

Public Consultation MVBBER

Fields marked with * are mandatory.

Introduction

Background and aim of the questionnaire

Article 101(1) of the Treaty on the Functioning of the European Union (“the Treaty”) prohibits agreements between undertakings and concerted practices that restrict competition unless, in accordance with Article 101(3) of the Treaty, these contribute to improving the production or distribution of goods or to promoting technical or economic progress and allow consumers a fair share of the resulting benefits.

So-called “vertical agreements” are among those covered by Article 101(1) of the Treaty. These are agreements and concerted practices entered into between two or more undertakings operating at different levels of the production or distribution chain, and relate to the conditions under which the parties may purchase, sell or resell certain goods or services.

Council Regulation (EEC) 19/65 enables the Commission to apply Article 101(3) of the Treaty in a single act to certain categories of vertical agreements falling within Article 101(1) of the Treaty for which it can be assumed with sufficient certainty that they satisfy the conditions of Article 101(3); in other words that they generate efficiencies outweighing potential negative effects. The Commission has made use of this power by adopting generally-applicable as well as sector-specific instruments.

The instrument currently applicable to vertical agreements in the motor vehicle sector* (distribution and after-sales agreements) is Commission Regulation (EU) No 461/2010 (the Motor Vehicle Block Exemption Regulation: “MVBBER”), together with Commission Regulation (EU) No 330/2010 (the general Vertical Block Exemption Regulation: “VBER”). As per Articles 3 and 4 of the MVBBER, the VBER has applied to after-sales agreements since June 2010 and to motor vehicle distribution since June 2013, the latter falling exclusively within the scope of the VBER ever since.

*Where the term “motor vehicle” is used in this questionnaire, it should be understood as per Article 1(1)(g) of the MVBBER as *“a self-propelled vehicle intended for use on public roads and having three or more road wheels”*.

In 2010, the Commission also adopted the Guidelines on vertical restraints (“Vertical Guidelines” or “VG”) and the 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 (“Supplementary Guidelines” or “SG”), with a view to providing guidance on the interpretation of the VBER and the MVBBER respectively.

The MVBBER will expire on 31 May 2023 and the Commission has to draw up an evaluation report on its operation by 31 May 2021. This report will serve as the starting point for determining whether the Commission should let the MVBBER lapse, prolong its duration or revise it.

The evaluation process started on 3 December 2018. It covers the entire spectrum of the block exemption rules applicable to the motor vehicle sector, namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines (collectively, “the motor vehicle block exemption rules”). The purpose of this evaluation is to allow the Commission to assess the performance of these rules, based on the following criteria:

- **Effectiveness:** Have the objectives been met?
- **Efficiency:** Were the costs involved reasonable and proportionate to the benefits?
- **Relevance:** Do the objectives of the rules still correspond to the current needs?
- **Coherence:** Are the rules consistent internally and with other EU rules?
- **EU added value:** Could the same results have been achieved with action only at national level?

The present questionnaire aims at collecting facts, views and evidence from the public and other stakeholders that will help the Commission reply to these questions. It represents one of the methods of information gathering in the context of the evaluation.

The responses from this consultation will be analysed and the summary of the main points and the conclusions will be made public on the Commission’s central public consultations page.

Nothing in this questionnaire should be interpreted as stating an official position of the European Commission.

Submission of your contribution

Please reply to this public consultation by responding to the questionnaire online. To make it easier for us to analyse your replies, please keep your answers concise and to the point. You may include documents and URLs for relevant online content in your replies.

You are not obliged to complete the questionnaire all at once; you have the option of saving your responses as a "draft" and finalising them later. To do this you should click on "Save as Draft" and save the new link that you will receive from the EUSurvey tool on your computer. Please note that without this new link you will not be able to access your questionnaire again to continue working on your response.

If you have any questions, you can contact us via the following functional mailbox: COMP-CAR-SECTOR@ec.europa.eu.

In case of technical problems, please contact the Commission's EC-CENTRAL-HELPDESK@ec.europa.eu.

