission has laid down a series of principles for the future. Application of the principles will prevent the exchange of information on tractors and agricultural machinery from having anti-competitive effects in the European Union. Until now, manufacturers have been kept regularly informed about the sales of each competitor, in detail, that is, broken down by short time-periods, by territory, sometimes even including the post code, and by the type of product.

The Commission has established the following principles. First, Individual data may not be exchanged until a period of twelve months has elapsed between the data of the event constituting the subject of the exchange and the date of the exchange. Second, aggregate market data, which may be less than twelve months' old, may be exchanged if the data are supplied by at least three dealers belonging to different industrial or financial groups. If there are fewer than three dealers, data may be exchanged only if the figure being exchanged concerns more than 10 tractor units.

The European Committee of Associations of Agricultural Machinery Manufacturers (CEMA) has undertaken, on its own behalf and on that of its members, to comply with those principles. The four largest manufacturers worldwide, namely, John Deere, New Holland, Case and ACCO, have undertaken to exchange information within the European Union only if the exchanges comply with those principles. These undertakings have been given irrespective of the source and retail level at which the information originates.

The same principles are applicable to associations of importers of tractors and agricultural machinery in the European Union. The principles set out clear guidelines for any similar exchanges of information in other economic sectors as highly concentrated as the market for tractors and agricultural machinery. The Commission closed the proceedings it had initiated by sending comfort letters to the associations concerned. It will take all the necessary steps to ensure that the principles are applied in similar situations.

The Commission decided in 1992 that this type of exchange produced anti-competitive effects in the United Kingdom owing to the limited number of tractor manufacturers, the four largest firms accounting for 80% of tractor sales. (Commission Decision of 17 February 1992, *United Kingdom Agricultural Tractor Registration Exchange*.)

Similar national information exchange systems have been set up in all the Member States of the EUROPEAN UNION. by associations of producers and importers. Information systems at international level have been set up by the producers themselves. In the case of the United Kingdom, the Commission had already established in 1992 the principle applicable to markets with fewer than three dealers, i.e. information may be exchanged only if the information concerns more than 10 tractor units.

When the Court of Justice upheld the Commission's Decision in 1998, the Commission decided to bring all similar exchanges organised in the European Union by producers and associations into line, as the concentration level in the sector is high in all the Member States. (Judgments in Case C-7/95 *John Deere v Commission* and in Case C-8/95 *New Holland v Commission*.)

The Commission has sent comfort letters to the following associations: Sygma (France), Unacoma (Italy), LAV (Germany), AEA (United Kingdom), Ansemat (Spain), Fedagrim (Belgium) and LIB (Denmark).

In addition, other producers' associations which have not been investigated by the Commission have also agreed to operate exchanges in accordance with the undertakings given by CEMA. They are: AMAMNO (Greece), NATI (Netherlands), Fimet (Finland), DLMF (Denmark), Fabrimetal (Belgium), FMS (Austria) and RL (Norway). □