

GOVERNMENT OF THE REPUBLIC OF CROATIA

Pursuant to Article 10 paragraph (2) item (4) of the Competition Act (Official Gazette, No 79/2009), the Government of the Republic of Croatia in its session held on 10 February 2011, adopted the following

REGULATION ON BLOCK EXEMPTION GRANTED TO AGREEMENTS ON DISTRIBUTION AND SERVICING OF MOTOR VEHICLES

I GENERAL PROVISIONS

Subject matter of the Regulation

Article 1

This Regulation stipulates conditions which the agreements on distribution and servicing of motor vehicles must contain and the restrictions or conditions which such agreements may not contain in order to benefit from block exemption from the general ban set out in Article 8 paragraph (1) of the Competition Act (hereinafter: the Act).

Definitions

Article 2

For the purpose of this Regulation:

- a) "vertical agreements in the motor vehicle sector" means contracts, particular provisions thereof, implicit oral or explicitly written down arrangements between undertakings, concerted practices resulting from such arrangements, decisions by undertakings or associations of undertakings, general terms of business and other acts of undertakings which are or may constitute a part of these agreements and similar, entered into between two or more undertakings each of which operates, for the purposes of the agreement or the concerted practice, at a different level of the production or distribution chain, and relating to the conditions under which the parties may purchase, sell or resell new motor vehicles, spare parts for motor vehicles or provide repair and maintenance services for motor vehicles;
- b) "vertical restraint" means a restriction of competition in a vertical agreement on distribution and servicing of motor vehicles falling within the scope of Article 8 paragraph (1) of the Act;
- c) "undertaking" is a person within the meaning Article 3 of the Act;
- d) "controlled undertaking" or "connected undertakings" means undertakings considered a single economic entity within the meaning of Article 4 of the Act;
- e) "products" means goods and/or services;
- f) "substitute product or substitute" means a product which by its characteristics, price, intended use or customers' patterns of purchases can serve as a substitute for another (relevant) product thereby satisfying the equivalent need of the customers and/or consumers;
- g) "authorised distributor of new motor vehicles" means a distributor operating within the distribution system set up by a supplier of new motor vehicles;

- h) "authorised distributor of spare parts for motor vehicles " means a distributor operating within the distribution system set up by a supplier of motor vehicles;
- i) "independent distributor" means a distributor of spare parts for motor vehicles not operating within the distribution system set up by the supplier of the motor vehicles for which it distributes spare parts and, an authorised distributor within the distribution system of a given supplier, to the extent that it distributes spare parts for motor vehicles in respect of which it is not a member of the respective supplier's distribution system;
- j) "authorised repairer" means a provider of repair and maintenance services for motor vehicles operating within the distribution system set up by a supplier of motor vehicles;
- k) "independent repairer" means a provider of repair and maintenance services for motor vehicles not operating within the distribution system set up by the supplier of the motor vehicles for which it provides repair or maintenance. For the purpose of this Regulation, an authorised repairer within the distribution system of a given supplier, to the extent that it provides repair or maintenance services for motor vehicles in respect of which it is not a member of the respective supplier's distribution system, shall be also considered an independent repairer.
- l) "spare parts" means goods which are to be installed in or upon a motor vehicle so as to replace components of that vehicle, including goods such as lubricants which are necessary for the use of a motor vehicle, with the exception of fuel;
- m) "relevant market" is defined as a market of certain goods and/or services which are the subject of the business operations performed by the undertaking in a specific geographic territory within the meaning of Article 7 paragraph (1) of the Act and the Regulation on the definition of relevant market (Official Gazette, No 9/2011).

Applicability of block exemption

Article 3

(1) Block exemption shall apply to vertical agreements on distribution and servicing in the motor vehicle sector referred to in Article 10 paragraph (2) item (4) of the Act, with regard to the conditions under which the contracting parties can purchase, sell or resell new motor vehicles, spare parts for motor vehicles or provide repair and maintenance services for such vehicles, and particularly to the agreements which:

- a) apply a qualitative, quantitative or mixed qualitative and quantitative selective distribution system as a form of distribution and/or servicing of motor vehicles;
- b) apply exclusive distribution or exclusive supply as a form of distribution and/or servicing of motor vehicles;
- c) contain provisions on the assignment or use of intellectual property rights, provided that such provisions do not constitute the main objective of such agreements and that they are directly connected to the use, sale and/or resale of products which are the subject of the agreement on the part of the buyer or his buyers.

