

European Commission Revises Competition Rules for Motor Vehicle Distribution and Repair

June 7, 2010

On May 27, the European Commission (the Commission) published its new Motor Vehicle Sector Block Exemption Regulation (MVBER) and supplementary Guidelines (the Guidelines). The revision of the rules relating to vertical agreements in the motor vehicle sector indicates a strong alignment with the recently revised general Vertical Agreements Block Exemption Regulation 330/2010 (VBER).¹ The new MVBER and the Guidelines replace the former block exemption regulation for the motor vehicle sector as of June 1, 2010.

Like the VBER, the MVBER automatically “exempts” from the prohibition in Article 101 agreements that fall within the specified “safe harbor.” Agreements that fall outside the VBER’s and the MVBER’s safe harbors are not necessarily illegal, but must be assessed on a case-by-case basis. The newly issued Guidelines, though not legally binding, must be taken into account by national courts and competition authorities when examining the legality of vertical restraints in individual cases.

The new MVBER sets out specific rules for the exemption of vertical agreements relating to the **purchase and sale of spare parts and the maintenance of motor vehicles** by referring to the VBER and by supplementing these general rules with some specific provisions and the new Guidelines. According to the Commission, the new rules will increase competition in the motor vehicle aftermarket by improving access to technical information needed for the repairs and by making it easier to use alternative spare parts. The Commission has been consistently seeking to limit the differences between the MVBER and the VBER since the mid-1990s.

The MVBER provides a three-year sunset period under which vertical agreements relating to the **purchase, sale, or repurchase of new motor vehicles** that satisfied the criteria for exemption under the old motor vehicles block exemption will continue to be exempted. As of June 1, 2013, such agreements will be subject to the VBER and the Guidelines. A market analysis by the Commission concluded that the competitive environment for the purchase, sale, and repurchase of new motor vehicles does not justify special rules anymore.

¹ See the April 27, 2010 Morgan Lewis LawFlash, “European Commission Releases Long-Awaited Revisions to Vertical Restraints Block Exemption Regulation and Guidelines,” available at http://www.morganlewis.com/pubs/ATR_VericalRestraintsBlockExemption_LF_27apr10.pdf.

The new rules are valid until May 31, 2023. However, the Commission has stated that it will monitor their application closely and will consider revising the package as needs be prior to its expiry.

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