OPINION OF ADVOCATE GENERAL ELMER

delivered on 28 March 1996 *

1. In this case the Cour d'Appel (Court of Appeal), Metz, France, has referred to the Court for a preliminary ruling a question concerning the interpretation of Article 30 of the EC Treaty in relation to national rules regulating the use of the designation 'model year' in connection with the sale of motor vehicles.

The relevant national rules

2. Article 2(1) of Decree No 78-993 of 4 October 1978 implementing, as regards motor vehicles, the Law of 1 August 1905 on deceptive practices and the representation in the field of products and services (hereinafter 'the Decree') provides that every vehicle in conformity with the model whose design features have been established by the manufacturer for any given year shall be designated by that year's date, known as the 'model year'.

3. In transactions involving new or used motor vehicles, whether of French or foreign origin, the trade description of those vehicles must indicate the year date of the model year (Article 2(3) of the Decree). Moreover, under Article 5(1) of the Decree, invoices, delivery notes and all other sales documents must contain *inter alia* the same information.

4. Article 7 prohibits the use of any description or indication which may mislead the consumer with regard *inter alia* to the model year.

5. By Order of 2 May 1979 (hereinafter 'the Order') provisions for implementing the Decree are laid down.

Article 1 reads as follows:

'Every manufacturer or importer of motor vehicles ... shall, before marketing them, send to the Minister for Transport a detailed descriptive notice of the models which he intends to market for a given model year.

* Original language: Danish.

That description shall contain *inter alia*:

A statement of the type on the basis of which the vehicle has been approved by [the competent authority];

An exact description, accompanied by photographs of the bodywork, the driver's seat and the internal design;

Where the model concerned has the same trade description as an earlier model, such differences between the two models as are of essential interest to purchasers shall be described in detail.'

6. Article 2 of the Order reads as follows:

'Every manufacturer or importer shall in respect of each model inform the Minister for Transport of the chassis number of the relevant type as from which vehicles referred to in the foregoing article are manufactured in accordance with the model for the new year.'

7. Article 5 provides that a vehicle may be designated by the year date of a given model year only if it has been sold to the user no earlier than 1 July of the preceding calendar year.

That designation of the model year based on the next calendar year is hereinafter designated as 'n + 1'.

Facts

8. Rémy Schmit is responsible for the day-to-day management of the firm Garage Espace-Import SARL, situated in Yutz, France. The firm deals in new and used motor vehicles, imports such vehicles from other Member States with a view to resale and also acts as an agent for the purchase of new cars in other Member States. It appears that this allows considerable savings to be made over the price offered by the manufacturers' dealer networks.

9. In 1993 the authorities carried out an inspection of the firm's business premises. It was found that a Volkswagen 'Corrado'

displayed as a 1992 model, registered for the first time on 5 July 1991, was in fact a 1991 model.

10. The authorities then interviewed former customers of Garage Espace-Import SARL. Three customers stated that in 1991 they had ordered Citroën, Peugeot and Renault cars of 1992 model year. The sales documents made no mention of the model year and the manufacturers stated upon enquiry from the authorities that in all three cases the vehicles concerned were of the 1991 model year. The vehicles were sold to the customers after 1 July 1991.

11. Rémy Schmit was then prosecuted, first for selling motor vehicles without mentioning the model year in the order or sales documents, secondly for displaying a vehicle with an incorrect description of the model year and thirdly for selling a vehicle with an incorrect description of the model year. The case is now pending before the Cour d'Appel, Metz.

12. In addition, in October 1993 Peugeot SA used, in an advertising campaign conducted in Northern France, materials depicting two motor cars of the same model, one with a French number-plate and the other with a Belgian number-plate separated by a frontier barrier. The caption to the Belgian car was: 'Sold up to 31 December 1993: Model year 1993'. The corresponding caption to the French car was: 'Sold after 1 July 1993: Model year 1994'. The picture was headed: 'There is only one metre between these two new Peugeots, but they are already a year apart'.

The Tribunal de Grande Instance (Regional Court of Appeal), Paris, by judgment of 15 March 1995, fined Peugeot SA FF 100 000 for infringing Article L.121-1 of the Code de la Consommation (Consumer Code), which prohibits misleading advertising. In its judgment the court interpreted the Decree and the Order as meaning that 'any vehicle with characteristics corresponding to those of vehicles to which the French rules enable to be granted as from 1 July in a given calendar year the model-year date the following calendar year, must qualify, where the vehicle is re-sold in French territory, for the same conditions in regard to the model-year date irrespective of the place where it was acquired'.