Duration of the consultation

The consultation on this questionnaire will be open for 15 weeks.

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority

- Trade union
- Other

If you are giving your contribution for the company / organisation for which you work, or on behalf of a client, please specify the main function / activity of the company / organisation or client:

- Vehicle manufacturer
- Vehicle importer
- Vehicle dealer authorised by one or more vehicle manufacturers / importers
- Vehicle dealer that is not authorised by any of the vehicle manufacturers / importers
- Intermediary purchasing vehicles on behalf of individual identified end consumers (as per SG para. 52)
- Agent selling vehicles on behalf of one or more vehicle manufacturers / importers
- Agent selling vehicles on behalf of one or more vehicle dealers
- Vehicle leasing/ rental
- Parts manufacturer
- Parts dealer (wholesale or retail) authorised by one or more vehicle manufacturers / importers
- Parts dealer (wholesale or retail) that is not authorised by any of the vehicle manufacturers / importers
- Repairer authorised by one or more vehicle manufacturers / importers
- Repairer that is not authorised by any of the vehicle manufacturers / importers
- Law firm acting on its own account

If “other”, please specify.

250 character(s) maximum

Please specify the types of product (including repair services and spare parts) concerned by your or your client’s business:

- Passenger cars
- Light commercial vehicles
- Heavy goods vehicles

Buses and coaches

Other

If "other", please specify.

250 character(s) maximum

* First name

* Surname

* Email (this won't be published)

* Scope

- International
- Local
- National
- Regional

* Organisation name

255 character(s) maximum

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

- | | | | |
|---|--|--|--|
| <input type="radio"/> Afghanistan | <input type="radio"/> Djibouti | <input type="radio"/> Libya | <input type="radio"/> Saint Martin |
| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
| <input type="radio"/> American Samoa | <input type="radio"/> Egypt | <input type="radio"/> Macau | <input type="radio"/> San Marino |
| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
| <input type="radio"/> Anguilla | <input type="radio"/> Eritrea | <input type="radio"/> Malaysia | <input type="radio"/> Senegal |
| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
| <input type="radio"/> Armenia | <input type="radio"/> Falkland Islands | <input type="radio"/> Marshall Islands | <input type="radio"/> Singapore |
| <input type="radio"/> Aruba | <input type="radio"/> Faroe Islands | <input type="radio"/> Martinique | <input type="radio"/> Sint Maarten |
| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
| <input type="radio"/> Austria | <input type="radio"/> Finland | <input type="radio"/> Mauritius | <input type="radio"/> Slovenia |
| <input type="radio"/> Azerbaijan | <input type="radio"/> France | <input type="radio"/> Mayotte | <input type="radio"/> Solomon Islands |
| <input type="radio"/> Bahamas | <input type="radio"/> French Guiana | <input type="radio"/> Mexico | <input type="radio"/> Somalia |
| <input type="radio"/> Bahrain | <input type="radio"/> French Polynesia | <input type="radio"/> Micronesia | <input type="radio"/> South Africa |

- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago

- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen

- Czechia
- Lebanon
- Saint Helena
Ascension and
Tristan da
Cunha
- Zambia
- Democratic
Republic of the
Congo
- Lesotho
- Saint Kitts and
Nevis
- Zimbabwe
- Denmark
- Liberia
- Saint Lucia

*** Publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only your contribution, country of origin and the respondent type profile that you selected will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

Public

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

I agree with the [personal data protection provisions](#)

Effectiveness (Have the objectives been met?)

Intensity of competition

In your / your client’s experience, has competition in **new motor vehicle distribution** intensified, weakened or stayed the same since 2010?

The intensity of competition may depend on elements such as the number and size of companies active in the market, the availability of alternative sources of supply or price competition.

- Competition has intensified
- Competition has weakened
- No change
- Do not know

Please explain.

