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**Draft Motor Vehicle Block Exemption Regulation
FEBMA comments**

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FEBMA calls on the Commission to ensure access to the repair and maintenance information needed by the independent sector to remain competitive, including access to the VIN or similar identification systems.

FEBMA welcomes the Commission's intention to protect competition on the automotive aftermarket by a new sector specific block exemption.

To ensure workable competition on the aftermarket it is essential

- to protect the availability of quality spare parts of competing providers
- to ensure access of independent operators to the repair and maintenance information needed to remain competitive and
- to prevent misuse of subcontracting agreements as well as misuse of extended warranties.

1. Availability of quality spare parts of competing providers

The availability of parts, tools and services is addressed by three provisions describing as hardcore

- the restriction of the sales of spare parts by members of a selective distribution system to independent repairers
- direct or indirect restrictions agreed between supplier of spare parts, repair tools, diagnostic equipment and a vehicle manufacturer, which limit the supplier's ability to sell these goods and services to authorised and/or independent distributors and repairers
- restrictions which limit the supplier's /OES' ability to place its trade mark or logo in an easily visible manner on parts for first assembly and on spare parts.

FEBMA welcomes the Commission's intention to maintain these hardcore restrictions. In particular the OES' ability to place its trademark or logo on products supplied under the OE contract proved to be effective in protecting competition in that it supports the repairer in identifying the supplier and the OES in marketing their original parts.

2. Access to repair and maintenance information

Unlike the 2002 MVBBER the draft new MVBBER does not rescind the exemption in cases of withholding of repair and maintenance information.

Instead the Commission signalsises in the supplementary guidelines that it will take into account Regulations 715/2007 and 595/2009 when assessing cases of suspected withholding of repair information.

FEBMA welcomes the application of this system of dissemination of repair information also on the existing car park. A definite commitment / an amendment to the respective regulations to this effect would impede any attempt to delay supply of technical information by lengthy proceedings. Legal certainty promotes competition.

To be able to compete effectively with the VMs' networks of authorised repairers independent operators need multi-brand data in a processible standard format, including the VIN or similar identification from the VM. A two-digit return rate of wrong parts as reported today by independent operators can be avoided if VIN or similar identification could be obtained for example from an independent catalogue publisher and not only from the VM.

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3. Subcontracting agreements

OES' direct sales to the aftermarket must not be prevented by depriving them of their know-how, intellectual property rights, tooling ownership and the misuse of subcontracting agreements. Considering the OES' R&D efforts and value creation the Notice on Subcontracting Agreement very rarely applies to the OE contracts.

FEBMA is encouraged that in the supplementary guidelines the Commission has addressed the "tooling arrangements" as an example of possible restriction described as hardcore by the draft new MVBBER.

4. Extended warranties

Warranty terms must not limit the consumers' choice of workshops and spare parts for after sales services and repairs not covered by the warranty.

FEBMA welcomes that the Commission has taken up this question in the supplementary guidelines.

However, there is the need to also address the so-called "Rundum-Sorglos-Pakete": all-inclusive monthly car leasing rates covering *all* maintenance and repair services (and fully comprehensive insurance) for several years. This could restrain competition on the aftermarket leaving the consumer in the long run with little or no alternatives to the VMs' networks of authorised repairers.

FEBMA highly appreciates the opportunity for any further contribution on this important subject.

Frankfurt
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