13. By a letter dated 28 October 1994, Mr Fourgoux, a lawyer, informed the Direction Générale de la Concurrence, de la Consommation et de la Répression des Fraudes (a regional authority responsible for competition, consumer protection and fraud prevention) on behalf of Syndicat Européen des Professionels de l'Automobile that the French system was 'not applicable to vehicles imported from the European Union — either directly by a private individual or through an agent — which are covered by provisions applicable in their country of origin'. It was further stated that 'manufacturers

and importers must inform the Minister for Transport of the chassis number as from which vehicles are manufactured in accordance with the model for the new year (Article 2 of the Order of 2 May 1979) and may be described as the model for the new year. On the other hand, there is no control of chassis numbers for exported vehicles re-imported into France and the Minister for Transport has no knowledge of these.'

Relevant Community legislation

14. The motor-vehicle sector is the subject of a considerable number of harmonization directives laying down technical requirements for individual component parts of vehicles. Part I of Annex IV to Council Directive 92/53/EEC of 18 June 1992 amending Directive 70/156/EEC on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers [1] lists 52 such special directives and the vehicles to which they apply. These special directives contain *inter alia* common rules on noise level, air pollution, brakes, internal layout, headlights, seats, side impact protection, safety glass and safety systems.

15. With effect from 1 January 1993, Directive 92/53 introduced a common type-approval procedure in accordance with which application may be made for every type of vehicle in one Member State only. [2] Correspondingly only one application may be made as far as concerns the individual systems, for example brakes, together with components, lights and separate technical units such as rear bumpers, which are covered by special directives.

16. Commission Directive 78/507/EEC of 19 May 1978 adapting to technical progress Council Directive 76/114/EEC on the approximation of the laws of the Member States relating to statutory plates and inscriptions for motor vehicles and their trailers, and their location and method of attachment [3] contains in an annex *inter alia* provisions affecting chassis numbers.

Point 3.1 provides as follows with regard to the chassis number:

'3.1.1 It must consist of three sections:

3.1.1.1 The first section shall consist of a code assigned to the vehicle manufac-

1 — OJ 1992 L 225, p. 1.

2 — Article 2 of the directive contains certain transitional provisions allowing a continued application of the provisions previously applicable for certain specified periods.

3 — OJ 1978 L 155, p. 31.

turer to enable him to be identified. The code shall comprise three characters, letters or figures which shall be assigned by the competent authorities of the country where the manufacturer has his principal place of business, by agreement with the international agency acting under the authority of the International Organization for Standardization (ISO). The first character shall designate a geographical area, the second a country within a geographical area, and the third a specific manufacturer.

...

3.1.1.2 The second section shall be composed of six characters (letters or figures) which shall serve to indicate the general characteristics of the vehicle. If the manufacturer does not use one or more of these characters, the unused spaces must be filled by alphabetical or numerical characters, of the manufacturer's choice.

3.1.1.3 The third section, composed of eight characters, of which the last four must be numerical, must in conjunction with the other two sections provide clear identification of a particular vehicle. Any unused space must be filled by a zero in order that the total number of characters required may be fulfilled.'

17. With effect from 1 October 1981 the Member States have been entitled under Article 2(3) to prohibit the entry into service of vehicles of which the statutory plates and inscriptions do not comply with the provisions of the directive.

The question referred to the Court

18. By order of 31 May 1995 the Cour d'Appel, Metz referred the following question to the Court for a preliminary ruling:

'Does Article 30 of the Treaty establishing the European Community preclude national legislation concerning model-year dates for motor vehicles which causes the administrative authorities and traders of a Member State to consider that, in the case of two motor vehicles of the same model and make, placed on the market on the same date after 1 July, one vehicle may be held out as falling under the model-year date of the following calendar year whereas the other, manufac-

tured in another Member State and the subject of parallel importation, may not?'

Procedure before the Court

19. Rémy Schmit has claimed that the French system restricts parallel imports and consequently is inconsistent with Article 30 of the Treaty. French consumers attach importance to the designation of the model year and this, as appears from the aforementioned judgment of the Tribunal de Grande Instance, Paris, has given rise to abuse on the part of the manufacturers. The French authorities interpret the Decree and the Order as meaning that vehicles which have been the subject of parallel importation cannot be designated by the model year n + 1, notwithstanding the fact that they are identical to vehicles which authorized dealers market in France under that designation of the model year. The French authorities have, moreover, not passed on to users and parallel importers information about the chassis numbers reported to them.

