

Position Paper

Communication from the Commission on future Competition Law Framework to the motor vehicle sector (COM 2009, 388) “Car Block Exemption”

Introduction

UEAPME welcomes the communication from the Commission which after an ongoing discussion is acknowledging the role of SMEs. ‘Thinking small first’ is not only a result of the Small Business Act – it has also proved to be a key factor of stability in the motor vehicle sector which does not only consist of manufacturers, suppliers and consumers.

Especially during hard times of economic crisis – which we believe are not over yet – the stabilizing factor of maintaining legal certainty is essential to all market players who must concentrate on the many aspects of economical, financial, ecological and energy efficiency issues in the middle of a rapidly changing and highly innovative motor vehicle sector.

It goes without saying that guaranteeing a scenario of well balanced & fair competition is a must to arrange for a reliable framework. The ‘safe harbor’ principle with a view to ensuring effective supervision of markets, while simplifying administration and reducing compliance costs for firms, goes in the right direction. However, changing the already complex BER (1400/2002) and replace it by any other types of regulation would certainly create a critical situation for an already embattled sector.

Sales of new motor vehicles - market

UEAPME supports the proposed prolongation of the current regulation until 31May 2013. We fear, however, that the commission’s reflection on aiming at a system-transfer towards a *General* Block Exemption or any other regulation afterwards would lead to significant market distortions:

- the balance of the market forces within the motor vehicle sector cannot – by no means – be compared to other markets like food, electronics or toys (the manufacturer is more than ever in control of all the contractual relationships)
- the freedom to operate multiple multi-brand sales & repair outlets throughout the whole internal market will be subject to one-sided manufacturer’s decisions again

Aftersales & Maintenance – market

The evaluation of the internal market structures remains complex. Due to ongoing market shifts, market shares of a critical 30% (ensuring fair competition within the manufacturers networks of authorized repairers), competition between independent and authorized repairers, or preventing foreclosure of spare part producers in the automotive aftermarket, will remain hard to identify.

UEAPME therefore strongly recommends the up-keeping of a balanced & individual regulation framework which takes the following aspects into account:

- free access to repair specifications & (original) spare parts must always be guaranteed, both for new **and** used vehicles
- avoid uncertainties, contractual dictated imbalances or vague provisions at the cost of weaker partners
- costs, generation & distribution of up-to-date vocational/technical skills must be shared equally between manufacturers and SMEs

Motorcycles

Today, the motorcycle business falls under Regulation 2790/1999, which – in the view of UEAPME - does not contribute to a well-balanced relationship between dealers and manufacturers. UEAPME therefore recommends the inclusion of the motorcycle sector to the current development of renewing the competition law rules.

To avoid any uncertainties about the future competition law framework, UEAPME calls for a clear explanation on the future competition & market framework for the motor vehicle sector, soon. New motor vehicle sales (cars, motorcycles, commercial vehicles) need to be distinguished, but also dealers, repairers, spare-part markets, maintenance-providers and others.

SMEs represent over 98% of all commercial enterprises in the motor vehicle sector; they stand for flexibility, innovation and stability.

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For further information on this position paper, please contact:

Mr Frank O. Baumeister
 UEAPME Transport Forum
f.baumeister@ueapme.com
 T +32 2 285 07 26