# Joint Ford and Ford Dealer Position on "EU Commission Evaluation Report on the Operation of Regulation (EC) NMo. 1400/2002 concerning Motor Vehicle Distribution and Servicing" and the Future Regulation of Automotive Distribution Agreements

## Introduction:

The current Motor Vehicle Block Exemption Regulation (MVBER) 1400/2002 came into effect in 2002 and expires in 2010. It was inspired by the aim to liberalize the market and achieve a balance between the stakeholders with the objective of ultimately benefiting the customer through the resulting increase in competition. Whilst the recently released evaluation report leaves all options for a future regulation of the automotive retail industry open, there seems to be a tendency towards the non renewal of the MVBER 1400/2002 and the adoption of the Vertical Block Exemption VBER 2790/1999 in its place. The report suggests that this would provide a more flexible regime and reduce the number of Block Exemption Regulations, thus simplifying the legal landscape regulating the distribution of goods and services.

## Ford/Ford Dealer Position

**Ford and its dealers believe that the current regulation has worked well for all involved, particularly consumers, and that therefore an extension of the current Block Exemption, essentially unchanged, would continue to be the best future regulatory framework. The Commission's preference for the Vertical Block Exemption would eliminate all dealer protection provisions and limit dealers' ability to sell their business freely and openly. It would weaken dealers and strengthen manufacturers, and thus destroy the delicate balance that currently exists between the two. The longer-term consequences would be that more and more small and medium-size dealers would exit the market, with severe limitations for geographical sales and service coverage, and with consequent implications for retail prices.**
**So:**

- **From an industrial policy perspective, the Commission's proposal would favour bigger dealers over smaller dealers, and manufacturers over dealers.**
- **From a competition policy perspective, the Commission's proposal would reduce competition and induce consolidation.**
- **From a consumer perspective, this would result in less choice, reduced service and higher prices.**

## Rationale:

Essentially, the move to the VBER 2790/1999 would represent a virtual removal of dealer protection regulations with negative implications for competition and for consumers. It is to be expected that small and medium-size dealers will see the loss of protection against termination and of their ability to sell their dealership, (without manufacturer consent), as a serious deterioration of the value of their company. The banking community, which already regards the retail automotive sector as fragile, will share this view - consequently, as dealers’ borrowing facilities are renewed, there will be a negative impact on the reassessment of the rates and terms, and the value of assets, securing dealer funding. We already now see banks refusing to extend dealer credit lines beyond 2010!

Such development would increase interest rates for dealer funding and thus weaken the business case for dealers, or, if these costs are passed on, increase prices for consumers. It would also increase the difficulties of new entrepreneurs seeking to enter the retail motor trade, and thus act as a barrier to entry.

In conjunction with other perceived uncertainties around the future governed by the “umbrella” vertical block exemption, which still needs to be re-evaluated, we anticipate a significant number of dealers, especially in the small and medium-size business segment, to consider their options and seek to sell their businesses. Potential buyers would be existing larger dealers and dealer groups, thus further driving dealer concentration, resulting in oligopolistic or in extreme cases even monopolistic market structures, especially in rural areas.

Consumers have already suffered under such consolidation effects in other industries. A noteworthy example is the concentration process and resulting reduction in fuel filling stations, where e.g. in Germany 7% of the filling stations (1100 locations) closed in the past 5 years (source: Hamburger Energie Informationsdienst – EID). Many countryside vehicle owners now have to drive a considerable distance, at extra cost, to the next filling station.