(2) Block exemption shall, by way of derogation, also apply under the conditions set forth under Article 7 of this Regulation, to particular vertical agreements entered into between an association of undertakings and its members, or between such an association and its suppliers, as well as to certain vertical agreements entered into between competing undertakings.

(3) A new motor vehicle referred to under paragraph (1) hereof means a self-propelled vehicle intended for use on public roads and having three or more road wheels, which includes passenger cars and light commercial vehicles, buses and trucks.

(4) Selective distribution system referred to in paragraph (1) item (a) hereof means a distribution system established on the basis of the agreement on distribution and servicing of motor vehicles where the supplier undertakes to sell the contract products, either directly or indirectly, only to distributors or repairers selected on the basis of specified, transparent criteria and where these distributors or repairers undertake not to sell such products to unauthorized distributors or independent repairers, without prejudice to the ability to sell spare parts to independent repairers or the obligation to provide independent operators with all technical information, diagnostic equipment, tools and training required for the repair and maintenance of motor vehicles or for the implementation of environmental protection.

(5) Qualitative selective distribution system, as referred to in paragraph (4) hereof, means a system where the supplier determines the criteria for the selection of distributors or repairers which are only qualitative in nature. Such criteria are required by the nature of the contract products and are laid down uniformly for all distributors or repairers applying to join the distribution system, and they may not be applied in a discriminatory manner, and may not limit the number of distributors or repairers in the relevant market.

(6) A combination of qualitative and quantitative selective distribution system, as referred to in paragraph (4) hereof, means a system where the supplier determines the criteria for the selection of distributors or repairers limiting the number of distributors or repairers in the relevant market.

(7) Exclusive distribution agreements in distribution and servicing of motor vehicles as referred to in paragraph (1) item (b) hereof, means vertical agreements where the supplier undertakes to sell the contract products only to only one distributor selected in a particular market or to customer groups which have been allocated exclusively to this distributor.

(8) Exclusive supply agreements in distribution and servicing of motor vehicles as referred to in paragraph (1) item (b) hereof, means vertical agreements where the supplier directly or indirectly undertakes to sell the contract products only to one buyer inside the market of the Republic of Croatia for the purpose of a specific use or resale.

(9) The agreement on distribution and servicing of motor vehicles may not contain a combination of the application of a selective distribution system as referred to in paragraph (1) item (a) and paragraphs (4), (5) and (6) hereof, with the exclusive distribution or exclusive supply as referred to in paragraph (1) item (b) and paragraphs (7) and (8) hereof within the same relevant market.

(10) The relevant market within the meaning of paragraph (9) hereof comprises the following markets: distribution of new motor vehicles, distribution of spare parts for motor vehicles and provision of repair and maintenance services for motor vehicles.

Non-applicability of block exemption

Article 4

Within the meaning of this Regulation the block exemption from the general ban laid down in Article 8 paragraph (1) of the Act shall not apply to:

- a) vertical agreements in the motor vehicle sector which have not been brought into compliance with this Regulation;
- b) vertical agreements the subject matter of which falls within the scope of any other block exemption regulation pursuant to Article 10 paragraph (2) of the Act.

II CONDITIONS THE AGREEMENTS ON DISTRIBUTION AND SERVICING OF MOTOR VEHICLES MUST CONTAIN

Market share

Article 5

(1) Block exemption for vertical agreements on distribution of new motor vehicles shall apply on condition that the supplier's market share on the relevant market on which it sells new motor vehicles does not exceed 30%, or 40% for agreements establishing a combination of qualitative and quantitative selective distribution system for the sale of new motor vehicles.

(2) By way of derogation, these thresholds shall not apply to vertical agreements establishing qualitative selective distribution systems for the sale of new motor vehicles.

