



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES
UNIONE EUROPEA DELL' ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

UEAPME Comments on the Commission Evaluation report on the operation of Regulation (EC) 1400/2002 concerning motor vehicle distribution and servicing

Introduction

UEAPME welcomes the decision of the European Commission to consult the stakeholders on its Evaluation report on the regulation 1400/2002, before taking any decision on the follow up of this report, that will be implemented 2009/2010.

This gives us the possibility of presenting our opinion on the regulation and its effectiveness and on the need of SMEs.

As a first comment, we would like to underline that the report is focused heavily on consumer needs and does not very much relate to SMEs, which are of course very deeply involved in the question. Far too many see a “balanced market” only when consumer and manufacturers interests are weighed and we are very much surprised that the interests of SME businesses are hardly ever mentioned.

The Commission should take into account that only independent SME dealers & repairers can help stabilize a competitive market. As independency means an equal framework-setting of economical pre-conditions; free entrepreneurship must never rely on financial interconnection to any one manufacturer only. It is a very well known fact that distribution and supply of vehicle sales & repair services in low-citizen areas of Europe are often only possible through SMEs .

It is also important to underline, in this sense, that consumer needs & customer care are largely communicated only through SME channels.

In consequence, it is very important that the commission takes the interests of SMEs into account, too, as they are the distributors of new vehicles and the after sales service providers, therefore very much interested in and affected by this regulation.

Comments

The Commission states that the report represents the Commission's preliminary views on the functioning of Regulation 1400/2002 and does not prejudge in any respect a final decision on the outcome of the review. The report is the initial step of a comprehensive consultation process to which all stakeholders are asked to contribute.

UEAPME appreciates the opportunity the Commission gives to stakeholders to present their preliminary comments and prepare themselves to work on the proposal the commission will make in the future.

As the Commission says the report is a result of a series of interviews with the stakeholders showing that the BER has helped to protect competition in the markets for new motor vehicle

distribution, and especially in the markets for after-sales services, to the benefit of consumers, and has therefore complied with the conditions in Article 81(3).

This shows the need to keep the BER after its expiring date, May 2010.

It has to be underlined, in fact, that SME dealers & repairers have a more and more (economically) weak position.

Quality and performance requirements set through the international vehicle manufacturers are always very high and thus need continuous SME financial investment on showroom fittings, speciality tools & software for repair, pre-financing of new makes & models etc., etc.

Moreover, SME contracts with international vehicle manufacturers are either pre-determined by the latter or non-existent. It is also this situation which clearly shows that SMEs need continuous protection beyond May 2010 through fair competition rules strictly to be enforced by public authorities.

The Evaluation report argues that fewer rules and less formalisms would lead to more legal certainty for the firms in the sector. In our opinion, less clear rules will leave the national competition authorities more to their own interpretation due to an unharmonised situation, which will definitely create burdens to SMEs who work cross border. Furthermore, heterogeneous interpretation in each member state creates uncertainty in the market to the detriment of firms and consumers alike.

Moreover, a solution where the commission would choose to rely exclusively on article 81 and on regulation 2790/1999 amended in order to supplement it by way of a number of specific provisions taking account of the particular circumstances of the motor vehicle sector would not be an attractive solution, since it would be much too complicated and demands too many resources for the vast majority of SMEs.

For all those reasons, the upkeeping of fair competition regulations will definitely be needed after 2010. First of all, because global concentration of vehicle manufacturers will continue (only very few may be left) which will increase economic pressure on a large number of independent SMEs; secondly, because free access to repair specifications & (original) spare parts must always be guaranteed, both for new *and* used vehicles. Thirdly because costs, generation & distribution of up-to-date vocational/technical skills must be shared equally between manufacturers and SMEs and finally, because the freedom to operate multiple multi-brand sales & repair outlets throughout the whole internal market must become a realistic option for all SMEs within all countries of Europe and, if they choose so, beyond.

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