1000 character(s) maximum

If you or your client have observed any changes in the intensity of competition in **new motor vehicle distribution**, please identify the factor(s) to which you attribute these changes:

- Motor vehicle block exemption rules (namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines)
- General economic background
- Consumer preferences
- Mergers between market players
- Technological developments
- Other legal provisions
- Other factors
- Do not know

Please specify how the factor(s) you have selected affected the intensity of competition.

1000 character(s) maximum

In your / your client's experience, has competition in the **provision of repair and maintenance services** for motor vehicles intensified, weakened or stayed the same since 2010?

The intensity of competition may depend on elements such as the number and size of companies active in the market, the availability of alternative sources of supply or price competition.

- Competition has intensified
- Competition has weakened
- No change
- Do not know

Please explain.

1000 character(s) maximum

If you or your client have observed any changes in the intensity of competition in the **provision of repair and maintenance services** for motor vehicles, please identify the factor(s) to which you attribute these changes:

- Motor vehicle block exemption rules (namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines)

- General economic background
- Consumer preferences
- Mergers between market players
- Technological developments
- Other legal provisions
- Other factors
- Do not know

Please specify how the factor (s) you have selected affected the intensity of competition.

1000 character(s) maximum

In your / your client's experience, has competition in the **distribution of spare parts** for motor vehicles intensified, weakened or stayed the same since 2010?

The intensity of competition may depend on elements such as the number and size of companies active in the market, the availability of alternative sources of supply or price competition.

- Competition has intensified
- Competition has weakened
- No change
- Do not know

Please explain.

1000 character(s) maximum

If you or your client have observed any changes in the intensity of competition in the **distribution of spare parts** for motor vehicles, please identify the factor(s) to which you attribute these changes:

- Motor vehicle block exemption rules (namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines)
- General economic background
- Consumer preferences
- Mergers between market players
- Technological developments
- Other legal provisions
- Other factors

- Do not know

Please specify how the factor (s) you have selected affected the intensity of competition.

1000 character(s) maximum

Scope of the exemption

The motor vehicle block exemption rules only exempt agreements where neither the market share of the buyer nor that of the seller exceeds 30%. This is so that vertical agreements in the motor vehicle sector can only benefit from the exemption if it can be assumed, with sufficient certainty, that the efficiencies generated outweigh potential negative effects. Do you believe that this threshold is still appropriate today?

- The threshold is too high
- The threshold is appropriate
- The threshold is too low
- Do not know

Please explain your reasons.

1000 character(s) maximum

Beside the current threshold criterion, are there, in your view, any other elements on which the exemption should be made conditional? If yes, please specify such elements and explain your reasons.

1000 character(s) maximum

Please note that the question refers to exemption conditions besides the absence of hardcore / excluded restrictions (for those, please see the questions below).

Have you or your client encountered any types of vertical restriction in the motor vehicle sector that the VBER / MVBBER do not list as hardcore but which in your experience should nonetheless be considered as such?

“Hardcore” clauses are serious restrictions removing the benefit of the exemption from the whole agreement

- Yes
- No

- Do not know

If “yes”, please identify these types of vertical restriction and explain why you believe that they should be considered as hardcore.

Have you or your client encountered any types of vertical restriction in the motor vehicle sector that the VBER does not list as excluded but which in your experience, should nonetheless be considered as such?

“Excluded” clauses are particular provisions that may not benefit from the exemption.

- Yes
- No
- Do not know

If “yes”, please identify these types of vertical restriction and explain why you believe that they should be excluded from the exemption.

Are there any types of vertical restriction in the motor vehicle sector that the VBER / MVBER lists as hardcore but which in your experience should not be considered as such?