(3) In the case of agreements on distribution of new motor vehicles containing exclusive supply obligation, the block exemption within the meaning of this Regulation shall apply on condition that the market share held by the buyer on the relevant market on which it purchases new motor vehicles does not exceed 30% of the relevant market concerned.

Market share calculation

Article 6

(1) The market share in the relevant market covering the distribution of new motor vehicles, within the meaning of Article 5 paragraph (1) of this Regulation, shall be calculated on the basis of the volume of the contract products sold by the supplier and other products sold by the supplier which are regarded as interchangeable or substitutable by the buyer.

(2) The market share referred to in paragraph (1) hereof shall be increased by the turnover achieved by the connected undertakings of the supplier which they have realized in the market of contract products and their substitutes.

(3) The turnover referred to in paragraphs (1) and (2) shall be calculated after the deduction of customs duties, the value added tax, and other taxes directly relating to the turnover and discounts in the financial year preceding the conclusion of the agreement.

(4) The market share held by the buyer in the relevant market where it purchases the contract products which does not exceed 30%, and which is stipulated as a condition for the application of block exemption in the case of vertical agreements containing exclusive supply obligations, within the meaning of Article 5 paragraph (3) of this Regulation, shall be calculated adequately applying the criteria referred to in paragraphs (1) to (3) of this Article, taking into account the value of its purchases or the estimates thereof.

(5) If the turnover figures required for the calculations are not available, other available market information, including the volume data of the products sold may be used to define the market share, unless the undertaking had performed the business activity in the relevant market in the financial year preceding the year of the conclusion of the agreement.

(6) If the market share of the undertaking in question is at the point of the conclusion of the agreement not more than 30%, or 40% in the case of the agreement establishing a combination of a qualitative and quantitative selective distribution system for the sale of new motor vehicles, but subsequently rises above that level without exceeding 35%, or 45% in the case of the agreement establishing a combination of a qualitative and

quantitative selective distribution system for the sale of new motor vehicles, the block exemption shall continue to apply for a period of two consecutive calendar years following the year in which the market share threshold of 30%, or 40% respectively, was first exceeded.

(7) If the market share of the undertaking in question is at the point of the conclusion of the agreement not more than 30%, or 40% in the case of the agreement establishing a combination of a qualitative and quantitative selective distribution system for the sale of new motor vehicles, but subsequently rises above 35%, or 45% in the case of the agreement establishing a combination of a qualitative and quantitative selective distribution system for the sale of new motor vehicles, the block exemption shall continue to apply for a period of one calendar year following the year in which the market share threshold of 30%, or 40% respectively, was first exceeded.

(8) The benefit of paragraphs (7) and (8) hereof may not be combined so as to exceed the exemption period of two calendar years.

Total annual turnover for certain categories of vertical agreements on distribution of new motor vehicles

Article 7

(1) Block exemption shall also apply to vertical agreements entered into between an association of undertakings and its members, or between such an association and its suppliers:

- a) if all members of such an association are distributors of new motor vehicles, and
- b) if no individual member of such association, together with its connected undertakings has a total annual turnover exceeding HRK 50 million.

(2) Block exemption shall also apply to vertical agreements entered into between competing undertakings, provided that this is a non-reciprocal vertical agreement:

- a) if the supplier is a manufacturer and distributor of new motor vehicles, while the buyer is a distributor not manufacturing the substitute products; and/or
- b) if the supplier is a provider of services at several levels of trade, while the buyer does not provide substitute services at the level of trade where it purchases the contract services; and/or
- c) if the buyer has a total annual turnover not exceeding HRK 50 million.

Total annual turnover calculation

Article 8

(1) Within the meaning of Article 7 of this Regulation, the total annual turnover shall be calculated as the total annual turnover achieved by the undertaking during the financial year preceding the conclusion of the agreement and the turnover achieved by all its connected undertakings shall be added together.

(2) For the purposes of calculating the total annual turnover as referred to under paragraph (1) hereof, no account shall be taken of dealings between the undertakings concerned and their connected undertakings or between their connected undertakings.

