New developments in Swiss Competition Law – New Motor Vehicle Ordinance for 2024

01.12.2023

Introduction

In its session on 29 November 2023, the Swiss Federal Council approved the new Ordinance on Antitrust Treatment of Vertical Agreements in the Motor Vehicle Sector ("MV Ordinance"), which will enter into force on 1 January 2024. This new regulation is a result of a parliamentary motion dating back to 2018 titled "Effective Enforcement of Competition Law in the Motor Vehicle Sector", which aimed to improve the legal protection of car dealers in their vertical relationships with car manufacturers. The new MV Ordinance largely reflects the rules already set out by the Competition Commission ("ComCo") in their previous motor vehicle notice ("MV Notice") and makes them binding on courts.

Content of new MV Ordinance

The new MV Ordinance (similarly to the previous MV Notice) defines certain types of agreements between car manufacturers and dealers that are considered as significant competition infringements in the automotive distribution sector. According to the MV Ordinance, anti-competitive conduct may include territorial restrictions and related warranty limitations, the tying of sales of new vehicles or spare parts with maintenance and repair services, or limitations of multi-brand sales. The MV Ordinance also contains minimum termination periods for distribution agreements.

Substantive changes in the new MV Ordinance are limited to necessary updates reflecting technological advancements. For instance, restrictions on access to technical information or tools for modern vehicle assistance and battery management systems are considered as significant competition infringements.

Relevance for the automotive industry

Overall, the substance matter of the new MV Ordinance remains largely similar to the previous MV Notice. Notably, there will still be no mandatory obligation to contract with dealers. However, with the transformation into an ordinance, the new rules will become legally binding also for courts.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in this legal update.

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