

18th April 2012

To,
Ms. Jyoti Jindgar
Additional Director General
O/o Director General
Competition Commission of India
3rd Floor, B-Wing,
HUDCO-Vishala Building,
14-Bhikaji Cama Place,
New Delhi.

Sub. : Notice under section 36(2) read with section 41(2) of the Competition Act, 2002

Dear Ms. Jyoti Jindgar,

At the outset, we wish to thank the Hon'ble Commission for inviting us to represent the issues arising out of our detailed letters dt. 07/03/2012, 30/03/2012 and 06/04/2012.

All the facts of the case pertaining to our relationship with Automobile Manufacturer especially Mercedes Benz India Pvt. Ltd. / Daimler AG have been placed before the Hon'ble Commission but by this representation, WE SPECIALLY WISH TO CRAVE THE INDULGENCE OF THE COMMISSION TO INQUIRE IN VERY GREAT DETAIL INTO THE MONOPOLISTIC MALPRACTICES UNDERTAKEN BY THIS PARTICULAR COMPANY AND THE REPRESSIVE METHODS FOLLOWED BY THEM in dealing with their dealerships, spare part suppliers and unilaterally suppressing vital information which affects the life and death of buyers of their products.

Having dealt with Automobile Manufacturers for over eight decades starting with Ford Motor Co. from 1931 to 1954, Hindustan Motors Ltd. from 1955 to 2003, Mahindra & Mahindra Ltd. from 1952 to 1985, DCM Toyota Ltd. from 1985 to 1995, Bajaj Auto Ltd. from 1989 to 2006, HM Mitsubishi Lance from 1997 to 2003, Skoda Auto India Pvt. Ltd. from 2003 to 2007 and Mercedes Benz India Pvt. Ltd. from 1996 to 2009. It is our experience that most repressive and monopolistic practices have been adopted only by Mercedes Benz India Pvt. Ltd. / Daimler AG and we would therefore request the Hon'ble Commission to carry out the following steps in the larger interest of the Automobile trade in India and safety & well being of automobile users.

- To appoint a technical inquiry team to evaluate how cover-ups of quality and design failures are handled by Mercedes Benz.
- To address the issue of monopoly (as seen in Mercedes cars) being maintained over **software and parts** as well as the use of **warranty policy** to deprive consumers of their fundamental rights as follows:
 1. No avenues is available in the case of Mercedes Benz cars to observe or capture detailed data without Mercedes Benz supplied diagnostic scanners and even the scanners provided to dealers are secretly controlled by the manufacturer in all aspects by use of guarded private software (no transparency).
 2. The same combination of private scanner and private software ensure that at any time by simply connecting a recently updated scanner and operating according to simple universal instructions, all cars world wide can be directly manipulated by a small team of insider experts and even the technician connecting the car to the scanner or indirectly to the Daimler servers does not have any control. In this way various failed remedies were tried out on the failure of the SBC braking system and transmission and many other known to be faulty assemblies. In recent time we have evidence that the entire set of control unit software of ALL CARS was replaced under a campaign, where as and when each car worldwide would happen to report to any workshop, without its owners consent, the Mercedes Benz scanner system would **AUTOMATICALLY INSERT NEW SOFTWARE WHERE NEEDED** (as per the service measure document itself). This is a small example and this activity has gone on with no transparency even to the dealer for more than a decade. We can provide software cd's used to update the SBC brakes which failed to cure the problem however we have no idea as to the inside secret of what experiments were exactly carried out.
 3. In case of injury, death or other failure there is no way of extracting forensic info and even by connecting their own scanner the company can carry out unlimited tampering even while the screen of the scanner is showing no such activity. Settings in the self diagnosis system are tampered during trial or as a general practice and during so called Maintenance service, unlimited access is available to company engineers to tamper any evidence and deny any failure while even the person pressing the keys on the scanner is unaware. By so called "updates" the **entire behavior of the SELF DIAGNOSIS system can be altered unlimitedly** and no person could prove a failure since advanced features are monopolized by the company.
 4. Customers are denied any system generated reports and given even falsified typed extracts which they can never challenge. We can prove this in the case where a customer lost his life and no airbag inflated. To this day the customer's family has not been given a true report and the original data has been stolen by the German Analyst who refuses to give a copy of the original data files taken from the customer's car. Most people initially allow the company engineers to access the