- Yes
- No
- Do not know

If yes, please identify these types of restriction:

- Resale price maintenance (VBER Article 4(a))
- Territorial/customer restrictions (VBER Article 4(b))
- Restriction of sales to end customers by members of a selective distribution system (VBER Article 4(c))
- Restriction of cross supplies within a selective distribution system (VBER Article 4(d))
- Restriction of component suppliers’ ability to sell components as spare parts to end users or repairers (VBER Article 4(e))
- Restriction of sales of spare parts by members of a selective distribution system to independent repairers (MVBER Article 5(a))

- Restriction of part/tool/equipment suppliers' ability to sell to authorised /independent repairers/distributors or end users (MVBBER Article 5(b))
- Restriction of component/part suppliers' ability to place their trademark/logo on the components/parts supplied (MVBBER Article 5(c))

For any restrictions that you have identified, please provide an explanation as to why you believe that these should not be considered as hardcore, identifying how they benefit consumers and explaining why they outweigh the potential anticompetitive effects.

1000 character(s) maximum

Are there any types of vertical restriction in the motor vehicle sector that the VBER lists as excluded but which in your experience should not be considered as such?

- Yes
- No
- Do not know

If “yes”, please identify these types of restriction:

- Non-compete/single-branding obligation (VBER Articles 5(1)(a) and 5(2))
- Post-term non-compete obligation (VBER Articles 5(1)(b) and 5(3))
- Restriction of sales of particular competing suppliers by members of a selective distribution system (VBER Article 5(1)(c))

For any restrictions that you have identified, please provide an explanation as to why you believe that these should not be excluded, identifying how they benefit consumers and explaining why they outweigh the potential anticompetitive effects.

1000 character(s) maximum

Prevalence of particular restrictions

The motor vehicle block exemption rules aim at achieving certain specific objectives to the sector (see below). Please provide a qualitative estimate of the extent to which each of these objectives has been achieved, using the following

coding: 1 (objective achieved), 2 (objective partially achieved) and 3 (objective not achieved), or mark "DK" if you do not know or "NR" if not relevant for you / your client:

	Objective Achieved	Objective Partially Achieved	Objective Not Achieved	DK	NR
Ensuring access to vehicle retail and repair markets for vehicle manufacturers wishing to enter new markets or expand their market presence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting competition between dealers of the same brand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Preventing restrictions on cross-border trade in motor vehicles	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enabling independent repairers to compete effectively with authorised repairers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting competition between authorised repairers of the same brand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring spare parts suppliers' access to the aftermarket	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you have rated any of the above objectives as "partially achieved" or "not achieved", please explain the reasons for your rating.

1000 character(s) maximum

In the context of agreements to which you or your client are a party, have you encountered any of the following types of restriction referred to in the motor vehicle block exemption rules? Please reply Yes or No.

For the purposes of this questionnaire, the motor vehicle block exemption rules also comprise the VBER and the VG

	Have you or your client encountered this type of restriction since 2010 in the context of agreements to which you or your client were party?	Did you or your client contest the restriction with the other party to the contract?	Was the dispute resolved through negotiation/ arbitration?	Did the dispute go to court?	Did the court find that the restriction breached EU competition law?
Resale price maintenance (sometimes called “price fixing”) (VBER Article 4(a) and VG recitals 48-49 and 223-229)					
Restriction of authorised dealers’ ability to sell motor vehicles or spare parts in other Member States (VBER Article 4(b), VG recitals 50-55 and SG recitals 48-50)					

<p>Restriction of authorised dealers' ability to sell motor vehicles or spare parts to end customers (VBER Article 4(c), VG recitals 56-57 and SG recitals 51-52)</p>					
<p>Restriction of authorised dealers' ability to sell motor vehicles or spare parts to other dealers within the same distribution system (cross-supplies) (VBER Article 4 (d) and VG recital 58)</p>					
<p>Restriction of original equipment suppliers' ability to sell spare parts to end customers or repairers (VBER Article 4 (e) and VG recital 59)</p>					

Restriction of authorised dealers' ability to sell spare parts to independent repairers (MVBER Article 5(a) and SG recital 22)					
Restriction of components / parts suppliers' ability to place their trademark / logo on the components / parts supplied (MVBER Article 5(c) and SG recital 24)					
Single-branding / non-compete obligations (VBER Articles 5(1)(a) and 5(2), VG recitals 66-67 and 129-150 and SG recitals 26 and 28-41)					
Post-term non-compete obligations (VBER Articles 5(1)(b) and 5(3) and VG recital 68)					

