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Antitrust

## Court Denies Motion to Dismiss Robinson-Patman Act Claim Based on Uneven Application of Incentive Program

A federal court in California denied in part a motion to dismiss a car dealer's price discrimination claim against its distributor under the Robinson-Patman Act. *Mathew Enterprise, Inc. v. Chrysler Group LLC*, 2014 U.S. Dist. LEXIS 95522 (N.D. Cal. July 11, 2014), involved a franchised dealer, Mathew Enterprise, that purchased its vehicle inventory directly from Chrysler at a standard invoice price. Chrysler, however, also offered earned subsidies to its dealers through "volume growth" incentive programs based on the dealer's prior sales. Although incentive programs are not prohibited under the statute so long as they are functionally available to all purchasers, Mathew Enterprise alleged that Chrysler had unfairly rewarded Mathew Enterprise's newlyopened competitors by granting incentives based on different sales formulas. Mathew Enterprise also argued that Chrysler had given "disguised price discounts" by granting favorable, below-market rent terms to Mathew Enterprise's competitors and not to it.

Chrysler moved to dismiss the claims, arguing the incentive program was not "functionally unavailable" to Mathew Enterprise, since Mathew Enterprise had been awarded the incentive whenever its sales met expectations based on a prior year's statistics. Mathew Enterprise, in turn, argued that Chrysler's establishment of new competing dealers within Mathew Enterprise's geographic region made the incentives available to it only in theory, not in fact, because Chrysler had failed to adjust Mathew Enterprise's sales formula in recognition of the impact new competition would have on its prior sales. Meanwhile, according to Mathew Enterprise, its new competitors qualified for the incentives despite much lower sales, because they had no prior sales to use as a metric. The court concluded that this allegation was sufficient to survive a motion to dismiss because Mathew Enterprise presented a plausible claim Chrysler treated newly opened dealers as "favored purchasers," while imposing more onerous objectives on pre-existing dealerships such as Mathew Enterprise. Although it denied Chrysler's motion to dismiss on the incentive claim, the court granted the motion with regard to Mathew Enterprise's theory based on favorable rent terms because Mathew Enterprise failed to allege that a rental agreement was somehow tied to the volume of cars sold such that it might constitute a "disguised discount," or that it could otherwise be classified as a commodity for consideration under the Robinson—Patman Act.

### Related People

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