COMMISSION DECISION

of 30 April 1982

relating to a proceeding under Article 85 of the EEC Treaty

(IV/417-BPICA)

(Only the Danish, Dutch, English, French, German and Italian texts are authentic)

(82/349/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 85 thereof,

Having regard to Regulation No 17 of 6 February 1962 (1), and in particular Articles 6 and 8 thereof,

Having regard to the Commission Decision of 7 November 1977 (2) under Article 85 (3) of the Treaty relating to the regulations of the International Permanent Bureau of Motor Manufacturers (BPICA), applicable until 17 May 1982,

Having regard to the application made on 22 June 1981 by the BPICA Chairman for renewal of this Decision,

Having regard to the summary of the BPICA regulations published, in accordance with Article 19 (3) of Regulation No 17, in the *Official Journal of the European Communities* No C 316 of 4 December 1981,

Having regard to the opinion delivered on 18 February 1982 by the Advisory Committee on Restrictive Practices and Dominant Positions in accordance with Article 10 of Regulation No 17,

Whereas:

I

1. BPICA is a non-profit-making association established in 1919. One of its objects is to regulate the display of motor vehicles at shows and exhibitions; both the application for negative clearance and notification submitted on 29 October 1962 and the application for renewal of the exemption Decision adopted by the Commission pursuant to Article 85 (3) of the Treaty on 7 November 1977 are concerned only with this object and the regulations adopted in pursuance thereof.

2. BPICA's membership includes the following national associations, which represent all motor vehicle manufacturers within their respective countries and in certain cases also assemblers and/or importers:

Verband der Automobilindustrie EV (VDA)
Westendstraße, 61, 6000 Frankfurt/Main 17
(Federal Republic of Germany),

Fachverband der Fahrzeugindustrie Österreichs
Lugeck 1/I/32, 1011 Wien 1 (Austria),

Fédération belge des industries de l'automobile et du cycle (FEBIAC)
Boulevard de la Woluwe 46, 1200 Bruxelles
(Belgium),

Automobil-Importørernes Sammenslutning
Ryvangs Allé 68, 2900 Hellerup (Denmark),

Asociación Espanõla de Fabricantes de Automóviles, Camiones, Tractores y sus Motores (ANFAC)
Calle Fray Bernardino Sahagun 24, Madrid 16
(Spain),

Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA)
1919 K Street, N.W., Suite 300, Washington, D.C. 20006 (United States),

Autotuojat r.y. Föreningen Bilimportörerna
Annankatu 31-33 D 59, SF 00100 Helsinki 10
(Finland),

Chambre syndicale des constructeurs d'automobiles (CSCA)
2, rue de Presbourg, 75008 Paris (France),

Mogürt
Bocskai ut. 77-79, H 1113 Budapest XI (Hungary),

Associazione nazionale fra industrie automobilistiche (ANFIA)
Corso Galileo Ferraris 61, Torino (Italy),

Japan Automobile Manufacturers Association (JAMA)
Otemachi Building 6-1, Otemachi, 1-chome, Chiyoda-ku, Tokyo 100 (Japan),

(1) OJ No 13, 21. 2. 1962, p. 204/62.
(2) OJ No L 299, 23. 11. 1977, p. 18.

Bilimportørenes Landsforening
Hauchsgt. 1, Oslo 1 (Norway),

Nederlandse Vereniging de Rijwiel- en Automobiel-Industrie (RAI)
Europaplein 2, 1078 GZ Amsterdam (Netherlands),

Union de l'industrie automobile polonaise (Polmo)
ul. Stalingradzka 23, 03-468 Warszawa (Poland),

The Society of Motor Manufacturers & Traders Ltd (SMMT)
Forbes House, Halkin Street, London SW1X 7DS (United Kingdom),

Sveriges Bilindustri- och Bilgrossistförening
Industrihuset, Storgatan 19, S 114 85 Stockholm (Sweden),

Chambre syndicale suisse de l'automobile et branches annexes
Case postale 112, CH 1218 Grand-Saconnex/ Genève (Switzerland),

Motokov
Na Strzi 63, 140 62 Praha 4 (Czechoslovakia),

V.O. Avtoexport
Volkhonka ul. 14, 119902 Moskva G-19 (USSR),

Poslovna Zajednica Proizvodjaca Motornih Vozila
Bulevar Vojvode Misica 14, 11000 Beograd (Yugoslavia);

3. Neither the statutes of BPICA nor its regulations on the display of motor vehicles at international exhibitions have been amended since the Decision of 7 November 1977. Reference should therefore be made to the latter for the basic features of the said statutes and regulations.

4. The national associations organize the motor shows in their respective countries. Each year several motor shows are held at which cars and/or trucks or buses and the like are displayed. They are generally held in Amsterdam, Barcelona, Belgrade, Birmingham, Brussels, Frankfurt, Geneva, Paris, Reykjavik and Turin. BPICA also authorizes the display of motor vehicles at the international fairs held each year in Brno, Budapest, Izmir, Leipzig, Poznan, Plovdiv and Thessaloniki.

