New explanatory Brochure on Commission Block Exemption Regulation n° 1400/2002 on the motor vehicle sector: bringing competition rules closer to consumers and market operators

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On 30 September 2002, the Directorate General for Competition of the European Commission published an Explanatory Brochure on the new block exemption regulation on the motor vehicle sector (1), as it had been done with the previous regulation (2). As the new rules represent a major change compared to the former regulation, guidance needs to be provided as to the way they should be applied. In effect, during the consultation process which lead to the adoption of the Regulation, the Commission had announced to the Parliament, the Member States, the Economic and Social Committee and interested parties its intention to publish a guide to the new Regulation. The publication of the brochure meets this commitment in advance of the entry into force of the new rules.

Millions of consumers buy a new car or get their car repaired or serviced every year in Europe. Such sales and repair services are provided by hundreds of thousands of small and medium sized undertakings, whether affiliated to a brand manufacturer’s network or in the independent sector. The new competition rules on distribution and servicing of motor vehicles are likely to have a bearing on all these activities. The freeing of the sector from the straitjacket effect associated with the previous rules may also lead to a need for more direction. The brochure, therefore, aims at providing different categories of interested parties, in particular consumers, dealers and repairers, with guidance in layman’s terms about the provisions of the Regulation and their rights derived therefrom. Such categories of economic operators seldom have access to legal advice and do not often fully exploit the opportunities which EU competition rules offer to them in the single market.

Although the brochure is intended as a legally non-binding guide to the Regulation, experience shows indeed that this kind of information tools are instrumental in clarifying each party’s responsibilities, hence contributing to avoiding or quickly resolving disputes. Since the Regulation is directly applicable in the EU and may be invoked before national jurisdictions, the availability of an explanatory document from the Commission’s department which oversees the enforcement of EU competition rules is often of great interest to legal practitioners and economic operators. Moreover, in the future context of decentralised application of Article 81(3) of the EC Treaty (3), the brochure may also prove useful to National Competition Authorities. The initiative should therefore also be seen as an effort to bring EU competition rules even closer to EU citizens and to increase the effectiveness of their application throughout the European Union.

As far as the structure is concerned, the brochure first explains the philosophy and aims behind the Regulation, both as regards the distribution of motor vehicles and repair and maintenance services. Another chapter contains an explanation of the structure of the Regulation and of certain legal aspects of each of its provisions, which may be of particular interest to lawyers and others who wish to better understand the scope and content of the various clauses. A separate chapter is particularly aimed at consumers, including their intermediaries, at dealers in new vehicles and at repairers. It gives answers to questions which are likely to arise for each of these categories of stakeholder, in separate sections for each category. The replies to these questions may also be relevant for vehicle and spare part manufacturers and their wholesalers. More technical aspects such as issues relating to market definition and distribution of spare parts are dealt with in distinct chapters. Finally, a list of reference documents relevant to

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(1) Members of the Block Exemption Regulation team working under the supervision of the head of unit Eric van Ginderachter: John Clark, Christophe Dussart, Anne-Catherine Gallant, Hubert Gamba, Alberta Laschena, Richard Lewandowski, Manuel Martinez Lopez, Tuija Ristiluoma, Konrad Schumm, and Lazaros Tsoraklidis.


the new regime, an index and the full text of the new Regulation are annexed to the brochure.

Although the brochure cannot possibly reply to each question which the application of the Regulation may raise, its comprehensiveness and user-friendly format should make it easier for the reader to find the relevant information in accordance with his or her needs. Indeed the amount of questions and requests for clarifications raised by various parties since the adoption of the Regulation has dramatically decreased following the publication of the brochure, which is available in all official EU languages at the following Internet address:

http://europa.eu.int/comm/competition/car_sector/distribution/#final_reg