



## DAF Trucks N.V.

Hugo van der Goeslaan 1  
P.O. Box 90065  
5600 PT Eindhoven  
The Netherlands  
Tel.: +31 (0) 40 214 91 11  
Fax: +31 (0) 40 214 43 25  
Internet: [www.daf.com](http://www.daf.com)  
A **PACCAR** COMPANY

European Commission  
Directorate-General for Competition  
Antitrust Registry  
Ref.: HT.1021  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

### Legal Department

Tel. direct : + 31 40 214 2118  
Telefax direct : + 31 40 214 4336  
E-mail : [duco.zoomer@daftrucks.com](mailto:duco.zoomer@daftrucks.com)  
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**Re : Input on draft Automotive Block Exemption and Guidelines**

Dear Sirs,

We have reviewed the draft Motor Vehicle Block Exemption Regulation and guidelines that were published on 21 December 2009.

We already highlighted the differences between commercial vehicles and passenger cars – please refer to our e-mail of 24 September 2009.

As the ACEA quite rightly pointed out in its comments on the draft regulation, the implementation of specific rules is not justified in the commercial vehicles field, in particular not in the heavy truck segment in which DAF operates.

Should nonetheless specific block exemption regulation provisions and guidelines apply to commercial vehicles as the drafts seem to suggest, DAF would request that these provisions and guidelines reflect and take into consideration the differences between commercial vehicles and passenger cars.

The draft guidelines for instance clearly exclusively focus on and analyse the application of the draft regulation in the passenger car market. The absence of any distinction to the application of the regulation in the commercial vehicle market creates the risk that the guidelines' analysis of the passenger car market will become the absolute norm for all motor vehicles, irrespective of the obvious differences between the passenger car and commercial vehicle markets. We foresee, for instance, that it will be difficult to convince a national court of the fact that the draft Automotive Block Exemption or – perhaps even more important- the General Vertical Block Exemption should be applied and interpreted in the light of the specifics of the commercial vehicle sector and that the analysis given in the motor vehicle guidelines should not exclude the possibility of a different analysis with respect to commercial vehicles like trucks.

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As an example, the draft guidelines state, *"For the majority of motor vehicles, there is a separate brand-specific aftermarket, in particular because the buyers are private individuals or SMEs that purchase vehicles and after-market services separately and do not have systematic access to data permitting them to assess overall costs of vehicle ownership in advance."* (footnote 21).

The explanatory brochure for Regulation No 1400/2002 expressly stated in footnote 185 that, *"Single markets which would include motor vehicles and spare parts together may be defined, taking into account, inter alia, the life-time of the motor-vehicle as well as the preferences and buying behaviour of the users, see Notice on market definition, paragraph 56. In practice, the issue to decide is whether a significant proportion of buyers make their choice taking into account the lifetime costs of the vehicle or not. Buying behavior may significantly differ, for instance, between buyers of trucks who purchase and operate a fleet which take into account maintenance costs at the moment of purchasing the vehicle (e.g. bundled purchase and use contracts of trucks billed on price per km) and buyers of individual vehicles.)"*

It would be very helpful if an addition of this nature could be included in the motor vehicle guidelines to prevent the national authorities and the courts of the Member States from interpreting the EU competition legislation inappropriately.

The present observations are not confidential and may be published on your website.

Yours faithfully,

**DAF Trucks N.V.**



D. Zoomer,  
General Counsel