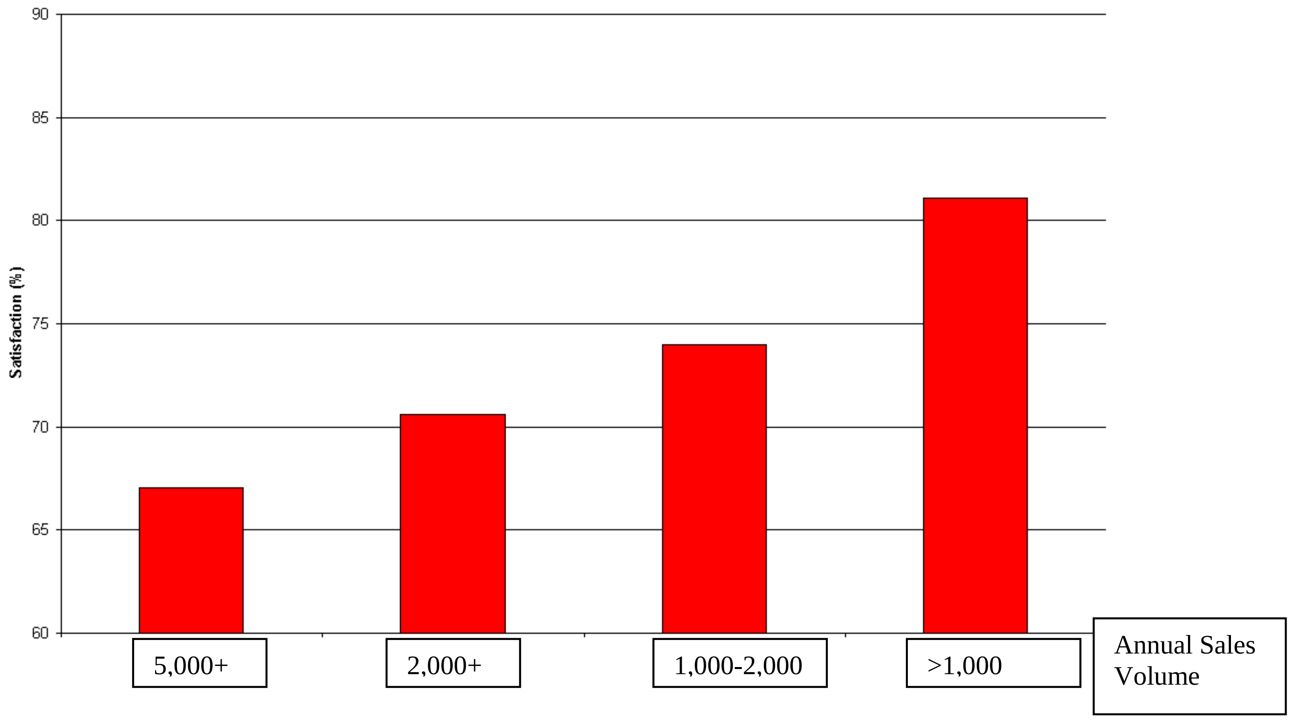
A similar development in the automotive industry would have a negative impact on the consumer, as it would inhibit ease of access to the dealership facilities and service and thus reduce choice and competition.

Furthermore, with an increasingly complex product such as a motor vehicle, the need for servicing a vehicle is an essential part of legitimate customer expectation. Service must be available within short driving distance, as was established in the studies underlying the existing automotive regulation. Adequate service is even more important as demands on vehicle safety and environmental performance rise constantly.

Competitive pricing of vehicle sales has now become visible, transparent and available to all under the current regulation due to the removal of dealer territories, the growth of active marketing and the internet. Many, probably most customers, would prefer to negotiate purchase and carry out service at an enterprise which is local and provides the personal attention, providing that pricing is competitive.

A further result of dealer concentration is the negative impact on customer satisfaction. Whilst standardisation of processes may often be implemented more easily in larger dealer groups, overall satisfaction is harder to achieve, which generally results in a negative correlation between dealer size and customer satisfaction.  Please see the material in the chart below, which shows the UK customer satisfaction results for 2007 in relation to the size of the dealership.

# 2007 UK Customer Satisfaction
## by Dealership Size






**Summary:**

It is against this background that we would welcome an essentially unchanged continuation of the current Block Exemption provisions as the future legal framework governing the automotive industry.

The present Regulation 1400/2002 confers different advantages on the various stakeholders, but achieves a good overall balance in that it ensures the benefits compliment each other and deliver an overall benefit to the consumer.

Only the continuation of today's regulation with its dealer protection would avoid retailers exiting the network and also encourage new investors to enter the industry. This would allow continued stability and innovation with a balance of large as well as small and medium-size enterprises delivering a competitive market, choice of enterprise and adequate customer service for an increasingly complex automotive product.