Restriction on authorised dealers not to sell motor vehicles or spare parts from particular competing suppliers (sometimes called the “no boycott rule”) (VBER Article 5(1) (c), VG recitals 69 and 182 and SG recital 27)					
Restriction of independent operators’ access to technical information (SG recitals 62-68)					
Misuse of warranties (SG recitals 49 and 69)					
Restriction on the number of authorised repairers within a brand network (SG recital 70)					
Requirement that authorised repairers within a brand network also sell vehicles of the brand (SG recital 71)					

Have you or your client encountered any conduct on the part of a contractual partner that you consider served as an indirect means of achieving anti-competitive results?

- Yes
- No
- Do not know

If “yes”, please describe both the conduct and the anti-competitive result(s) in question.

	Conduct	Anti-competitive (result)
1		
2		
3		
4		
5		
6		

Is there a code of conduct / practice that applies to contractual relations between you / your client on the one hand and your contractual partner(s) in the motor vehicle sector?

- Yes
- No
- Do not know
- No contractual relations with other companies in the motor vehicle sector

Legal certainty: clarity for firms as to what the law means

Companies are required to assess themselves whether the agreements and / or specific clauses they enter into are compliant with Article 101 of the Treaty. One of the functions of the motor vehicle block exemption rules is to make this self-assessment easier by allowing companies to understand and predict the legal consequences of the situations / relationships / conduct governed by Article 101 of the Treaty (often referred to as “legal certainty”). Based on your experience, do you consider that, taken as a whole, the motor vehicle block exemption rules have achieved this aim?

- Yes

- No
- Do not know

If "no" please explain your reasons.

1000 character(s) maximum

Do you / your client consider that the definitions given by the motor vehicle block exemption rules have increased legal certainty compared to a situation in which no such rules existed. Please use the following coding: 1 (very little), 2 (little) and 3 (sufficient), or mark "DK" if you do not know or "NA" if not applicable to you / your client:

For the purposes of this questionnaire, the motor vehicle block exemption rules also comprise the VBER and the VG.

	Very little	Little	Sufficient	DK	NA
Vertical agreements (VBER Article 1(1)(a), VG recitals 24-26 and MVBBER Article 1(1)(a))	<input type="radio"/>				
Agreements of minor importance (VG recitals 8-11)	<input type="radio"/>				
Agency agreements (VG recitals 12-17)	<input type="radio"/>				
Subcontracting agreements (VG recital 22 and SG recital 23)	<input type="radio"/>				
Franchise agreements (SG recital 189)	<input type="radio"/>				
Non-compete obligation (VBER Article 1(1)(d))	<input type="radio"/>				
Selective distribution (VBER Article 1(1)(e) and MVBBER Article 1(1)(i))	<input type="radio"/>				
Exclusive distribution (VG recital 151)	<input type="radio"/>				
Authorised repairer/ distributor (MVBBER Article 1(1)(c)-(d))	<input type="radio"/>				
Independent repairer/ distributor (MVBBER Article 1(1)(e)-(f))	<input type="radio"/>				
Independent operator (SG recital 62)	<input type="radio"/>				
Intermediary (SG recital 52)	<input type="radio"/>				
Motor vehicle (MVBBER Article 1(1)(g))	<input type="radio"/>				
Spare part (MVBBER Article 1(1)(h))	<input type="radio"/>				
Original part (SG recital 19)	<input type="radio"/>				
Matching quality part (SG recital 20)	<input type="radio"/>				

Technical information (SG recital 66)	<input type="radio"/>				
Tool (SG recital 68)	<input type="radio"/>				
Connected undertaking (VBER Article 1(2) and MBER Article 1(2))	<input type="radio"/>				
Active and passive sales (VG recital 51)	<input type="radio"/>				

If you have selected the option "little" or "very little" for any of the above definitions, please explain the reasons for your rating and identify whether it relates to the respective definition, its application in practice or the overall structure of the rules.