20. Furthermore the designation of the model year n + 1 is used by traders in a number of Member States, including Belgium, Denmark, Finland, Italy and Germany. The change-over to a new model-year date does not always represent real changes and in practice it has happened that certain versions of models which have not been changed could equally have been classed at the dealer's option as being of the new or the previous model year.

21. The French Government has contended that the Decree and the Order are not incompatible with Community law and has stated *inter alia* that a vehicle must meet three conditions in order to be eligible to be classed as model year n + 1: it must correspond to all the specifications and other characteristics reported by the manufacturer, its chassis number must be covered by the manufacturer's report and finally it must be sold to the consumer on or after 1 July.

That provision, which was first introduced to protect purchasers of used vehicles, makes it possible to sell models under a new model-year date following the works' holidays. That period of cessation of production may therefore be used to convert the production plant.

22. The system applies without distinction to vehicles produced in France and in the other Member States and therefore does not, in the French Government's opinion, hinder, directly or indirectly, actually or potentially, trade between Member States. The French Government has referred in this connection to the interpretation given in the judgment of 15 March 1995 of the Tribunal de Grande Instance, Paris.

23. Vehicles imported from another Member State the chassis number of which has not been reported to the French authorities cannot be designated by the model year n + 1. The French Government is aware that that may make parallel imports difficult, but has stated that marketing in another Member State often involves essential changes in a vehicle's characteristics in accordance with local consumer preferences. Such vehicles must be designated by the model year in accordance with whatever systems apply in the Member State from which they are imported.

24. Finally the French Government has explained in answer to questions that it is possible on application to the Direction de la Sécurité et de la Circulation Routière to obtain information on the chassis number which serves as a basis for calculating a new model year.

25. The Commission has stated that there are no provisions of Community law governing the use of the designation 'model year'. According to the French system an indication of the model year is compulsory on the sale of vehicles in France. Vehicles which are the subject of parallel importation must use the designation used in the Member State from which they are imported, which usually means the calendar year or date of first registration.

26. In the Commission's view, the designation of the model year n + 1 may, on the one hand, give the consumer the impression that the vehicle has the advantage of certain new developments as compared with the previous model year and, on the other hand, affect the price of a used car. The consumer's choice may be affected as a result. In so far as vehicles which are parallel imports cannot be designated by the model year n + 1, they are rendered less attractive, so that, in the Commission's opinion, this appears to be a case of a measure having an effect equivalent to a quantitative restriction on imports within the meaning of Article 30 of the Treaty. This system of using the subsequent calendar year as a designation of the model year cannot be regarded as founded on Article 36 of the Treaty or on an overriding public interest as recognized by the Court's consistent case-law, since it really amounts to an instrument of industrial policy.

27. In answer to questions, the Commission explained that it is not clear that the change-over to a new model-year date represents real technical changes in comparison to the previous model year and that it is not perceptible to the consumer whether or to what extent that is the case. The information which may be deduced from a vehicle's chassis number is not accessible either to the consumer or to the parallel importer, who do not know the code used. Moreover the model year by which a vehicle is designated does not depend upon the year of production. There is thus, in principle, nothing to prevent a vehicle produced in 1994 from being sold as being of model year 1996 provided that it was reported to the authorities only in 1995.

General observations with regard to Article 30 of the Treaty and parallel importation

28. I think it is appropriate to discuss briefly by way of introduction the more general principles which the Court has developed in its case-law regarding Article 30 of the Treaty.

29. The Court has consistently held that Article 30 contains a prohibition of trading rules which hinder, directly or indirectly, actually or potentially, trade within the Community. In the absence of harmonization of legislation, Article 30 involves a prohibition of obstacles consisting in the application to goods coming from other Member States where they are lawfully manufactured and marketed, of rules that lay down requirements to be met by such goods (such as those relating to designation, form, size, weight, composition, labelling or packaging) even if those rules apply without distinction to all products, unless their application can be justified on grounds of a public-interest objective taking precedence over the free movement of goods. [4]

30. In a series of judgments the Court has made it clear that the reservation of a given generic designation to products with certain characteristics constitutes a measure having an effect equivalent to a quantitative restriction on imports, as for example in Case 178/84 *Commission* v *Germany* [1987] ECR 1227, concerning the designation 'Bier', which in Germany was reserved for beer produced in accordance with the German *Reinheitsgebot*. [5]

31. Unlike the provisions on types of sales considered in *Keck and Mithouard*, [6] it is not a condition with regard to arrangements of the kind mentioned that the marketing of goods from other Member States must be, either legally or in fact, more adversely affected than the marketing of domestic goods.