(3) The total annual turnover calculated pursuant to the provisions of paragraphs (1) and (2) hereof, shall exclude customs duties, the value added tax, and other taxes directly relating to the turnover and discounts.

(4) Block exemption for agreements referred to in Article 7 of this Regulation shall remain applicable even if during the period of two consecutive financial years the total annual turnover threshold is exceeded by no more than ten 10%.

Article 9

Duration, termination, settlement of disputes and transfer of rights and obligations under the agreement on distribution of new motor vehicles to third parties

(1) Block exemption shall apply on condition that the vertical agreement concluded by the supplier of new motor vehicles with a distributor of new motor vehicles provides:

a) that the agreement is concluded for a period of at least **five years**, in this case each party to the agreement has to undertake to give the other party at least six months' prior notice of its intention not to renew the agreement; or

b) that the agreement is concluded for an indefinite period, in this case the period of notice for regular termination of the agreement has to be at least two years for both parties, whereby this period may be reduced to at least one year where:

- the supplier is obliged by law or by a special agreement to pay appropriate compensation on termination of the agreement, or
- the supplier terminates the agreement where it is necessary to re-organize the whole or a substantial part of the network.

(2) Block exemption shall apply on condition that the vertical agreement concluded with a distributor of new motor vehicles provides that a supplier who wishes to give notice of termination of an agreement must give such notice in writing and must include detailed, objective and transparent reasons for the termination, in order to prevent a supplier from ending a vertical agreement with a distributor of new motor vehicles because of practices which may not be restricted under this Regulation.

(3) Block exemption shall apply on condition that the vertical agreement on distribution of new motor vehicles provides for each of the parties to the agreement the right to refer disputes resulting from the agreement to the Conciliation Centre of the Croatian Chamber of Commerce, this without prejudice to the right of each party to the agreement to settle the disputes resulting from the agreement at the court of law or by arbitration.

(4) Block exemption shall apply on condition that vertical agreement concluded with a distributor of new motor vehicles provides that the supplier agrees to the transfer of the rights and obligations resulting from the vertical agreement on distribution of new motor vehicles to another distributor of new motor vehicles within the distribution system and chosen by the former distributor.

III RESTRICTIONS OR CONDITIONS WHICH AGREEMENTS ON DISTRIBUTION OF NEW MOTOR VEHICLES MAY NOT CONTAIN

Hardcore restrictions in agreements on distribution of new motor vehicles

Article 10

(1) Block exemption under this Regulation shall not apply to vertical agreements on the sale of new motor vehicles which directly or indirectly, in isolation or in combination with other factors under the control of the parties to the agreement, contain vertical restraints which constitute hardcore restrictions of competition, which have as their object:

- a) the restriction of the distributor's of new vehicles rights to determine its sale price, without prejudice to the supplier's ability to impose a maximum sale price or to recommend a sale price, provided that this does not amount to a fixed or minimum sale price as a result of pressure from, or incentives offered by, any of the parties to the agreement;
- b) the restriction of the territory into which, or of the customers to whom, the distributor of new motor vehicles may sell the contract products;
- c) the restriction of active or passive sales of new motor vehicles to end users by members of a selective distribution system operating at the retail level of trade;
- d) the restriction of cross-supplies between distributors of new motor vehicles within a selective distribution system, including restrictions between distributors of new motor vehicles operating at different levels of trade;
- e) the restriction of the distributor's of new motor vehicles ability to sell any new motor vehicle which corresponds to a model within its contract range;
- f) the restriction of the distributor's of new motor vehicles ability to subcontract the provision of repair and maintenance services to authorised repairers, without prejudice to the ability of the supplier of new motor vehicles to require the distributor to give end users the name and address of the authorised repairer or repairers in question before the conclusion of a sales contract. Such obligations may only be imposed provided that the distributor of new motor vehicles is at the same an authorised repairer of motor vehicles.