5. International specialized exhibitions are normally organized by fair organizers or by the relevant trade associations; to qualify for display specialized vehicles must correspond to the relevant type of exhibition. The main international specialized exhibitions recognized by BPICA are the following:

— public works and building exhibitions (1), now mainly held in Basle, Budapest, Hanover, Munich, Verona and Vienna,

— municipal exhibitions (2), generally held in Amsterdam, Birmingham, Munich and Vienna,

— camping exhibitions (3), usually held in Amsterdam, Essen and Turin,

— fire-fighting exhibitions (4); the most recent was held in Amsterdam in 1979,

— racing and sports car shows (5), generally held annually in Paris,

— airport equipment exhibitions; the most recent was held in Hamburg in 1981,

— security exhibitions (6), which since 1979 have been held in Utrecht in 1979, Essen and Geneva in 1980 and Utrecht in 1981.

6. Some of these international specialized exhibitions cannot always be held in the same place or at regular intervals; this is partly due to the very nature of the vehicles displayed, but above all to the fact that producers and fair organizers have a joint interest in meeting their potential customers half way without any substantial increase in the costs of distributing — and consequently selling — the vehicles concerned by organizing exhibitions (whose success cannot be taken for granted) too frequently.

(1) The vehicles displayed include site and quarry skips, concrete mixers, mobile crushing and screening plant, cranes, excavators, dumpers spreaders, bitumen heaters and grit spreaders. This list is not exhaustive.
(2) The vehicles displayed include vehicles for emptying and cleaning sewers, refuse-collection vehicles, sprayers, road sweepers, snow ploughs and ambulances. This list is not exhaustive.
(3) The vehicles displayed consist solely of powered caravans.
(4) The vehicles displayed include tankers, fire engines, pump wagons, airport fire engines, emergency rescue vehicles, mechanical ladders, forestry fire-fighting tankers, emergency breakdown vehicles and ambulances. This list is not exhaustive.
(5) The cars displayed are formula racing cars and sports cars having won a race in the preceding year.
(6) The vehicles displayed are vehicles designed to protect persons and goods during transport and armoured vehicles used by the police.

7. In accordance with Article 3 of the Decision of 7 November 1977, each year BPICA had to furnish to the Commission *inter alia* copies of all the letters whereby it informed the applicant organizations that their request for authorization of international specialized exhibitions was refused. The Commission has not learned of any such refusals by BPICA since the Decision of 7 November 1977 was adopted, apart from that concerning a camping tourism exhibition to be held in Stuttgart from 21 to 29 January 1978, for which the application for authorization was sent to BPICA on 23 December 1977 after it had circulated on 16 December 1977 the definitive calendar for 1978 of international exhibitions where display of motor vehicles was authorized, which it had adopted on 18 November 1977.

8. The Decision of 7 November 1977 referred to certain features, on the one hand, of fairs and exhibitions in general and, on the other, of motor shows in particular. These features, which still distinguish both of the above types of exhibitions, may be summarized as follows:

— the importance of fairs and exhibitions as a source of market information,

— the preference for specialized exhibitions over general exhibitions where, on account of shortage of space, it is increasingly difficult to display a full range of products from all fields. As a result, if motor vehicles were displayed in addition to the usual products, they could be represented only by a limited range of types and makes and this would harm both the manufacturers and the consumer,

— the fact that motor vehicles may be displayed at a number of other exhibitions (national, regional, local, special) in addition to the shows and exhibitions authorized by BPICA and as 'supports' for other equipment in international exhibitions not authorized by BPICA. Moreover, BPICA does not prohibit advertising for motor vehicles at such international exhibitions,

— the role which the mass-circulation and specialized press play in advertising and in keeping the consumer informed.

9. Following publication of the Notice pursuant to Article 19 (3) of Regulation No 17, the Commission has received no new comments from third parties which might alter its assessment of the BPICA regulations.

II

10. For the reasons outlined in the Decision of 7 November 1977, to which reference should be made, the following provisions of the BPICA regulations.

— the ban imposed on manufacturers of motor vehicles and, through them, on their representatives, from taking part in international exhibitions and fairs which are not in the BPICA calendar,

— the penalty which may be imposed on the author of an infringement: a less favourable or reduced stand at the motor show in the country where the breach was committed,

have as their object or effect the restriction of competition within the common market between persons providing a service (the organizers of fairs and exhibitions), between motor vehicle manufacturers and between their commercial intermediaries. They are also liable to affect trade between Member States in that they impede trade in services by organizers of fairs and exhibitions and dealings in motor vehicles between the Member States.

III

11. The Commission is not aware of any new elements of fact or of law which could alter its view on this matter. In these circumstances the exemption Decision adopted on 7 November 1977 may be renewed under Article 8 (2) of Regulation No 17 since the tests for application of Article 85 (3) of the Treaty are still satisfied.

12. The BPICA regulations continue to improve the distribution of motor vehicles and to promote economic progress. The concentration of international events which it achieves — and which satisfies the need to rationalize international fairs and exhibitions — is the least expensive way in which

the full range, or nearly the full range, of motor vehicles can be brought together and compared. This has the effect of stimulating technical progress and giving better guidance to the consumer through the presentation of a full, up-to-date display of products, while providing favourable circumstances for the negotiation and conclusion of business transactions.