1000 character(s) maximum

Do you / your client consider that the below provisions of the motor vehicle block exemption rules have increased legal certainty compared to a situation in which no such rules existed. Please use the following coding: 1 (very little), 2 (little) and 3 (sufficient), or mark "DK" if you do not know or "NA" if not applicable to you / your client:

For the purposes of this questionnaire, these rules also comprise the VBER and the VG.

	Very little	Little	Sufficient	DK	NA
Market share thresholds for exemption (VBER Articles 3 and 7 and VG recitals 93-95)	<input type="radio"/>				
Severability (VG recitals 70-71)	<input type="radio"/>				
Withdrawal/disapplication of the block exemption (VBER Article 6, VG recitals 74-85, MBER Article 6 and SG recitals 35-37)	<input type="radio"/>				

Hardcore restrictions

	Very little	Little	Sufficient	DK	NA
Resale price maintenance (sometimes called "price fixing") (VBER Article 4(a) and VG recitals 48-49 and 223-229)	<input type="radio"/>				
Territorial/customer restrictions, except for the restriction of active sales into the exclusive territory or to an exclusive customer group reserved to the supplier or allocated by the supplier to another buyer, where such a restriction does not limit sales by the customers of the buyer (VBER Article 4(b) (i) and VG recitals 50-54)	<input type="radio"/>				

Territorial/customer restrictions, except for the restriction of sales by wholesalers to end users (VBER Article 4(b)(ii) and VG recitals 50 and 55)	<input type="radio"/>				
Territorial/customer restrictions, except for the restriction of sales by authorised dealers in a selective distribution system to unauthorised resellers (VBER Article 4(b)(iii) and VG recitals 50 and 55)	<input type="radio"/>				
Territorial/customer restrictions, except for the restriction of the buyer's ability to sell components, supplied for the purposes of incorporation, to customers who would use them to manufacture the same type of goods as those produced by the supplier (VBER Article 4(b)(iv) and VG recitals 50 and 55)	<input type="radio"/>				
Restriction of sales to end customers by authorised dealers in a selective distribution system (VBER Article 4(c), VG recitals 56-57 and SG recitals 51-52)	<input type="radio"/>				
Restriction of dealers' ability to sell motor vehicles or spare parts to other dealers within the same distribution system (cross-supplies) (VBER Article 4(d) and VG recital 58)	<input type="radio"/>				
Restriction of original equipment suppliers' ability to sell spare parts to end users or repairers (VBER Article 4(e) and VG recital 59)	<input type="radio"/>				
Restriction on the ability of authorised dealers within a selective distribution system to sell spare parts to independent repairers (MVBBER Article 5(a) and SG recital 22)	<input type="radio"/>				
Restriction on the ability of suppliers of parts/tools /equipment to sell to authorised/independent repairers /distributors or end users (MVBBER Article 5(b) and SG recital)	<input type="radio"/>				
Restriction of component/part suppliers' ability to place their trademark/logo on the components/parts supplied (MVBBER Article 5(c) and SG recital 24)	<input type="radio"/>				
Exceptional admissibility of hardcore restrictions (VG recitals 60-64)	<input type="radio"/>				

Analysis of specific vertical restraints

	Very little	Little	Sufficient	DK	DN
Restriction of independent operators' access to technical information (SG recitals 62-68)	<input type="radio"/>				
Misuse of warranties (SG recital 69)	<input type="radio"/>				

Placing limits on the numbers of authorised repairers within a brand network (SG recital 70)	<input type="radio"/>				
Requiring authorised repairers within a brand network to also sell vehicles of the brand (SG recital 71)	<input type="radio"/>				
Selective distribution (VG recitals 174-188 and SG recitals 42-71)	<input type="radio"/>				
Franchising (VG recitals 189-191)	<input type="radio"/>				
Exclusive supply obligations (VG recitals 192-202)	<input type="radio"/>				
Upfront access payments (VG recitals 203-208)	<input type="radio"/>				
Category management agreements (VG recitals 209-213)	<input type="radio"/>				
Tying (VG recitals 214-222)	<input type="radio"/>				
Indirect restrictions of cross-border trade (SG recitals 49-50)	<input type="radio"/>				
Exclusive distribution (VG recitals 151-173)	<input type="radio"/>				

