

## Press Release

Brussels, 26 March 2021

### Austrian Supreme Court rules that Peugeot Austria has abused market power against independent dealers

*Source: Competition Counseling & Research Peter Thyri*

On March 22, 2021 the Austrian Supreme Cartel Court upheld the Cartel Court's earlier decision of May 12, 2020 in a legal dispute between Austrian Peugeot dealer Büchl and Peugeot Austria (PSA), that the general importer for Peugeot vehicles in Austria abused its market power vis-à-vis Büchl in violation of Austrian and European competition law. Büchl had turned to the cartel court because, like many other Peugeot dealers in Austria and Europe, it claimed to suffer from PSA's suffocating system of requirements and non-transparent reimbursement conditions.

The Supreme Court has banned Peugeot from tying the dealer's premium payments to customer satisfaction surveys; reducing the dealer's margin if they do not reach sales targets inflated by PSA and competing with dealers through subsidized vehicle prices on the end customer market at PSA's own, vertically integrated sales outlets. Also, an elaborate control system for guarantee and warranty work and hourly rates that did not cover the dealers costs is prohibited, as those measures make guarantee and warranty work unprofitable for dealers. Finally, PSA may no longer pass on the costs of its mystery shopping and audit system for the new car and workshop business to dealers.

The Supreme Court recognizes that PSA economically forces dealers to take part in promotions and thereby restricting dealers' freedom of setting their own prices. While the Cartel Court of first instance is requested to further complete its findings and decide anew as to this point, all the other points are now legally binding and must be implemented by PSA within three months time.

The Supreme Court stresses that its decision applies to all contractual relationships in which similar economic dependencies exist and awaits considerable changes in the remuneration system of PSA. The Supreme Court also clearly points to the parallel applicability of European competition law and elaborates on the finding of a dominant position on the part of the importer as well as on the treatment of abusive clauses in contractual relationships under Art 102 TFEU.

PSA's remuneration system must be adjusted within the deadline set by the Supreme Court. For other brands 'networks - especially those of the newly formed Stellantis-Group directly affected by the decision - the judgement can serve as a valuable guideline to legal safety. It will also have to be discussed how numerous Peugeot dealers subject to the abusive conditions can be reimbursed for the loss in remuneration they suffered over the years as a consequence of PSA's violation of the prohibition to abuse a dominant position.

CECRA and its Austrian member WKÖ welcome the decision of the Supreme Court as a breakthrough in their decade-long struggle for more fairness in the manufacturer-dealer relationship in Austrian and European car markets. Especially in light of all current radical changes and challenges, the judgment paves the way for a new partnership in the automotive industry.

For more information

Co-ordinator:

**Bernard Lycke**  
Director General



The voice of European vehicle dealers and repairers

[cecra.eu](http://cecra.eu)

[bernard.lycke@cecra.eu](mailto:bernard.lycke@cecra.eu)

Mobile: +32 475 932 693



CECRA, established in 1983, is the European federation bringing together national professional associations, which represent the interests of motor trade and repair businesses and European Dealer Councils. CECRA represents on a European scale 336,720 motor trade and repair businesses. Together they employ 2.9 million people.

Boulevard de la Woluwe 46, box 9 · 1200 Brussels - Belgium · t. : +32 (0) 2 771 96 56 · [mail@cecra.eu](mailto:mail@cecra.eu) · [cecra.eu](http://cecra.eu)