13. It may be concluded that a fair share of this improvement in distribution and economic progress accrues to the consumer. The periodic concentration of supply enables prospective purchasers to gain a full picture of the range of products available and to decide on what they will buy without having to travel about.

14. The BPICA regulations impose no restrictions which are not indispensable to the attainment of these objectives. The restriction which flows from the obligation upon motor manufacturers and their representatives to refrain from taking part in international exhibitions other than those organized by BPICA may be regarded as indispensable to the attainment of the benefit achieved through rationalization of the display of motor vehicles at such events.

15. The BPICA regulations do not eliminate competition between fair organizers, since the latter are entitled to seek the inclusion of motor vehicles in any exhibition other than those which are not authorized by BPICA and also since motor vehicles are only one form of advertising among many others at their disposal. The regulations do not eliminate competition between manufacturers or distributors of motor vehicles, for the display of a product at an exhibition is only one of many methods of marketing. In order to promote sales, manufacturers of motor vehicles have at their disposal all the facilities of the mass media for attracting the largest possible number of consumers, not to mention the additional promotion carried out by manufacturers' representatives in their direct contact with potential customers. It must be borne in mind that motor manufacturers and/or their representatives may take part in national, regional, local and special exhibitions not requiring BPICA authorization, in addition to the numerous events organized by BPICA.

16. In these circumstances a favourable response may be given to BPICA's application for renewal of the Commission Decision of 7 November 1977, which may be renewed for a period of 10 years.

17. For the reasons previously outlined in the Decision of 7 November 1977, the conditions attaching to the said Decision of 7 November 1977 must also form an integral part of this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The Decision adopted by the Commission on 7 November 1977 under Article 85 (3) of the Treaty establishing the European Economic Community relating to the BPICA regulations is hereby renewed until 17 May 1992.

Article 2

Each year BPICA shall furnish to the Commission:

— a list of the international exhibitions at which the display of motor vehicles is subject to its authorization,

— the calendar of international exhibitions at which the display of motor vehicles is authorized,

— copies of all the letters whereby the BPICA secretariat informs the applicant organizations that their request for authorization of international specialized exhibitions is refused.

Article 3

This Decision is addressed to the International Permanent Bureau of Motor Manufacturers (BPICA), 4 rue de Berri, 75008 Paris, France and to the following member national associations, to which BPICA is required to forward the Decision:

Verband der Automobilindustrie EV (VDA)
Westendstraße, 61 6000 Frankfurt/Main 17 (Federal Republic of Germany),

Fachverband der Fahrzeugindustrie Österreichs
Lugeck 1/I/32, 1011 Wien 1 (Austria),

Fédération belge des industries de l'automobile et du cycle (FEBIAC)
Boulevard de la Woluwe, 46, 1200 Bruxelles (Belgium),

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Asociación Espanõla de Fabricantes de Automóviles, Camiones, Tractores y sus Motores (ANFAC)
Calle Fray Bernardino Sahagun 24, Madrid 16 (Spain),

Motor Vehicle Manufacturers Association of the United States, Inc. (MVMA)
1919 K Street, N.W., Suite 300, Washington, D.C. 20006 (United States),

Autotuojat r.y. Föreningen Bilimportörerna
Annankatu 31-33 D 59, SF 00100 Helsinki 10 (Finland),

Chambre syndicale des constructeurs d'automobiles (CSCA)
2, rue de Presbourg, 75008 Paris (France),

Mogürt
Bocskai ut. 77-79, H 1113 Budapest XI (Hungary),

Associazione nazionale fra industrie automobilistiche (ANFIA)
Corso Galileo Ferraris 61, Torino (Italy),

Japan Automobile Manufacturers Association (JAMA)
Otemachi Building 6-1, Otemachi, 1-chome, Chiyoda-ku, Tokyo 100 (Japan),

Bilimportørenes Landsforening
Hauchsgt. 1, Oslo 1 (Norway)

Nederlandse Vereniging de Rijwiel- en Automobiel-Industrie (RAI)
Europaplein 2, 1078 GZ Amsterdam (Netherlands),

Union de l'industrie automobile polonaise (Polmo)
ul. Stalingradzka 23, 03-468 Warszawa (Poland),

The Society of Motor Manufacturers & Traders Ltd (SMMT)
Forbes House, Halkin Street, London SW1X 7DS (United Kingdom),

Sveriges Bilindustri- och Bilgrossistförening
Industrihuset, Storgatan 19, S 114 85 Stockholm (Sweden),

Chambre syndicale suisse de l'automobile et branches annexes
Case postale 112, CH 1218 Grand-Saconnex/Genève (Switzerland),

Motokov,
Na Strzi 63, 140 62 Praha 4 (Czechoslovakia),

V.O. Avtoexport
Volkhonka ul. 14, 119902 Moskva G-19 (USSR),

Poslovna Zajednica Proizvodjaca Motornih Vozila
Bulevar Vojvode Misica 14, 11000 Beograd (Yugoslavia).

Done at Brussels, 30 April 1982.

For the Commission
Franz ANDRIESSEN
Member of the Commission