If you have selected "little" or "very little" for any of the above provisions, please explain the reasons for your rating and identify whether it relates to the formulation of the respective provision, its application in practice or the overall structure of the rules

1000 character(s) maximum

Please identify any other specific areas where you consider that there is a lack of legal certainty.

1000 character(s) maximum

In 2010, the Commission included (in recital 66 of the Supplementary Guidelines) a non-exclusive list of items commonly provided to authorised repairers and that should be considered as technical information that should not be withheld from independent operators. The items are software, fault codes and other parameters, together with updates, which are required to work on electronic control units with a view to introducing or restoring settings recommended by the supplier, motor vehicle identification numbers or any other motor vehicle identification methods, parts catalogues, repair and maintenance procedures, working solutions resulting from practical experience and relating to problems typically affecting a given model

or batch, recall notices, other notices identifying repairs that may be carried out without charge within the authorised repair network, as well as part codes and any other information necessary to identify the correct car manufacturer-branded spare part to fit a given individual motor vehicle. Please identify any other items provided to authorised repairers that you believe should have been considered as technical information for the purposes of the motor vehicle block exemption rules.

1000 character(s) maximum

Efficiency (Were the costs involved reasonable and proportionate to the benefits?)

What types of costs (if any) have you / your client incurred when assessing whether vertical agreements to which you / your client is a party can benefit from the motor vehicle block exemption rules (namely the VBER, the MVBER, the Vertical Guidelines and the Supplementary Guidelines)?

- We have not incurred any costs
- Internal administrative costs
- Internal lawyers
- External counsel
- Other

If “other”, please specify.

1000 character(s) maximum

Please estimate the amount of these costs on an annual basis both in terms of value (in EUR) and as a percentage of your turnover.

1000 character(s) maximum

Please indicate whether you consider these costs to have been proportionate to any benefits the motor vehicle block exemption rules have brought to you / your client:

- They have been proportionate
- They have been disproportionate

- Do not know
- Not applicable

If you consider the costs to have been disproportionate, please explain your reasons.

1000 character(s) maximum

Please provide an estimate of the level of assessment costs you / your client would have incurred if this assessment had had to rely directly on Article 101 of the Treaty (no motor vehicle block exemption rules):

- Costs would have been higher
- Costs would have been lower
- Costs would have been the same
- Do not know
- Not applicable

If you estimate that the costs would have been the same or lower, please explain your reasons.

1000 character(s) maximum

Relevance (Do the objectives of the rules still correspond to the current needs?)

Please identify any changes affecting your business or that of your client since 2010 that you believe should be reflected in the objectives of the block exemption rules covering the motor vehicle sector (namely of the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines).

1000 character(s) maximum

Do you consider the objectives of the motor vehicle block exemption rules to still be relevant today? Please use the following coding for your reply: 1 (the objective is still relevant), 2 (the objective is no longer relevant), or mark "DK" if you do not know or "NR" if not relevant for you / your client:

	Objective still relevant	Objective no longer relevant	DK	NR
Ensuring access to vehicle retail and repair markets for vehicle manufacturers wishing to enter new markets or expand their market presence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting competition between dealers of the same brand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Preventing restrictions on cross-border trade in motor vehicles	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Enabling independent repairers to compete effectively with authorised repairers	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting competition between authorised repairers of the same brand	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring spare parts suppliers' access to the aftermarket	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you have rated any of the objectives as “no longer relevant”, please explain what factors lead you to consider this/these objective(s) to be obsolete.

1000 character(s) maximum

Please describe any other objectives that you believe the Commission should pursue in respect of vertical agreements in this sector, explaining their relevance for competition on the markets in question.

