



Commission Evaluation Report Block Exemption Regulation 1400 / 2002

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FEBMA Response

FEBMA calls on the Commission to extend the motor vehicle block exemption after 2010.

Representing automotive OES / parts manufacturers FEBMA focuses on aftermarket servicing

1. The MVBER sets out specific hardcore restrictions increasing the level of competition in the automotive sector to the benefit of the consumers and market operators.

“All relevant economic indicators analysed tend to confirm that the degree of competition in the relevant markets, which had determined the Commission’s choice for stricter, sector-specific block exemption, improved appreciably between 2002 and 2007.” (Commission Evaluation Report, p.3)

2. Reliance on the general vertical restraints BER (2790/1999) and on general competition rules (Art. 81 and 82) would not help to protect competition in the automotive aftermarket to the same extent as the current MVBER. The automotive sector, in particular the aftermarket, continues to differ significantly from markets for other products.

The MVBER gives greater legal certainty than could any assessment of general rules. Greater legal certainty by complete and precise sector-specific rules promotes competition. And providing specific rules for this important industry sector must not be considered overregulation contrary to the principles of better regulation applicable to EU law.

3. Looking to the future the MVBER must continue and should be improved on some points. For example:

3.1 To ensure a balanced automotive aftermarket the MVBER allows the OES to sell to resellers belonging to the VMs’ network original parts and parts of matching quality and, mirroring this right, the reseller to obtain such parts from the OES. The respective sector-specific hardcore restrictions must be maintained to keep the balance and competition.

3.2 And OES' direct sales to the aftermarket may not be prevented by depriving them of their know-how, intellectual property rights and tooling and the use of subcontracting agreements. To avoid such circumvention of MVBER provisions the Commission is requested to also revise the Subcontracting Notice of 18 Dec.1978.

3.3 The MVBER ensures availability of both original parts and of parts of matching quality for members of the VMs' networks and for the independent channel. Without the MVBER there would be no such alternatives since in the absence of a definition matching quality would no longer exist. To keep a balanced aftermarket requires continuation of the MVBER.

3.4 The OES' ability to place its trade mark or logo on products supplied under the O.E. contract proved to be effective in enhancing competition in that it supports the repairer in identifying the supplier and the OES in marketing their parts as original parts. The respective hardcore restriction must therefore be maintained also taking into account that Regulation 715/2007 will not apply for the existing car park.

3.5 Equal access to technical information will be provided under Regulation 715 / 2007 after 2009 only for new models, but not for the existing car park and not at all for heavy duty vehicles.

Technical information for the existing models is available on VM websites only after the Commission's intervention of last year. And there still is the need for tools for use on cars of different makes, for example databases and diagnostic equipment. The needs of independent operators providing such tools must be addressed more clearly in a MVBER.

4. Although not perfect in every respect the MVBER has definitely improved consumers' choice and increased competition in the distribution of vehicles and aftermarket servicing. This important piece of legislation must continue and be further improved instead of relying on general rules. Not designed for this specific sector general rules would weaken competitive market conditions.

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