



problems, including evidence to show how the motor vehicle sector and competition within the sector have evolved since adoption of the MVBER, and explain the need for changes in the applicable provisions on this basis. The report should also use this analysis to substantiate better the assessment and comparison of the options using all available evidence to demonstrate the relative effectiveness of individual options in tackling the problems and in enhancing consumer welfare. In particular, the report should better explain how the rebalancing of negotiating power between manufacturers and distributors would affect consumer welfare. Finally, the analysis should be placed more clearly in the context of the on-going economic crisis and its impact on the sector.

During the IAB meeting, DG COMP stated its intention to take on board these recommendations

**(1) Strengthen and consolidate the analysis of the problems.** The report should consolidate in one section the analysis of the problems that is currently scattered throughout the text or available in the evaluation report. In so doing, the report should develop a more evidence-based analysis of how and why competition problems in the primary car market and in the aftermarkets have evolved since the MVBER was adopted in 2002. The report should use a greater variety of competition indicators (for instance, concentration ratios, mark up levels etc.), and look at sub-sectoral trends (e.g. different car types, dealers, repairers ...) whenever relevant. On the basis of this analysis it should distinguish more clearly those MVBER provisions for which the original objectives are no longer relevant from those for which the objectives are still relevant but that need changes having failed to achieve these objectives. The report should also state clearly to which extent new practices such as extended warranties and increased dealership standards create new problems and to what extent they may have been influenced by the existing MVBER. The report should better demonstrate to what extent the present provisions protecting dealers are failing to encourage a pro-competitive behaviour and/or causing inefficiencies and costs for consumers. The report would also benefit from providing upfront a more complete picture of the main economic characteristics and trends in the sector (including the employment situation and role of SMEs). Finally, a general background explanation of the relevant types of competition problems that vertical agreements can raise under different market structures should be annexed to facilitate reading by the non-expert.

**(2) Better substantiate the assessment and comparison of options.** On the basis of the improved analysis of the problems, the comparison of options should more clearly demonstrate the relative effectiveness of individual provisions under the options in tackling the problems identified and in enhancing consumer welfare. This is particularly important for those cases where a significant change of approach from Regulation 1400/2002 could be perceived (multi-brand provisions, flanking measures etc.). The report should better explain how the rebalancing of negotiating power between manufacturers and distributors would affect consumer welfare. It should also more clearly justify the common elements for the four options and better highlight the differences between regulations 2790/1999 and 1400/2002. The report should also expand the analysis of the potential impacts on employment, innovation in the distribution/service chain and SMEs. In this context, greater attention should be paid to the impact on compliance costs from a wider reliance on self-assessments under the various options. Finally, the comparison of options should not rely on the numerical aggregation of impacts whose nature is fundamentally different and should use instead a

more nuanced qualitative analysis.

**(3) Place the initiative in the broader context.** While the scope of the initiative, and the focus of the report, are appropriately limited to the implementation of the obligations emerging from Art. 81, the analysis should consider more explicitly the implications of the current crisis in terms of both the expected evolution of the degree of competition in the sector and the impacts of the options under consideration at this particular junction, including the impact on employment. In this context, the report should provide greater clarity on how the options under consideration respond to the concerns expressed by the European Parliament and its demand for a two-year extension. In addition, the report should comment on how the final results of the parallel review of regulation 2790/1999 could affect its analysis of the options.

**(D) Procedure and presentation**

A comprehensive effort should be made to consolidate the various strands of the analysis and considerably reduce the length of the main text. Technical terms should be avoided where possible and footnotes or a glossary be used to explain those that remain necessary. Further annexes should be added to provide background information as indicated in the above recommendations. The presentation of the options would benefit from a table detailing the different provisions envisaged vis-à-vis the relevant items in Regulations 2790/1999 and 1400/2002. Finally, the structure of the Executive Summary should follow more closely the format provided in the 2009 IA guidelines. A section on monitoring/evaluation should be added.

## 2) IAB scrutiny process

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