1000 character(s) maximum

The material scope of the sector-specific regime for vertical agreements concerning motor vehicles was defined in Regulation 461/2010 as self-propelled vehicles intended for use on public roads and having three or more road wheels. Based on your experience, is this scope still appropriate?

- The current scope is still appropriate
- The definition should be widened
- The definition should be narrowed
- Do not know / no views

If you believe that the material scope of the sector-specific regime should be narrowed or widened, please explain which categories of vehicle you believe should be newly excluded or included.

1000 character(s) maximum

Coherence (Are the rules consistent internally and with other EU rules?)

In your experience or that of your client, are there any inconsistencies or contradictions within any of the individual instruments making up the motor vehicle block exemption rules (VBER, Vertical Guidelines, MVBBER and Supplementary Guidelines)?

For example, instances where one provision of the MVBBER is inconsistent with another provision of the MVBBER.

- Yes
- No
- Do not know

If “yes”, please identify the instrument(s) at issue, specify the provisions giving rise to the internal inconsistencies and explain the reasons for your assessment.

1000 character(s) maximum

In your experience or that of your client, are there any inconsistencies or contradictions between the instruments that make up the motor vehicle block exemption rules? (for example, instances where a provision of the MVBBER is inconsistent with a provision of the VBER)

For example, instances where a provision of the MVBBER is inconsistent with a provision of the VBER.

- Yes
- No
- Do not know

If “yes”, please identify the instruments at issue, specify the provisions giving rise to the inconsistencies and explain the reasons for your assessment.

1000 character(s) maximum

Based on your experience or that of your client, are there any inconsistencies or contradictions between the motor vehicle block exemption rules and other Commission instruments that lay down rules or provide guidance on the application / interpretation of Article 101 of the Treaty (such as other block exemption

regulations, the Horizontal Guidelines, the Notice on the definition of the relevant market or the Guidelines on the application of Article 101(3) of the Treaty)

- Yes
- No
- Do not know

If “yes”, please identify the instruments at issue, specify the provisions giving rise to the inconsistencies and explain the reasons for your assessment.

1000 character(s) maximum

To the best of your / your client’s knowledge, are there any inconsistencies between the motor vehicle block exemption rules and other existing or upcoming Commission instruments in the area of competition policy and enforcement?

- Yes
- No
- Do not know

If “yes”, please explain.

1000 character(s) maximum

To the best of your / your client’s knowledge, are there any inconsistencies between the motor vehicle block exemption rules and other existing or upcoming EU rules?

- Yes
- No
- Do not know

If “yes”, please explain.

1000 character(s) maximum

EU added value (Could the same results have been achieved with action only at national level?)

In your experience or that of your client, have the motor vehicle block exemption rules (namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines) made it easier for national competition authorities and national courts to apply the rules consistently?

- Yes
- No
- Do not know

If “no”, please explain.

1000 character(s) maximum

In your experience or that of your client, have the motor vehicle block exemption rules provided any added value, or could national guidance, the enforcement practice of national competition authorities and relevant national case-law have been equally or more effective?

- National provisions would have been less effective
- National provisions would have been equally effective
- National provisions would have been more effective
- Do not know

If you consider that national provisions would have been equally or more effective, please explain your reasons.

1000 character(s) maximum

Final comments and document upload

Is there anything else you would like to say that may be relevant for the evaluation of the motor vehicle block exemption rules (namely the VBER, the MVBBER, the Vertical Guidelines and the Supplementary Guidelines)?

1000 character(s) maximum

If you wish to do so, you can also attach relevant supporting documents for any of your replies to the questions above, clearly identifying the question to which they refer. Please make sure than any such documents are as concise as possible.

The maximum file size is 1 MB; only files of the type pdf, txt, doc, docx, odt and rtf are allowed.

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

Please indicate whether the Commission services may contact you for further details on the information submitted, if required.

- Yes
- No

End of the questionnaire. Thank you for your contribution.