



Pursuant to Article 9, paragraph (2), of the Law on Protection of Competition ("Official Gazette of the Republic of Macedonia" No. 145/10 and 136/2011), the Government of the Republic of Macedonia, on its session held on 23.03.2012, adopted the following:

Decree on block exemption of certain categories of agreements on distribution and servicing of motor vehicles ("Official Gazette of the Republic of Macedonia" No. 41/2012)⁽¹⁾

Article 1

General provision

This Decree regulates the scope of application of the block exemption, the restrictions that agreements on distribution and servicing of motor vehicles shall not contain and the conditions for the withdrawal of the block exemption.

Article 2

Definitions

(1) Certain terms used in this Decree shall have the following meaning:

a) "Block exemption" means exemption of certain types of vertical agreements and concerted practice in the motor vehicle sector from the application of the provisions on prohibited agreements stipulated in Article 7 paragraph (1) of the Law on Protection of Competition (hereinafter: the Law)

b) "vertical restraint" means a restriction of competition in a vertical agreement falling within the scope of Article 7 paragraph (1) of the Law;

c) "authorized 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;

d) "authorized distributor" means a distributor of spare parts for motor vehicles operating within the distribution system set up by a supplier of motor vehicles;

(e) "independent repairer" means:

¹ This Decree is harmonized with Commission Regulation (EU) No.461/2010 of 27th May 2010 on the application of Article 101 (3) of the Treaty of functioning of the European Commission to categories of vertical agreements and concerted practices in the motor vehicle sector (Text with EEA relevance) OJ L 129, 28.05.2010. p.52-57, CELEX no.32010R0461



- 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 and

- an authorized 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.

f) "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 authorized 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;

g) "motor vehicle" means a self-propelled vehicle intended for use on public roads and having three or more road wheels;

h) "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 and

i) "selective distribution system" means a distribution system where the supplier undertakes to sell the contract goods or services, either directly or indirectly, only to distributors selected on the basis of specified criteria and where these distributors undertake not to sell such goods or services to unauthorized distributors within the territory reserved by the supplier to operate that system.

(2) For the purposes of this Regulation, the terms "undertaking", "supplier", "manufacturer" and "buyer" shall include their respective connected undertakings.

Article 3

Scope of application of the block exemption for agreements related to the purchase, sell or resell of spare parts for motor vehicles and providing repair and maintenance services for motor vehicles

(1) Vertical agreements relating to the conditions under which the parties may purchase, sell or resell spare parts for motor vehicles or provide repair and maintenance services for motor vehicles are exempt from the application of the provisions of Article 7 paragraph (1) of the Law if they meet the conditions stipulated in the Decree for block exemption of vertical agreements and do not contain any of the hardcore clauses listed in Article 4 of this Decree.



(2) The exemption provided for in Article (1) of this Article shall apply to the extent that such agreements contain vertical restraints.

Article 4

Restriction that may not be included in agreements related to the purchase, sell or resell of spare parts for motor vehicles and providing repair and maintenance services for motor vehicles

The exemption provided for in Article 3 of this Decree shall not apply to vertical agreements which, directly or indirectly, in isolation or in combination with other factors under the control of the parties, 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 those goods to authorized or independent distributors or to authorized or independent repairers or end users and/or
- 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.

Article 5

Detailed conditions for the withdrawal of the block exemption

Commission for Protection of Competition may withdraw the block exemption if in a proceedings initiated ex officio or upon request of a party determines that the agreement which is subject to the exemption of Article 3 of this Decree, have consequences that are not in accordance to the conditions laid down in Article 7 paragraph (3) of the Law, and especially if determines existence of particularly important anti-competitive effects that may derive from the existence of parallel networks of vertical agreements that have similar effects which significantly restrict access to a relevant market or competition therein. (For example such cumulative effects may, for example, arise in the case of selective distribution or non-compete obligations.



Article 6

Termination

On the day this Decree enters into force the Regulation on block exemption granted to agreements on distribution and servicing of motor vehicle ("Official Gazette of the Republic of Macedonia" No.91/2005) shall cease to be valid, except for the provisions related to the conditions under which the contracting parties may purchase, sell or resell new motor vehicle, which shall apply by 1 March 2015.

Article 7

Entry into force

This Decree shall enter into force on the eight day after its publication in the "Official Gazette of the Republic of Macedonia".