

<b>EVALUATION ROADMAP</b>	
Roadmaps aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.	
<b>TITLE OF THE EVALUATION/FC</b>	Evaluation of the Motor Vehicle Block Exemption Regulation
<b>LEAD DG – RESPONSIBLE UNIT – AP NUMBER</b>	DG COMP – E2 – HT.5336
<b>INDICATIVE PLANNING (PLANNED START DATE AND COMPLETION DATE)</b>	<i>Start date: Q4/2018</i> <i>End date: Q2/2021</i>
<b>ADDITIONAL INFORMATION</b>	<a href="http://ec.europa.eu/competition/sectors/motor_vehicles/legislation/legislation.html">http://ec.europa.eu/competition/sectors/motor_vehicles/legislation/legislation.html</a>
<b>The Roadmap is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the document, including its timing, are subject to change.</b>	

<b>A. Context, Purpose and Scope of the evaluation</b>
<b>Context</b>
<p>Art. 101(1) of the Treaty on the functioning of the European Union (“the Treaty”) prohibits anti-competitive agreements between undertakings unless they fulfil the conditions contained in Art. 101(3) of the Treaty (i.e. they present efficiencies and allow consumers a fair share of the resulting benefits).</p> <p>Council Regulation (EEC) 19/65 enables the Commission to apply Art. 101(3) of the Treaty by regulation to certain categories of vertical agreements and corresponding concerted practices falling within Art. 101(1) of the Treaty for which it can be assumed with sufficient certainty that they satisfy the conditions of Art. 101(3) of the Treaty. The Commission has made use of this power by adopting general as well as sector-specific measures. Motor vehicle distribution and after-sales agreements have long been subject to sector-specific Block Exemption Regulations, starting with Commission Regulation (EEC) No 123/85, which was superseded by Commission Regulations (EC) No 1475/95 and 1400/2002 and later on by Commission Regulation (EU) No 461/2010<sup>1</sup> (the “Motor Vehicle Block Exemption Regulation”), which is the currently applicable legal instrument (together with Commission Regulation (EU) No 330/2010<sup>2</sup>, which has applied to motor vehicle repair and spare parts distribution since June 2010 and to motor vehicle distribution since June 2013, the latter falling exclusively within the scope of Regulation 330/2010 ever since). The Commission also adopted a Notice providing guidance on the interpretation of the Motor Vehicle Block Exemption Regulation (“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”).</p> <p>Commission Regulation (EU) No 461/2010 is bound to expire on 31 May 2023. Pursuant to Art. 7 thereof, the Commission has to draw up an evaluation report on its operation by 31 May 2021.</p>

<sup>1</sup> Commission Regulation (EU) No 461/2010 of 27 May 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector, OJ L129, 28.5.2010, p.52-57

<sup>2</sup> Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices, OJ L102, 23.4.2010, p.1-7

## Purpose and Scope

The purpose of this evaluation is to gather facts and evidence on the functioning of the Motor Vehicle Block Exemption Regulation (including the application of Commission Regulation (EU) No 330/2010 to the motor vehicle sector), along with the corresponding Guidelines, notably by verifying the extent to which its objectives are fulfilled. The evaluation will be based on the following criteria:

- **Effectiveness:** The Commission will give principal weight to the extent to which the current provisions of the Motor Vehicle Block Exemption Regulation have proven effective in identifying those vertical agreements for which it can be assumed with sufficient certainty that they satisfy the conditions of Art. 101(3) of the Treaty, as well as the extent to which the sector-specific objectives of the Regulation have been achieved.
- **Efficiency:** The Commission will evaluate whether the Motor Vehicle Block Exemption Regulation has contributed to reducing the costs for undertakings and policy-makers in ensuring compliance with the prohibition of Art. 101(1) of the Treaty.
- **Relevance:** The Commission will evaluate whether, in light of new market developments, the scope of the Motor Vehicle Block Exemption Regulation still corresponds to its objectives, taking due account of the specific characteristics of the motor vehicle after-markets.
- **Coherence:** The Commission will evaluate whether the Motor Vehicle Block Exemption Regulation is in line with the developments of the Commission's overall enforcement policy and practice of EU competition law, including in the area of mergers and State aid.
- **EU added value:** The Commission will evaluate the extent to which the Motor Vehicle Block Exemption Regulation has contributed to ensuring a consistent application of Art. 101(1) of the Treaty to sector-specific vertical agreements by the national competition authorities of the EU Member States.

## B. Better Regulation

### Consultation strategy

The objective of the consultation process is to collect in-depth and high quality evidence on the key competition issues arising in vertical relationships on the motor vehicle distribution and after-sales markets from the perspective of businesses, consumers and EU competition law enforcers. Allowing interested parties to provide feedback and contribute with suggestions will also ensure transparency and accountability of the evaluation process.

Based on the Commission's experience, the stakeholder groups interested in the evaluation process are: (i) undertakings with business operations in the EU motor vehicle sector, notably vehicle manufacturers and dealers, spare parts manufacturers and distributors (authorised and independent), and repairers (authorised and independent), (ii) associations thereof, (iii) consumer organisations, as well as (iv) academics with a focus on EU competition law and notably on the motor vehicle sector. Further to the above, the process will be open to any other stakeholder with a possible interest therein. In addition, the experience gathered by the competition authorities of the EU Member States in applying the Motor Vehicle Vertical Block Exemption Regulation will be of particular interest for this evaluation.

During the evaluation process a **public consultation** of 12 weeks will be launched in Q2/2020. The questions will be published in English, French and German, while replies will be welcome in any of the official EU languages. The above public consultation will be supplemented by targeted questionnaires where appropriate.

The findings of the public consultation will be summed up in a summary report, which will be made available to stakeholders ([https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6188380\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-6188380_en)). Moreover, the results of all consultation activities will be gathered in a synopsis report, which will be annexed to the evaluation report.

### Data collection and methodology

The **evaluation of the effectiveness and efficiency** of the Motor Vehicle Block Exemption Regulation requires the analysis of whether the objectives of the Regulation have been fulfilled and at which cost, notably with regard to associated industry indicators, practices, perceptions of stakeholders and possible cost savings. Sector-specific data pertaining to a list of relevant industry

indicators will mainly be collected through a fact-finding study, envisaged to be assigned to an external contractor in mid-2019. Further evidence, relating to industry practices, perceptions and cost savings, will be gathered directly from stakeholders in the public consultation that will be launched in Q2/2020, as well as through targeted questionnaires and by means of direct feedback from the national competition authorities.

The **evaluation of the relevance** of the Motor Vehicle Block Exemption Regulation requires an analysis of new market developments since its adoption in 2010 and of their impact on the supply and distribution conditions prevalent on the motor vehicle primary and after-sales markets. Relevant data will be gathered mainly through the public consultation.

The **evaluation of the coherence** of the Motor Vehicle Block Exemption Regulation requires an assessment of the Commission's overall competition law enforcement policy and practice. While the Commission is already in the possession of relevant information, additional information on the stakeholders' perception will be gathered through the public consultation, as well as directly from national competition authorities.

The **evaluation of the EU added value** of the Motor Vehicle Block Exemption Regulation requires an analysis of its application by the competition authorities of the EU Member States. This analysis will be carried out on the basis of information already at the Commission's disposal through the European Competition Network, as well as of additional information that will be gathered during the evaluation process directly from the national competition authorities.