

Evaluation of the Motor Vehicle Block Exemption Regulation - Roadmap Feedback by SMEUnited

SMEUnited welcomes the announced evaluation of the Motor Vehicle Block Exemption Regulation (MVBER), including Commission Regulations: No 461/2010, No 330/2010 and Commission notice “supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles”.

With this contribution, SMEUnited representing through members more than 12 million enterprises with around 55 million employees across Europe, would like to bring the SME perspective to the review.

Since 1985 the automotive sector has been subject to specific block exemption regulations from antitrust rules. **We are convinced about the need to maintain the MVBER, with modernisation given changes and new developments in the sector.**

We believe that the evaluation process, including planned public consultation and fact-finding study should carefully examine:

- Role of SMEs and the MVBER enforcement

Small and medium-sized enterprises are the backbone of the automotive aftermarket in Europe and key contributor to the circular economy, where the value of products and materials is maintained for as long as possible. Repair and maintenance services for vehicles or/and production and sale of spare parts for such vehicles are predominantly performed by SMEs¹. Competition for all vehicle-related products and services is of paramount importance for consumers. Services delivered by SMEs in the sector are essential in rural and remote regions where hardly any brand-specific repair network exist and electric charging infrastructure is not sufficiently developed. The main source of competition in the automotive aftermarket are the 500.000 independent SME companies² and their views need to be reflected in the evaluation process.

¹ GEAR 2030, Final Report – 2017.

² GEAR 2030, Final Report – 2017.

Due to limited resources, SMEs struggle with defending themselves against large market players, the current case-by-case complaint mechanism is burdensome for SMEs, what results in low number of formal complaints.

The upcoming evaluation process should pay particular **attention to the enforcement of the current legal framework**. It would be recommended to include in the planned fact-finding study a chapter presenting facts and perspective of SMEs and consumers regarding the enforcement of MVBER in Member States markets, to grasp the complexity of the sector, including data from national antitrust authorities. It would also be beneficial to assess and understand how the MVBER norms resulted in adopting to compliant behaviour by large companies.

- **Market developments and Digitalisation**

New market trends and digitalisation are transforming the whole automotive industry, starting from business models – manufacturer is more present in the entire supply chain and vehicle life cycle, to vehicles - becoming more complex and connected. This may lead to more market complexity and new distortions of competition, therefore should be taken into account while reviewing the MVBER.

With **manufacturers more present at all levels of the automotive aftermarket**, the vertical integration of the market changes, results in an increased imbalance between manufacturers and aftermarket operators. The benchmark is not anymore only the traditional competition between independent and authorised network of workshops, as vehicle manufacturers are more active in the automotive after- and mobility services markets. The review should assess this trend and examine if new technical and commercial means of manufacturers could hinder effective competition.

Data is increasingly relevant for the competition on the automotive aftermarket. With the closed design of the in-vehicle telematics systems, vehicle manufacturers have an unique access to the vehicle, its data and the customers. Such privileged position enables manufacturers to vertically integrate additional services and decide with whom and in what quality to share the data. The Commission already acknowledged in the Third Mobility Package and expressed its concerns over the vehicle manufacturers' restricted data back-end, data access models and their ability to ensure fair and undistorted competition between service providers.

Healthy competition in the aftermarket and a sustainable relationship with customers will increasingly depend on a full encompassing access to in-vehicle data and the possibility to communicate with the vehicle and the driver in an unrestricted direct manner via interoperable interfaces.

The impact of digitalisation and of the emerging trends need to be taken into account while reviewing the MVBBER. It would be recommended to examine how constantly increasing role of vehicle manufacturer and practices such as the unique access to the vehicle, its data and functions impact effective competition.

Conclusions

SMEUnited would like to thank the European Commission for possibility of providing comments to the Evaluation Roadmap bringing the SME perspective for fine tuning the assessment process. With this contribution, SMEUnited would like to draw attention to the role SMEs play in the sector, digitalisation and new trends in the automotive market that should be further examine for their impact on the competition.

SMEUnited, together with members look forward to be further engaged and share knowledge in the next steps of this evaluation process.

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