

Code of good practice regarding certain aspects of vertical agreements in the motor vehicle sector

Whereas Commission Regulation (EC) 1400/2002 on the application of article 81 (3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector currently contains provisions relating to the settlement of contractual disputes via an arbitrator or independent expert and minimum periods of notice for the termination or non-renewal of agreements relating to the purchase, sale or resale of new motor vehicles, spare parts for motor vehicles or repair and maintenance services for motor vehicles.

Whereas the European Commission proposes to discontinue these provisions when this Regulation expires on 31 May 2010 since it considers, amongst other things, that they concern matters of national contract law rather than competition law.

Whereas these provisions relate to certain good business practices that motor vehicle manufacturers and their authorised distributors and repairers can continue to apply in their contractual relations even in the absence of any legal obligation.

Whereas motor vehicle manufacturers are committed to acting in good faith in the execution of their contractual obligations towards their authorised distributors and repairers.

The members of the European Automobile Manufacturers Association (ACEA)* agree to applying the following good business practices in good faith and in compliance with national laws governing their contractual relations in parallel to and for the duration of the regulatory framework that will govern vertical agreements in the motor vehicle sector following the expiry of Regulation (EC) 1400/2002 insofar as this framework does not contain any provisions to this effect:

1. Alternative dispute resolution

Each of the parties to the agreement shall have the right to refer disputes concerning the fulfilment of their contractual obligations to an independent expert or arbitrator.

This right shall be without prejudice to each party's right to make an application to a national court.

2. Minimum periods of notice

When the agreement is concluded for an indefinite period, parties shall give each other at least two years' notice in case of a regular termination. This period shall be reduced to at least one year where the supplier is obliged by law or by special agreement to pay appropriate compensation on termination of the agreement or where he terminates the agreement because it is necessary to re-organise the whole or a substantial part of the network.

When the agreement is concluded for a definite period, parties shall give each other at least six months' notice of their intention not to renew the agreement.

The members of ACEA adhere to this code of good practice and commit themselves to including the principles set out in this code in the agreements with their authorised distributors and repairers relating to the purchase, sale or resale of new motor vehicles, spare parts for motor vehicles or repair and maintenance services for motor vehicles.

(*)ACEA members are BMW, DAF Trucks, Daimler, FIAT, Ford of Europe, General Motors Europe, Jaguar Land Rover, MAN, Porsche, PSA Peugeot Citroën, Renault, Scania, Toyota Motor Europe, Volkswagen and Volvo.