32. The Court has further declared that parallel imports enjoy a certain amount of protection in Community law because such trade encourages the development of freedom of movement of goods and helps to stimulate competition. [7] According to case-law national measures which obstruct parallel imports or render them more difficult may be incompatible with Article 30 of the Treaty. As an example, I might mention

4 — See Case C-51/94 *Commission* v *Germany* [1995] ECR I-3599, paragraph 29, Case C-470/93 *Mars* [1995] ECR I-1923, paragraph 12, and Joined Cases C-267/91 and C-268/91 *Keck and Mithouard* [1993] ECR I-6097, paragraph 15.

5 — Reference may also be made to Case C-51/94 *Commission* v *Germany*, mentioned in footnote 4, and Case 182/84 *Miro* [1985] ECR 3731.

6 — See *Keck and Mithouard* referred to in footnote 4.

7 — See the judgment in Case C-373/90 *Complaint against X* [1992] ECR I-131, paragraph 12.

requirements for the production of certificates of authenticity or conformity or product specifications which are less easily accessible to parallel importers than to official importers. [8]

35. Furthermore the designation of the model year might affect the price of a more recent used car. Irrespective of the fact that two vehicles are registered simultaneously and are identically constructed, a 1994 model for example will presumably have a greater value in the purchaser's view than a 1993 model. The lack of an opportunity to market vehicles under the designation 'model year n + 1' may therefore have an adverse effect on the sale of such vehicles.

Compatibility with Article 30 of the Treaty of systems such as the French system

33. It is in the light of those principles that the compatibility with Article 30 of the Treaty of a system such as that contained in the Decree and the Order must be assessed. The French provisions prescribe a duty to classify motor vehicles sold on the French market according to a model year, and lay down conditions as to when a vehicle may be described as being of model year n + 1. The system therefore governs the use of a given generic description of goods.

34. If a new vehicle cannot be given the latest model-year designation on any particular market, it may make the product less attractive in the eyes of the consumer, since he may get the impression that he is purchasing 'old' technology.

36. According to Article 1 of the Order, in order to be designated by the model year n + 1 a vehicle must on the one hand be provided with a chassis number covered by the manufacturer's report to the authorities and on the other hand have the characteristics and specifications reported to the authorities. In the light of the judgment given by the Tribunal de Grande Instance, Paris, on 15 March 1995 and the French Government's written observations, it may be taken that only vehicles meeting those conditions may be sold under that designation. Other vehicles, in contrast, must be marketed under the model-year designation used in the Member State from which they have been imported. That will, I understand, usually mean either the calendar year or the date of first registration, which involves the vehicle's being designated throughout the calendar year by the model year relating to that calendar year.

8 — See, for example, Case 8/74 *Dassonville* [1974] ECR 837, Case 104/75 *De Peijper* [1976] ECR 613 and Case 154/85 *Commission* v *Italy* [1987] ECR 2717.

37. It may be seen from Directive 78/507 that the chassis number includes a

code with six characters which are to denote the vehicle's general characteristics. The directive does not further specify which characteristics are to be included. The individual manufacturer is thus himself in control of the coding of that part of the chassis number and therefore has the opportunity to incorporate a code for the market for which the vehicle is intended. If in such a case only the series of numbers applicable to vehicles intended for the French market is reported, only the vehicles thus covered can be designated by the model year n + 1. That applies even though the vehicles may be identical. The system contained in Article 2 of the Order involving reporting of chassis numbers may therefore in itself, in my view, be incompatible with Article 30 of the Treaty.

38. As regards the requirement in Article 1 of the Order that the vehicle shall correspond to the characteristics and specifications reported by the manufacturer, it may be seen from the French Government's observations that complete identity is required as regards the appearance, technical construction and factory-installed standard equipment before the vehicle may be designated by the model year n + 1.

39. That legal position may be elucidated by means of an example. The manufacturer may choose to equip a given model version with different standard equipment depending upon the market for which it is intended. A version intended for the French market may, for example, be equipped with electric windows, whilst the corresponding Belgian version is equipped with a central locking system. Notwithstanding the fact that the vehicles are produced at the same time and are otherwise identical, the effect of the difference mentioned will be, as I understand it, that the parallel imported Belgian model version cannot be designated as n + 1. That applies even if the differences are such as will usually be apparent to the consumer. The French system may in itself encourage the manufacturers to differentiate between vehicles as far as equipment is concerned according to the various markets.