(2) By way of derogation from paragraph (1) item (b) hereof, the following restrictions by object in vertical agreements on the sale of new motor vehicles shall not be prohibited:

- (i) 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,
 - a) the restriction by the distributor of new motor vehicles of active sales into the exclusive territory or to an exclusive customer group reserved to the supplier or allocated by the supplier to another distributor of new motor vehicles, where such a restriction, imposed by the supplier, does not limit sales by the customers of these distributors;
 - b) the restriction of active and passive sales to end users by a distributor of new motor vehicles operating on the wholesale level of trade;
 - c) the restriction of active and passive sales of new motor vehicles to unauthorised distributors by the members of a selective distribution system in markets where selective distribution is applied.

(3) Active sales within the meaning of paragraphs (1) and (2) hereof shall mean sales made by actively searching for or approaching individual customers or customer groups inside another distributor's of new motor vehicles exclusive territory. This may be for

instance by initiating the conclusion of individual agreements or taking measures of general presentation of products to these customers, by establishing a subsidy, a warehouse or distribution outlet or organizing of distribution networks in the exclusive territory of another distributor of new motor vehicles. Active approach includes visits, direct and electronic mail, advertisements in the media or other promotions specifically targeted at these customers or customer group in the other distributor's of new motor vehicles exclusive territory.

(4) Passive sales within the meaning of paragraphs (1) and (2) hereof shall mean sales in response to unsolicited requests from individual customers, including delivery of products to such customers, to the extent that such responding is not the result of active sales operations. Sales generated by general advertising or promotion in the media or on the Internet that reaches customers in other distributors' exclusive territories or customer groups, as a result of the development in the technology and since being easily accessible, are considered to be a reasonable method of approaching the customers or groups of customers.

(5) The contract range within the meaning of paragraph (1) item (e) hereof means all the different models of motor vehicles available for purchase by the distributor from the supplier.

(6) A motor vehicle which corresponds to a model within the contract range referred to in paragraph (1) item (f) means a vehicle which is the subject of a distribution agreement involving new motor vehicles with another undertaking within the distribution system set up by the manufacturer or with his consent and which is:

- manufactured or assembled in volume by the manufacturer, and
- identical as to body style, drive-line, chassis, and type of motor to a vehicle within the contract range.

Other hardcore restrictions in agreements on distribution of new motor vehicles

Article 11

(1) Block exemption under this Regulation shall not apply where the supplier of new motor vehicles refuses to give independent operators access to any technical information, diagnostic and other equipment, tools, including any relevant software, or training required for the repair and maintenance of these motor vehicles or for the implementation of environmental protection measures.

(2) Independent operators referred to in paragraph (1) hereof shall mean undertakings which are directly or indirectly involved in the repair and maintenance of motor vehicles, in particular independent repairers, manufacturers of repair equipment or tools, independent distributors of spare parts, publishers of technical information, automobile clubs, roadside assistance operators, operators offering inspection and testing services and operators offering training for repairers.

Specific restraints agreements may not contain

Article 12

(1) Block exemption under this Regulation shall not apply to vertical agreements relating to the sale of new motor vehicles containing any of the following restraints:

- a) any direct or indirect non-compete obligation;
- b) any direct or indirect obligation causing the members of a distribution system not to sell motor vehicles of particular competing suppliers;

c) any direct or indirect obligation causing the distributor of new motor vehicles, after termination of the agreement, not to manufacture, purchase, sell or resell motor vehicles.

(2) By way of derogation from paragraph (1) item (a) hereof, a non- compete obligation shall not be deemed a prohibited vertical restraint where the distributor sells new motor vehicles from other suppliers in separate areas of the showroom in order to avoid confusion between the makes. An obligation imposed on the distributor of new motor vehicles to have brand-specific sales personnel for different brands of motor vehicles shall constitute a prohibited vertical restraint, unless the distributor of new motor vehicles decides to have brand-specific sales personnel and the supplier pays all the additional costs involved.

(3) A non-compete obligation within the meaning of paragraph (1) item (a) and paragraph (2) hereof, means any direct or indirect obligation causing the buyer not to manufacture, purchase, sell or resell substitute products which compete with the contact products, or any direct or indirect obligation on the buyer to purchase from the supplier or from another undertaking designated by the supplier more than 30% of the buyer's total purchases, calculated on the basis of the value of its purchases in products and substitutes in the relevant market in the preceding calendar year.

