



INDEPENDENT UNION OF THE EUROPEAN LUBRICANT INDUSTRY

UNION INDEPENDANTE DE L'INDUSTRIE EUROPEENNE DES LUBRIFIANTS

POSITION PAPER – Evaluation of the Motor Vehicle Block Exemption Regulation

UEIL, representing the whole lubricants' value chain in Europe, strongly supports the renewal of the Motor Vehicle Block Exemption Regulation and calls for a series of improvements to ensure fair and healthy competition in the automotive sector, and more specifically its aftermarket.

We believe the Motor Vehicle Block Exemption Regulation (MVBBER) provides an adequate legislative framework to guarantee a level playing field between all operators and prevent anticompetitive behaviours by:

- ❖ **Providing the legal certainty the aftermarket needs in order to operate:** There is a continuous need for clear, stable and transparent rules governing competition in the automotive market. This would prevent diverse and inconsistent interpretations of the EU legislative framework by companies operating in the sector, as well as national competition authorities across the EU.
- ❖ **Protecting SMEs:** UEIL strongly supports the objective of the EU SME Strategy¹ and its goal to improve market access for the 25 million SMEs forming the backbone of the EU economy. The automotive market is a highly unbalanced market characterised by a limited number of very large companies which enjoy significant market power and a larger number of small and medium-sized enterprises with limited resources. The MVBBER has the potential to promote the competitiveness of SMEs throughout Europe by creating a set of preventive measures that ward off anticompetitive practices in the EU market. That would allow SMEs to avoid unaffordable trials and long legal actions when combatting such behaviours, and in this way help guarantee their survival.
- ❖ **Providing consumers with competitive and affordable products:** The average costs borne by European consumers for motor vehicle repair and maintenance services represent a significant proportion of the total consumer expenditure on motor vehicles. Maintaining strict rules under the MVBBER would encourage competition in the automotive sector by allowing more brands to access the market. A high degree of competition is crucial for the automotive aftermarket itself, but also for consumers who can enjoy the freedom of choice and the lowest possible prices, particularly at times of economic recession.

¹ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, An SME Strategy for a sustainable and digital Europe, 10.03.2020

However, we believe the evaluation of the MVBBER also provides a unique opportunity to improve a few aspects of the competition rules in the automotive aftermarket:

❖ **Better access to technical information:**

- It is still common practice for some vehicle manufacturers to fail to provide in a timely manner technical information (including lubricant specifications) to independent operators. This practice de facto leads to market foreclosure for independent lubricant manufacturers for months or years. A lack of access to technical information causes the market position of independent operators to decline, leading to consumer harm.
- Furthermore, some vehicle manufacturers require significant fees in return for obtaining technical information or approval, further restricting market access, especially to SMEs which cannot afford such fees.

⇒ **We call for full, unrestricted and free access to technical information, notably for independent operators, and for this information to be provided in a timely manner and at the latest at the time of vehicle approval.**

❖ **Stricter competition rules:**

- The current MVBBER has unfortunately proven insufficient in preventing anticompetitive behaviours, as evidenced by the increase in unfair practices in the aftermarket.
- For example, vehicle manufacturers are, directly or indirectly, increasingly developing extended warranties or service/maintenance contracts which impose the use of specific spare parts and maintenance products by their network.
- Similarly, through bonus schemes set up by vehicle manufacturers, authorised dealers and repairers are often obliged to buy spare parts and maintenance products from the vehicle manufacturer or its partner, leading to a dependency on only one supplier.
- Both practices diminish competition in the motor vehicle aftermarket, marginalising independent operators to the benefit of a few market players. This goes against one of the key objectives of the MVBBER which is to offer access to all manufacturers to the motor vehicle aftermarket and ensure that competing products continue to be available.

⇒ **We call for stricter rules regulating practices which limit the supply and use of competing products in the motor vehicle aftermarket, such as the misuse of warranties, service/maintenance contracts, and bonus schemes.**

⇒ **We call for the strict limitation of warranties to repair works on broken and defective parts of a vehicle and the clear exclusion of maintenance products, such as lubricants, from these warranties.**

⇒ **We also call for stricter preventive measures to ensure that maintenance services can be carried out with a full freedom of choice, allowing the use of competing products of matching quality. The only acceptable requirement from a vehicle manufacturer regarding maintenance should be the use of products of matching quality and its technical specifications should be mentioned in owners' manuals.**

⇒ **Generally, we call for the application of the following jurisprudence from the European Commission: any kind of pressure from a vehicle manufacturer whether through contractual obligations or by other means, which goes beyond a mere recommendation to its dealers in order to impose the use or sale of its own products or indeed those of another supplier, is likely to be illegal under EU competition rules (IP/87/500).**

❖ **Enlargement of the scope:** The issues described above impact both motor vehicles intended for use on public roads and off-road motor vehicles. Consequently, we ask for the scope of the MVBBER to be extended to cover motor vehicles intended for off-road use.

❖ **Modernisation of the legislative framework:** We support calls from partner organisations in the automotive supply chain for the adaptation of the MVBBER to the latest technological developments and innovations in the field.