40. In those circumstances it must be assumed that a system such as that laid down by the Decree and the Order will mean in a number of cases that a parallel imported vehicle cannot be marketed under the same model-year designation as a vehicle sold in France through the distribution system established by the manufacturer and the importer. This amounts therefore, in my opinion, to a measure having an effect equivalent to a quantitative restriction on imports within the meaning of Article 30 of the Treaty, which is prohibited unless the system can be regarded as being based on legitimate grounds consequent upon Article 36 of the Treaty and the case-law of the Court. The consideration relied upon by the French Government of guaranteeing correct information to the consumer is a legitimate ground according to that case-law. [9] However, under the case-law of the Court [10] the measure must be appropriate in order to achieve the objective pursued and the intervention must be proportionate, that is to say,

9 — That may be seen *inter alia* from paragraph 32 of the judgment in Case C-51/94 *Commission* v *Germany* referred to in footnote 4.

10 — See, for example, Case C-331/88 *Fedesa and Others* [1990] ECR I-4023, paragraph 13.

it must not be excessive, and it must not be possible to protect the purpose pursued in an equally effective manner by less onerous measures.

Is a system such as the French system appropriate to protect consumers?

41. There may be grounds for stressing more generally that the motor-vehicle sector is the subject of a common type-approval procedure (see, for example, Directive 92/53 and the large number of special directives concerning individual component parts of vehicles) and that manufacturers can obtain significant advantages from large-scale production by using to the greatest extent possible the same platform and components for the cars they produce. These circumstances mean that the manufacturers typically may and do have an interest in marketing the same basic models and versions of models throughout the Community. The individual versions of models may however be differently equipped in consideration of local conditions and consumer preferences. I might mention, for example, that in Denmark registration may be reduced if special safety equipment is fitted. On the whole, therefore, all new cars sold on the Danish market today are fitted with airbags as standard equipment.

42. Consideration must also be given to the information which the consumer may derive from the designation of the model year. In my view, the consumer must reasonably be able to conclude from such designation that vehicles belonging to a new model year have most recently been brought up to date with regard to their design and appearance. Moreover, the consumer may reasonably infer that a new model year is the result of a new production-run and that the product has not therefore been standing for rather a long time with the manufacturer or the dealer and that there have been changes in comparison with the previous model year. Since it is the manufacturers who determine the specifications applicable to a specific model year, the model-year designation does not in itself, however, tell the consumer anything about how a model is constructed or how a specific version of a model is equipped.

43. As I have mentioned, it follows from the Decree and the Order that a vehicle which does not conform to the specifications reported by the manufacturer, or which does conform thereto but is not included in the series of chassis numbers reported cannot be designated as 'model year n + 1'. Such a vehicle must not, for example, be sold in France in the period from 1 July 1996 to 31 December 1996 as 'of the 1997 model year' but must instead be sold under the designation 'model year 1996'. The consumer may therefore feel encouraged to choose the dearer car of model year n + 1, which has not been the subject of parallel importation, in the belief that he is thereby obtaining a newer, updated design.

44. In the period between 1 July and 31 December, however, a system like the French one, it seems to me, guarantees the consumer a comparatively slight degree of protection. It is of special interest for the consumer to be informed whether, and if so how, the new model year differs from the previous one. It is, however, in no way certain that the consumer will receive the information which is to be given to the authorities under Article 1 of the Order. On the other hand, as I understand the position, it is possible to sell a completely unchanged vehicle under the designation n + 1 and, as the Commission has stated, the consumer cannot even be sure that such a vehicle is newly manufactured. It may in principle have been in stock for several years and still be designated as model year n + 1.

45. In the period between 1 January and 30 June in any year, on the other hand, both vehicles which meet the conditions mentioned and those which do not may be sold with the same model-year designation, for example, between 1 January and 30 June 1997, as 'model year 1997'. The French rules and the rules applicable in the Member State from which the vehicle has been imported mean, according to the information available, that in that period the same model-year designation must be used, in this example, 1997. In the first six months of any given calendar year, a system such as that contained in the Decree and the Order does not ensure therefore that the consumer is informed that the parallel imported vehicle does not meet the conditions laid down in the Decree and the Order and, for example, has equipment different from the model intended for the French market.

46. The French system by no means prevents the manufacturer from changing the model in the course of a model year, for example by offering two airbags only as an optional extra instead of, as formerly, as standard equipment. The consumer cannot therefore be sure that two vehicles of the same model version and the same model year are identical.