(4) Block exemption shall not apply to vertical agreements relating to the sale of new motor vehicles, containing any of the following restraints:

a) any direct or indirect obligation causing the retailer not to sell leasing services relating to contract products or substitutes;

b) any direct or indirect obligation on any distributor of new passenger cars and/or new light commercial vehicles within a selective distribution system, which limits its ability to establish additional sale or delivery outlets at other locations within the markets where selective distribution is applied.

(5) Light commercial vehicle referred to under paragraph (4) item (b) means a motor vehicle intended for the transport of goods or passengers with a maximum mass not exceeding 3, 5 tonnes, and if a certain light commercial vehicle is also sold in a version with a maximum mass above 3, 5 tonnes, all versions of that vehicle are considered to be light commercial vehicles.

IV CONDITIONS FOR BLOCK EXEMPTION OF VERTICAL AGREEMENTS ON SERVICING OF MOTOR VEHICLES

Article 13

Vertical agreements on servicing of motor vehicles, including hereto the agreements on the sale of spare parts for motor vehicles and the agreements on the provision repair and maintenance services for motor vehicles, which have been concluded after this Regulation enters into force, may be granted block exemption from the general ban laid down in Article 8 paragraph (1) of the Act if they fully comply with the Regulation on block exemption granted to certain categories of vertical agreements, and provided they do not contain any of the hardcore clauses listed particularly in this Regulation.

Hardcore restrictions in the agreements concerning the sale of spare parts and the agreements on the provision of repair and maintenance services for motor vehicles

Article 14

(1) Block exemption under this Regulation shall not apply to vertical agreements on the sale of spare parts and of repair and maintenance services for motor vehicles which directly or indirectly, in isolation or in combination with other factors under the control of the parties to the agreement, contain vertical restraints which have as their object:

(a) the restriction of the sales of spare parts for motor vehicles by members of a selective distribution system to independent repairers which use those parts for the repair and maintenance of a motor vehicle;

(b) the restriction, agreed between a supplier of spare parts, repair tools or diagnostic or other equipment and a manufacturer of motor vehicles, of the supplier's ability to sell spare parts, repair tools or diagnostic or other equipment to authorised or independent distributors or to authorised or independent repairers or end users;

(c) the restriction, agreed between a manufacturer of motor vehicles which uses components for the initial assembly of motor vehicles and the supplier of such components, of the supplier's ability to place its trade mark or logo effectively and in an easily visible manner on the components supplied or on spare parts.

(2) Spare parts referred to in paragraph (1) hereof means parts which are to be installed in or upon a motor vehicle so as to replace components of that vehicle, including goods such as lubricants which are necessary for the use of a motor vehicle, with the exception of fuel.

(3) Spare parts within the meaning of paragraph (1) hereof are original spare parts or spare parts of matching quality.

(4) Original spare parts within the meaning of paragraph (3) hereof means spare parts which are of the same quality as the components used for the assembly of a motor vehicle and which are manufactured according to the specifications and production standards provided by the vehicle manufacturer for the production of components or spare parts for the motor vehicle in question. This includes spare parts which are manufactured on the same production line as these components. It is presumed, unless the contrary is proven, that parts constitute original spare parts if the part manufacturer certifies that the parts match the quality of the components used for the assembly of the vehicle in question and have been manufactured according to the specifications and production standards of the vehicle manufacturer.

(5) Spare parts of matching quality referred to in paragraph (3) hereof means spare parts made by any undertaking which can certify at any moment that the parts in question match the quality of the components which are or were used for the assembly of the motor vehicles in question.

V WITHDRAWAL OF BLOCK EXEMPTION

Conditions for withdrawal of block exemption

Article 15

(1) Pursuant to Article 10 paragraph (4) of the Act, the Croatian Competition Agency (hereinafter: the Agency) may initiate ex officio proceedings for assessment of compatibility of a particular vertical agreement on distribution and servicing of motor vehicles, regardless of the fact that it satisfies the conditions for block exemption granted

under this Regulation, where this particular agreement, individually or in combination with vertical agreements which have similar restrictive effects in the relevant market, as long as they are in force, cumulatively do not fulfil the conditions for block exemption laid down in Article 8 paragraph (3) of the Act.

