



Malta-EU Steering & Action Committee

## COMPETITIVENESS AND CONSUMER AFFAIRS



24.07.09

### **COM(2009) 388 – Communication from the Commission The Future Competition Law Framework applicable to the motor vehicle sector**

Motor vehicle manufacturers often enter into agreements with authorised dealers and repairer networks in order to ensure the repair and maintenance of their products. Such agreements must be assessed in the light of the prohibition of agreements under Article 81(1) of the EC Treaty and the exception to this under Article 81(3).

In order to facilitate this process the Commission adopts the system of block exemptions whereby agreements covered by a block exemption - whether general or sector-specific - relieve the contracting parties from the need to analyse whether those agreements can benefit from the exception provided for in Article 81(3). Block exemptions thus contribute to legal certainty and to the coherent application of EU competition rules across the EU.<sup>1</sup>

The motor vehicle sector, which includes passenger cars and commercial vehicles, has been subject to specific block exemptions regulations since the mid-eighties, the most recent being Regulation 1400/2002. This Regulation will expire on 31 May 2010. Stakeholders are virtually unanimous that the sector should continue to benefit from a block exemption, whether general or sector-specific, after this date.

The purpose of the present communication is to set out the basic policy orientations for the future legal framework that should apply to motor vehicle distribution and after-sales services agreements after the expiry of the Regulation. All interested parties are invited to submit comments on this Communication before 25 September 2009. The Commission will take due account of these comments in the context of the follow-on legislative procedure.

The Communication draws a basic distinction between issues arising in the primary market for the sale of new vehicles and those which may affect consumers in the so-called "after

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<sup>1</sup> NB: Agreements not covered by a block exemption are not presumed to be illegal, but instead have to be assessed individually.



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market" (after-sales service and repairs), where competition is less intense. The Commission's policy orientations recognise that the general rules on vertical restraints (i.e. agreements between firms at different levels of the production and distribution chain) can protect the primary market and, at the same time, aims at improving the protection of competition in the aftermarket. The Commission acknowledges the need for a smooth transition with regard to the primary market and announces its intention to propose to extend the respective provisions of the current Regulation for three years.

### **Commission fines suppliers of calcium carbide and magnesium based reagents over €61 million for price fixing and market sharing cartel**

The European Commission has imposed a total of € 61 120 000 fines on nine companies for violating the EC Treaty's ban on cartels and restrictive business practices (Article 81). Another company - Akzo Nobel - also participated but was not fined because it revealed the existence of the cartel to the Commission. Between 2004 and 2007 the companies fixed prices and shared markets for calcium carbide powder, calcium carbide granulates and magnesium granulates in a substantial part of the European Economic Area (EEA). Calcium carbide powder and magnesium granulates are used in the steel industry for desulphurisation or deoxidation purposes. Calcium carbide granulates are used for the production of acetylene, a welding gas. The fine for one of the companies (Evonik Degussa) was increased by 50% because it had previously taken part in similar infringements.

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### **New rules for the placing on the market of animal feed**

On Wednesday 22nd June the Agriculture and Fisheries Council adopted a regulation on the placing on the market and use of feed. The main objective of the new regulation is to boost innovation within the feed industry and to strengthen the competitiveness of the EU livestock sector while maintaining a high level of protection for animals and European citizens. This new regulation replaces seven directives and one Commission decision.

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### **Commission presents guidelines on restructuring aid to banks**

The European Commission has published a [Communication](#) explaining its approach to assessing restructuring aid given by Member States to banks. The approach is based on three fundamental principles: i) aided banks must be made viable in the long term without further state support, ii) aided banks and their owners must carry a fair burden of the restructuring costs and iii) measures must be taken to limit distortions of competition in the Single Market. The guidelines, which are in force until 31 December 2010, explain in particular how the Commission intends to apply these principles in the context of the current systemic financial crisis, with a view to contributing to the return to viability of the European banking sector.

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