

**Response of the Polish Consumer Federation on the Evaluation Report of
European Commission on the operation of Regulation
N° 1400/2002 concerning Motor Vehicle Distribution and Servicing**

The Polish Consumer Federation is an independent organisation with main aim to protect consumer rights in Poland. It aspires to ensure conditions for consumers, when all the opinions of consumers will be carefully considered in cases important for them. To protect the important right of free choice for about 15 million of motorised consumers in Poland (260 million in European Union) The Polish Consumer Federation decided to react on Evaluation Report of European Commission on the Operation of Regulation EC N° 1400/2002 concerning Motor Vehicle Distribution, servicing, repairing and automotive parts Distribution.

The European Commission is called upon to build the regulatory framework on the existing motor vehicle block exemption regulation (BER 1400/2002, to deliver of further improvements to safeguard consumer choice and benefits in the automotive sector. European Competition policy must guarantee access to safe and affordable mobility for consumers. The Polish Consumer Federation is committed to ensure consumers' choice of vehicles that are safe and affordable to purchase and maintain.

The average car on the road in the EU is eight years old (according to ACEA) and no longer under warranty. Most cars sold in Europe and of course in Poland are second hand. Owners of such vehicles tend not to be ready to pay the premium rates of the authorised repair network but rather rely on the independent aftermarket for servicing, repairs and spare parts. Most of these automotive services suppliers tend to be SMEs (small and medium sized enterprises). In European Union there are about 665.000 SMEs working in automotive branch (in Poland there are 28.000 SMEs automotive companies).

Access to repair information

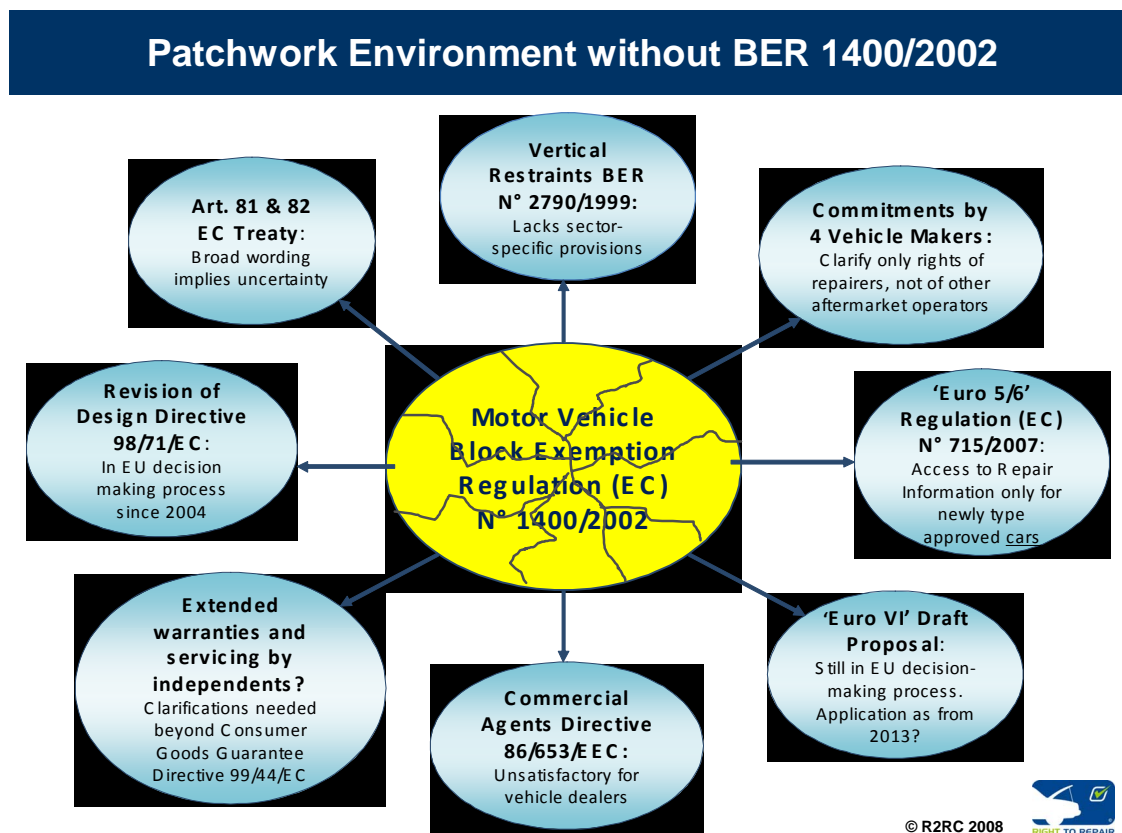
After expiry of BER 1400/2002 vehicle manufactures will not be obligated to give access to repair information to the independent market. This will cause problems with repairing cars for all independent garages. Admittedly from September 2009 Regulation Euro 5 will come in force. However it covers only new types of vehicles. This means that independent garages will not be able to repair 98% of

cars that are driving on our streets today. This will eliminate independent garages, producers and distributors of automotive parts and servicing tools. Consumers will be forced to repair their cars in authorised garages and with use of more expensive automotive parts offered by vehicle manufacturers. Cost of servicing and parts will increase as the vehicle manufacturers will not have competition and will be able to control the prices will not be controlled.

Legislative Patchwork after year 2010

Without BER 1400/2002 provisions of at least eight different regulatory or legislative measures will be in force, some of which are still proposals waiting to be adopted. These measures should not only be implemented by 2010 but that they should be fully functioning by this time to secure all the protections contained in the current BER covering consumer issues such as warranties and extended warranties, liberalisation of spare parts used for repair, legislation giving comprehensive access to data needed to carry out repairs etc.

Effectively the current regulatory framework would be replaced by a legislative patchwork of measures that would weaken competitive market conditions and put consumers at risk. Protecting of rights for small and medium enterprises will be extremely hard and expensive, because legal and economic opinions will be needed. Polish Consumer Federation fears that without the clear rules of the BER, legal certainty and clarity will be compromised, for both consumers and suppliers.





Effective competition between all the market players, competitive prices for maintenance of vehicles aftermarket services and optimal consumer choice have to be ensured by the competition policy framework governing the automotive sector.

Conclusion

Taking all of the above into consideration, the Polish Consumer Federation takes the position that expiry of BER 1400/2002 that regulates in detail the market for servicing and repairing of motor vehicles and the application in its place of the general provisions may not be sufficient to maintain the rules of competition on the above mentioned markets. The Commission should not step back from sector specific regulation in the motor vehicle branch. Competition is not optimal (especially in the aftermarket servicing sector) for either independent players or consumers. There is an indisputable imbalance in levels of market power between vehicle manufacturers and other stakeholders. Reliance on the general provisions after expiry of BER 1400/2002 will not assure in this unique sector effective competition on each level of the automotive aftermarket which is of the essence when it comes to fostering innovation and keeping mobility affordable.

In the opinion of the Polish Consumer Federation, a new regulation should be issued to regulate in detail the relations on the automotive market or alternatively the current regime given by BER 1400/2002 should be extended in an improved version, protecting competition and consumer welfare. Weaknesses in the BER Regulation should be corrected.

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