(2) The Agency may initiate the proceedings for assessment of compatibility of a vertical agreement on distribution and servicing of motor vehicles, within the meaning of paragraph (1) hereof, particularly:

a) where the entry to the relevant market or competition therein is significantly restricted by the cumulative effect of vertical agreements which have similar restrictive effects;

b) where parallel networks of similar vertical restraints jointly cover more than 50 % of a relevant market.

(3) Where the results of the assessment of an agreement within the meaning of paragraph (1) hereof prove that the agreement concerned produces effects contravening the provisions of Article 8 paragraph (3) of the Act and this Regulation, the Agency shall by way of a decision withdraw the benefit granted by block exemption to this particular agreement.

Burden of proof in agreements on distribution and servicing of motor vehicles

Article 16

(1) Without prejudice from Article 15 of this Regulation, vertical agreements on distribution of new motor vehicles which satisfy the conditions for block exemption under this Regulation, and vertical agreements on distribution of spare parts as well as agreements on the provision of repair and maintenance services for motor vehicles, which at the same time satisfy the conditions for block exemption under this Regulation and the Regulation on block exemption granted to certain categories of vertical agreements, are, as a rule, assumed to be in compliance with the conditions laid down in Article 8 paragraph (3) of the Act.

(2) By way of derogation, in the case of vertical agreements which do not satisfy the conditions for block exemption provided under paragraph (1) hereof, the participants to such agreements claiming the benefit of block exemption bear the burden of proving that the agreements they conclude nevertheless satisfy the conditions for block exemption from the general ban of restrictive agreements under Article 8 paragraph (3) of the Act.

(3) In the case where the Agency has initiated the formal assessment proceedings of the restrictive agreement under paragraph (2) hereof, the participating undertakings claiming the benefit of block exemption as laid down under Article 8 paragraph (3) of the Act must substantiate the efficiency claims of the vertical agreement on distribution and servicing of motor vehicles concerned.

Duration of applicability of this Regulation to agreements on distribution of new motor vehicles

Article 17

(1) This Regulation shall apply to vertical agreements on distribution of new motor vehicles until 31 May 2013.

(2) As of 1 June 2013 the Regulation on block exemption granted to certain categories of vertical agreements shall in its entirety apply to vertical agreements on distribution of new motor vehicles.

VI. TRANSITIONAL AND FINAL PROVISIONS

Article 18

(1) For the vertical agreements on the sale of spare parts for motor vehicles as well as vertical agreements on the provision of repair and maintenance services which have been concluded before this Regulation enters into force, and which satisfy the conditions for block exemption under the Regulation on block exemption granted to agreements on distribution and servicing of motor vehicles (Official Gazette, No 105/2004), the later continues to apply as long as these agreements remain in force but until 31 May 2013 at the latest.

(2) Within the meaning of Article 13 of this Regulation, as of 1 July 2013 all agreements referred to under paragraph (1) hereof must be brought in compliance with the provisions of this Regulation and the Regulation on block exemption granted to certain categories of vertical agreements.

(3) Within the meaning of Article 13 of this Regulation, agreements on the sale of spare parts for motor vehicles and agreements on the provision of repair and maintenance services for motor vehicles which will have been concluded after this Regulation enters into force, shall, by the day of entry into force of this Regulation, or as of the day they enter into force, be brought in compliance with the provisions of this Regulation and the Regulation on block exemption granted to certain categories of vertical agreements.

Article 19

This Regulation, as of the day of entry into force, replaces the Regulation on block exemption granted to agreements on distribution and servicing of motor vehicles published in the Official Gazette, No 105/2004.

Entry into force

Article 20

This Regulation shall enter into force on the eighth day following the day of its publication in the Official Gazette.

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Zagreb, 10 February 2011

Prime Minister

Jadranka Kosor