47. In these circumstances, my view is that the French system does not meet the condition that it must be appropriate to achieve the objective alleged, namely to ensure that the consumer is correctly informed.

Is the interference with free movement of goods proportionate in this case?

48. Even if it were accepted that the system was appropriate to protect the consumer, the interference with free movement of goods

would still need to be proportionate. We must therefore consider whether that condition is satisfied.

49. If the reason why the parallel imported vehicle cannot be designated as n + 1 is that the vehicle's chassis number is not included in the series of numbers reported by the manufacturer, it may in my view be established without difficulty that the obstacle constitutes an unnecessary and consequently disproportionate interference with the free movement of goods. If the parallel imported vehicle is identical in point of design, appearance and standard equipment to the specifications and characteristics reported by the manufacturer, the consumer is in no way misled by the fact that the parallel imported vehicle is allotted the same model-year designation as the one whose chassis number is covered by the manufacturer's report. The consumer is receiving precisely the goods he expected and may on the contrary be misled by the French system, which means that the two vehicles cannot be marketed under the same model-year designation, since he may be misled into believing that the two vehicles are different.

50. It is the usual practice for a model's appearance and design to be constantly updated. It may, for example, be a matter of the insertion of side-impact bars in the doors or so-called 'face-lifts' by installing a new radiator grille. It is essential for the consumer to be informed whether technically or cosmetically the vehicle is such an updated version. If a parallel importer sells a vehicle without explaining that there are no such changes, either because he does not have the updated model version in stock or because it is not yet on sale in the Member State from which he imports his vehicles, he is, in my opinion, acting contrary to good marketing practice. The consumer must therefore in my view be guaranteed the necessary protection against being misled in such a way by the authorities' applying national rules on good marketing practice.

51. If the manufacturer must in rare cases market in the various Member States under the same model designation vehicles which are essentially different technically or in appearance, then in that case too an application of national rules on good marketing practice will in my opinion guarantee the consumer the necessary protection. The consumer is thereby assured of the necessary positive information regarding the product, namely that the parallel imported vehicle and the one sold by the authorized French dealers are not identical. The designation of the model year on the other hand does not give the consumer that information.

52. Manufacturers fairly frequently install different standard equipment in their motor

cars depending on the market for which the vehicles are intended. It cannot be ruled out that a consumer who has seen, on the premises of an authorized French dealer, a French version of a model with certain standard equipment will then buy a parallel imported vehicle in the belief that the vehicles are identical in point of equipment and therefore feel cheated if that turns out not to be the case. Purchase of a car is still for most people an important investment. It will therefore be natural for the consumer to carry out a thorough comparison of the prices offered by seeking exact information, *inter alia* concerning the vehicle's equipment. That applies not least to a consumer who approaches a dealer in another Member State through an agent, or a dealer who is outside the system of authorized dealers. An enquiry as to the designation of the model year in the period between 1 July and 31 December may certainly draw the consumer's attention to the fact that there is possibly a difference between cars offered by the authorized dealers or the parallel importer as the case may be. But in the period from 1 January to 30 June the model-year designation gives the consumer no guidance on this. In all circumstances, therefore, my view is that the consumer can be more effectively protected by the application of national rules on good marketing practice or by rules providing that motor car dealers must provide a list of standard equipment installed. The information necessary for this will normally be immediately accessible to parallel importers and will therefore obstruct free movement less than a prohibition of using the model-year designation n + 1.

53. It may be appropriate to mention in conclusion the situation in which a parallel imported vehicle is later sold as a used car. For the consumer selling the vehicle in question it will be essential to be able to describe it by the latest possible model year since that may affect the price. In that case too it seems that the buyer can be more effectively protected by the application of rules on good marketing practice and possibly the duty to provide information with regard to the standard equipment fitted.

54. In conclusion therefore, I am of the opinion that a system such as that contained in the Decree and the Order is neither appropriate nor necessary for protecting the consumer.

Conclusion

In view of the foregoing considerations I suggest that the Court should answer the question referred to it by the Cour d'Appel, Metz, in the following terms:

Article 30 of the Treaty establishing the European Community must be interpreted as meaning that it precludes national rules concerning the model year of motor cars, the effect of which is that, in the case of two motor cars of the same model and make, placed on the market after 1 July in a given calendar year, one vehicle may be held out as falling under the model-year date of the following calendar year whereas the other, which has been the subject of parallel importation, may not.