



The Automotive Block Exemption Regulation Explained

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What is the Automotive Block Exemption Regulation 1400/2002?

The European Commission issued Automotive Block Exemption Regulation 1400/2002 (BER) to determine which types of agreement can be exempted from the European competition law prohibition on anti-competitive agreements (article 81(3) of the Treaty).

The BER applies to selective or to exclusive distribution agreements in relation to new car sales, services and repairs and spare parts distribution in European Union (EU) and European Free Trade Association (EFTA) countries.

The aim is to increase competition and protect the consumer, for example, it is a condition of BER that consumers can buy the car of their choice wherever they want, or that authorised dealers are obliged to carry out warranty work regardless of where in the EU the vehicle was purchased.

This sector specific exemption recognises the unique circumstances of the Retail Motor Industry, and sets it apart from most sectors where the regulative framework is provided by the general or 'umbrella' exemption 2790/1999. BER takes account of imbalances between the various parties in the distribution chain and creates a more efficient market.



Why We Need a BER

To achieve increased competition in car sales and repairs, a key element of successive Automotive Block Exemption Regulations has been to create a framework aiming at providing a balance between the suppliers (vehicle manufacturers and their importer subsidiaries) and the dealers and repairers.

For over 20 years Automotive Block Exemption Regulations have preserved and improved the supplier-dealer balance, strengthening the level of competition and benefiting the consumer. Here are some reasons why BER is so important:



Motor vehicles fulfil essential social and economic roles, have a profound effect on peoples' lives, and affect mobility, safety, tax revenues and the environment.

BER protects this crucial consumer commodity.

Automotive retailers and repairers make large investments in buildings, equipment, training and tools.

BER aims at providing the stability required for capital investment.

The umbrella regulation is inadequate for the automotive industry due to the imbalance in market power in favour of the supplier to the detriment of the consumer. It is not suited to automotive product life cycles and distribution patterns, and is designed to ensure competition only in markets with a well-balanced vertical relationship.

BER rather than the umbrella regulation is necessary in this sector.

BER gives vehicle manufacturers - multinational companies - the right to apply standards to ensure quality. The dealers and repairers - often small and medium sized companies (SMEs) - therefore lack independence and need regulatory help.

BER aims at greater diversity in automotive distribution, thereby ensuring competition.

The dealers and repairers make large investments in equipment and training, but their position in the vertical relationship leaves them exposed to the will of vehicle manufacturers. To maintain a competitive market, and give consumer choice, a degree of protection must be afforded to them.

BER aims to bring dealers and repairers more independence.

The categories of vertical agreements defined in BER improve efficiency within the distribution chain by facilitating co-ordination between the vehicle manufacturers and importers and the dealers and repairers.

BER improves logistics and optimises sales.

BER encourages competition between dealers of the same brand and dealers of different brands. It increases the quality of service and drives down prices.

BER encourages competition to benefit consumers.

BER provides that vehicle manufacturers must make their technical repair information available to all repairers and after-market operators. It allows consumers to have their cars serviced in the repair shop of their choice.

BER increases consumer choice.

Without BER 1400/2002, the suppliers may utilise their market power in a way that stifles competition.



The Future of BER

Block Exemption Regulation 1400/2002 came into force in October 2002. In June 2006, consultants London Economics carried out a mid-way appraisal of its effects on the market, and the European Commission is due to publish its evaluation in May 2008. The conclusions of this evaluation should form the basis of the Commission's thinking in drafting the regulatory framework beyond 2010.



The experience of the market and the mid-way appraisal show a high degree of competition in the sector. Since the introduction of Automotive Block Exemption Regulations, and specifically 1400/2002, the internal market has substantially progressed in what was traditionally a highly fragmented sector. Consumer prices are increasingly converging and competition is growing fast in new car and spare parts sales and after-sales services. The Commission's official evaluation is expected to confirm these trends.

Renewal of BER makes sense because it has benefited the sector's businesses and, more importantly, the consumer. The automotive sector will continue to need a specific regulation as long as the imbalance of power within the distribution chain remains. It has taken over 20 years of regulation to make the market as competitive as it is today, and withdrawing BER would have adverse effects..

BER has been successful and should be prolonged.

The need for renewal of BER 1400/2002 in 2010 is clear as the EU could continue to deliver benefits to consumers by permanently promoting innovation in services and trade. These goals are also aims of BER 1400/2002