



POSITION PAPER

Answer to the call for evidence on the Evaluation of the Motor Vehicle Block Exemption Regulation and its supplementary Guidelines

June 2024

UEIL, representing the whole lubricants' value chain in Europe, has noted no positive evolution in the effectiveness of the Motor Vehicle Block Exemption Regulation since its renewal in April 2023. Indeed unfortunately none of the UEIL's suggestions for improvements have been taken into account in the extended MVBER. Therefore, UEIL requires once again immediate improvements of the Regulation in order to really and effectively tackle anticompetitive behaviours reported many times by independent operators and national competition authorities.

Hence, we call for strengthening the MVBER to ensure the full and active participation of the independent sector in the motor vehicle aftermarket. Stricter rules under the MVBER will 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. To this end, the European Commission should notably take inspirations from hardcore restrictions included in previous MVBERs.

This is all the more important that :

- The market is subject to **structural changes to consolidate economic power in the hands of fewer manufacturers** who in turn are able to control more brands under a singular parent company, wield greater economic and political power through this consolidation, and dictate ever more stricter terms to the automotive distribution and aftermarket sector.
- Independent operators have still **great difficulty to get access to repair and maintenance information in timely manner**¹, which does not allow to avoid manufacturers to become emboldened in refusing to release (or at least in delaying significantly the release) such data and allows them to dictate every harsher terms of **warranty restriction** with their dealerships.
- Independent operators have to face with **contractual arrangements between OEMs and some suppliers** which result in the foreclosure of competition in the aftermarket **or agreements between OEMs and authorized repairers**² which may oblige or incite the latter to purchase most of their supplies of parts directly from the motor vehicle manufacturer.

That is why, UEIL calls for a series of immediate improvements of the current version of the MVBER in order to overcome all these competition issues and to ensure the effectiveness and the efficiency of this Regulation.

As already stated in previous letters and contributions sent to the European Commission³, we call for:

¹ It might be useful to add in the MVBER's supplementary Guidelines the principle that the release of the technical repair and maintenance information should be provided in "a timely manner".

² Such as incentives, bonus schemes, extended warranties, service/maintenance contracts ...

³ Contributions to the Public Consultation (January 2021) and to the Call for evidence (September 2022) and letters sent to DG COMP on 19 April 2021 and 3 June 2022.

❖ **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.
- UEIL has noted that many Member States are not complying with the European provisions in force regarding access to vehicle repair and maintenance information. Therefore, UEIL urges the European Commission to consider this matter as soon as possible.

⇒ **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.**

⇒ **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, off-road motor vehicles and two wheeled motor vehicles. Consequently, we ask for the scope of the MVBBER to be extended to cover motor vehicles intended for off-road use and two wheeled motor vehicles including motorbikes and mopeds.