

Competition Policy, December 2008

Publication of stakeholders' responses to the consultation on BER 1400/2002 - UEIL meets with DG Competition to discuss the future of this Regulation

The Commission's DG Competition published stakeholders' responses to the consultation on the future of BER 1400/2002. It shows that around 70 % of all stakeholders are in favour for the maintenance of a sector specific regulation for the automotive sector. Following these developments, UEIL had a meeting with the responsible officials from DG Competition to enquire the Commission's reaction to the outcome of the consultation and to discuss the Commission's future intentions with respect to the BER 1400/2002.

On 21 November, the Commission finally published stakeholders' replies (including the submission of UEIL) to DG Competition's consultation on the Evaluation Report on the functioning of BER 1400/2002, one month later than previously announced.

Stakeholders' responses can be assessed at

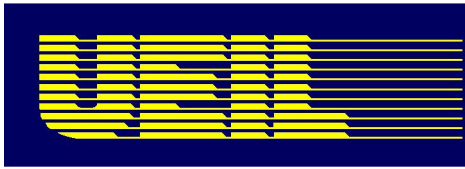
http://ec.europa.eu/comm/competition/antitrust/consultations/motor_vehicle_comments/index.html.

UEIL analysis of the responses shows that 127 stakeholder concerned by the revision of the Block Exemption Regulation contributed to this consultation, out of which approximately 70% request the Commission, similarly to UEIL, to maintain a sector-specific Regulation for the automotive sector.

It is interesting to note that all Member States that contributed to the consultation (France, Germany, Italy, UK, Poland, Czech Republic, Finland, Hungary, Romania, UK), with the exception of the United Kingdom, are in favour of maintaining a sector specific Regulation for the automotive sector. The other major stakeholder groups having responded to the consultation include motor vehicle manufacturers, dealerships (authorised and independent), independent repairers and lawyers/academics, while strangely enough only very few consumer groups/representatives have replied.

A strong (and new) argument put forward by the majority of stakeholders is the fact that in light of the current economic crisis, which is hitting the automotive industry and in particular SMEs quite hardly, it is not recommendable to add to existing insecurities and further add destabilising element by repealing BER 1400/2002. All stakeholders furthermore agree that the power structure in the automotive sector is still very unbalanced, clearly to the favour of vehicle manufacturers, and that therefore the need for sector specific protective measures remains unchanged.

Intrigued by the Commission's reaction to this outcome of the consultation and in its effort to re-emphasize UEIL's position on the issue, UEIL met with Mr Cesarini, Head of DG Competition's Unit responsible for the review of BER 1400/2002 on 3 December 2008. Despite stakeholders' clear



stance, it appeared to us that DG Competition still favours an approach by which BER 2790/1999 would be phased out and the issue included in the more general BER 2790/1999 and consequently strongly argued the case. Nevertheless, Mr Cesarini was keen to hear the different examples of abusive practices deployed by vehicle manufacturers to impede UEIL members' market access and agreed to maintain a dialogue in that respect.

From our discussion with Mr Cesarini, we expect that the Commission will communicate its preferred option/solution for the future of BER 1400/2002 before Easter 2009 (beginning of April).

In the coming months, UEIL will continue its outreach activities to ensure that the sector specific Regulation is maintained for the automotive sector. We envisage setting up further meetings with Members of the European Parliament, high-level Commission officials from DG Competition and DG Enterprise, as well as Commission services dealing with issues such as consumer, transport, taxation and trade.

Ministers give green light to Small Business Act

EU Industry Ministers approved on 1 December the Small Business Act, which will increase the EIB lending to SMEs to €30 billion by 2011, and will propose actions to reduce red tape for SMEs.

On 1 December, Europe's Industry Ministers approved the Small Business Act (SBA), intended to boost competitiveness of Europe's small and medium-sized enterprises, accompanied by an action plan to alleviate the immediate effects of the current economic crisis.

As already outlined in the Commission's economic recovery plan presented in October, the European Investment Bank (EIB) will increase its lending to SMEs to €30 billion by 2011, of which €15 billion shall be made available in 2009. No agreement could be reached on the proposal for the European Private Company Statute, which should facilitate SMEs to set up and run business across EU borders. Ministers also stressed the need to further reduce red tape, while Germany and other EU countries also suggested temporarily raising the state aid threshold. Discussions on this topic will continue at the European summit on 11-12 December.

UEIL met on 3 December with the Commission officials within DG Enterprise in charge of the drafting and implementing the SBA in order to use it as a tool to leverage the Block Exemption Regulation process. The SBA has 10 principles that are aimed at promoting a better framework for SMEs. Under these principles, the Commission must undertake impact assessments on the effect of all new regulations on SMEs. From our discussion, DG Enterprise is keen on helping UEIL from an SME perspective and urging the Commission (with UEIL's help) to carry out an impact assessment of the effects of the abolition of the BER 1400/2002 regulation on SMEs.