- car after which they never receive any true report. The above monopoly ensures that this will continue.
5. The customer is bound to the network of companies like Mercedes Benz and cost of parts and service is dictated by the company.
 6. Once a customer is termed as a “difficult customer” pro active legal defense is applied and the engineers from Mercedes Benz directly “handle” the case so that the customer has no chance against engineers who have total control over the evidence and the crime.
 7. Under strict instructions dealers are made to carry out all secret activities on parallel documentation and never allowed to inform customers.
 8. As a result when defects are known by Mercedes Benz they term them as not affecting safety or quality and the rectification is done by dealers as a favor to the customer under the terms “FOR INCREASED CUSTOMER SATISFACTION”.
- To address broader issues of the role of media and regulation of the relationship between dominant players or cartels (like automakers as a lobby) and the media. Issues such as favors between the two should be made at least transparent.
 - To address how dealer agreements are made and modified trapping dealers into bondage or slavery with terms which lead to sure destruction for any dealership which goes against the manufacturer. To address the specific case of Cama Motors with respect to Mercedes Benz including issues such as the following which are universal to some extent:
 1. Enforcement of non disclosure clauses and any harsh clauses, years after a dealer agreement is in force forcing the dealer to destroy his livelihood and reputation in the industry or accept any terms.
 2. One sided protections being enforced on ongoing agreements such as unconditionally taking away one party’s right to claim damages, tampering with clauses involving jurisdiction in case of dispute or with the entire dispute clause itself and many more. This causes dealers to bleed to death with no avenue to turn to. Also putting false claims in agreements such as “this agreement is between equals” while that is totally contradicted within all the terms of that same agreement.
 3. Issues pertaining to poor quality are manipulated in such a way that companies like Mercedes Benz can hide behind a dealer and delay the legal process indefinitely. The dealer is made responsible for the acts of the manufacturer.
 4. Over a period only two types of dealerships exist. First and most common is the case where the dealer and the manufacturer get caught in a bond based on jointly exploiting the consumer and malpractices develop between the two which make a mockery of consumer rights. Second and rarer is case of traditional and ethical businesses which are driven out of networks like Mercedes Benz for standing up for their values and the entire system in India is supportive of the manufacturers in this case.

- To address how consumer courts are unable to process complaints of poor quality due to jurisdiction issues and how Mercedes Benz has had cases delayed by years using this weakness. To examine all cases against Mercedes Benz based on quality where Mercedes Benz is challenging jurisdiction on various grounds without answering technical issues.
- To address how criminal practices of Mercedes Benz can be brought before the law in their full severity.
- To address how Mercedes Benz can be made accountable for all the violations of consumer rights by transparently publishing all secret campaigns. In many cases it has been noted by consumers that there is a defect and secretly the company has addressed this very failure through some campaign in the past yet the defect is not admitted in front of the consumer and he is blamed and made to pay by force for the repairs. **All WELL KNOWN DEFECTS** for which the company has carried out secret campaigns should be shared with the consumers openly with an apology for the past crimes. All pending and past litigations based on these “KNOWN DEFECTS” should be examined fairly by reliable third parties. Data regarding parts replaced for KNOWN DEFECTS by Mercedes Benz should be made transparent so that customers are aware of their rights and cannot be treated arbitrarily when they have an individual failure.
- To address how protection can be offered to Cama Motors against the mis-use of the legal system like use of Defamation and Gag order type litigations since Cama Motors is the only whistle-blower and we have been silenced by force for long. As yet we have still not been heard by the actual consumer and various barriers exist which prevent further knowledge from reaching the consumer. Media is extremely against dissenters when it comes to powerful multinationals. If we use the internet we will face further harassment. What are we to do?

We do sincerely hope that the Hon'ble Commission will listen to our prayer and take necessary steps at the earliest.

Thanking you and with best regards,

Yours faithfully,
For, **Cama Motors Pvt. Ltd.**



Jehangir R J Cama
Chairman



Rustom Cama
Executive Director

Cc: Mr. A K Singhal, Assistant Director General,
Office of Director General, Competition Commission of India, New Delhi