

### TECHNICAL ANNEX 3

#### EVOLUTION OF THE MOTOR VEHICLE MARKETS SINCE REGULATION 1400/2002 ENTERED INTO FORCE

1. This Annex is a reproduction of Working Document 2, originally annexed to the Commission's Evaluation Report.
2. As such, it is based on data obtained from three main sources. First, the Commission launched an inquiry in May 2007, sending 185 questionnaires to six groups of stakeholders in the motor vehicle industry. These groups were individual car and truck manufacturers as well as their European and Japanese associations ACEA and JAMA, individual parts and components manufacturers in addition to their European association CLEPA, the national associations of authorised dealers and repairers as well as associations of independent repairers and parts dealers including their European associations such as CECRA and FIGIEFA, independent vehicle traders associations, consumer organizations and the national competition authorities. Each group received a different questionnaire, adapted to its own specificities.
3. Up to the last quarter of 2007, the Commission received 111 answers to its questionnaires, which amounts to a response rate of 60%. The response rate, however, varies considerably depending on the type of addressee. While all car and truck manufacturers answered, only 17 out of 28 spare parts manufacturers and 20 out of 26 national dealer associations replied. The lowest response rate is to be found among national consumer organisations, where only 2 out of 24 replied. The response rate of the independent repair and parts distributor sector was also rather low (40%).
4. Secondly, there are reports and studies which the Commission tendered out to external consultants since the current block exemption was adopted. Examples are the study by IKA (Institut für Kraftfahrwesen) of 2004 on "Access to technical information in the car sector"<sup>1</sup> and the study by London Economics on "Developments in car retailing and after-sales markets under Regulation 1400/2002"<sup>2</sup>, published in 2006.
5. Thirdly, the Commission has made use of external sources. These sources comprise data collected by industry analysts, industry associations and consultancies. Examples are the "European Car Distribution Handbook" by HWB, the annual dataset of the US-national automotive dealers association NADA, as well as data from organisations such as ICDP. In addition, the following analysis will also take account of the information acquired by the Commission through its general market monitoring activities, including its regular informal contacts with market players.
6. The data collected is used in this document to assess the evolution of the competitive landscape of the EU markets for motor vehicles in its two major facets, i.e., distribution and repair & maintenance of new vehicles. Particular attention is paid to those figures and indicators which are relevant for evaluating the degree of

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<sup>1</sup> IKA [http://ec.europa.eu/comm/competition/sectors/motor\\_vehicles/documents/ika.html](http://ec.europa.eu/comm/competition/sectors/motor_vehicles/documents/ika.html).

<sup>2</sup> London Economics: Developments in car retailing and after-sales markets under Regulation No. 1400/2002. [http://ec.europa.eu/comm/competition/sectors/motor\\_vehicles/documents/retailing.html](http://ec.europa.eu/comm/competition/sectors/motor_vehicles/documents/retailing.html).

competition in those markets, and its development over time, especially since the entry into force of Regulation 1400/2002. After a brief overview of the general economic characteristics of the sector (sub-section 2.1), the following analysis will examine firstly the development of the competitive environment of the EU market for the distribution of new motor vehicles (sub-section 2.2) and, secondly, of the automotive aftermarket (sub section 2.3).

## A) Sector characteristics

- *Motor Vehicle Production*

7. The automotive industry is one the most important in the EU. In 2004, it<sup>3</sup> achieved an estimated turnover of €704 billion in the EU, and represented a value added of €134 billion<sup>4</sup>. In 2002, it was estimated that it represented about 3% of the EU's GDP, and accounted for 7% of the EU's manufacturing output<sup>5</sup>.
8. Around 2.3 million people are employed in motor vehicle manufacturing within the EU<sup>6</sup>. Between 2001 and 2006, total direct employment in the EU's motor vehicle manufacturing sector increased by 80,000. This increase can mainly be attributed to job creation in the new Member States, reflecting a general shift in production towards low-cost countries.<sup>7</sup> It should also be noted that employment is to an increasing degree generated by manufacturers of non-European origin with production facilities in the EU.
9. The EU is the world leader in terms of automobile production. Of the 69 million motor vehicles produced worldwide in 2006, about 27% were manufactured in the EU. One third of all passenger cars produced in the World in 2006 were made in Europe<sup>8</sup>. The 19.7 million motor vehicles (17.1 million passenger cars) produced in Europe in 2007 represented an increase of 5.3% on 2006<sup>9</sup>.
10. The EU is a major trading partner for motor vehicles. In 2005 the EU imported vehicles worth 29.5 billion € However, exports to destinations outside the EU accounted for €71.1 billion, exceeding imports by 41.6 billion Euros<sup>10</sup>. In 2005 most of the EU's motor vehicle exports (€30 billion), went to the NAFTA area (U.S., Mexico and Canada), followed by exports to non-EU countries in Eastern Europe (€10 billion) and EFTA countries (€7 billion). Vehicles to the tune of €5 billion respectively were exported to Japan and other Asian countries. Imports into the EU come mainly from Asia. Major sources of imports are Japan (€11 billion), South Korea (€6 billion), Turkey (€5 billion) and NAFTA (€4 billion).

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<sup>3</sup> Including trailers and semi-trailers.

<sup>4</sup> Eurostat: European business, facts and figures 2007, p.203.

<sup>5</sup> European Commission: Cars 21: A Competitive Automotive Regulatory System for the 21<sup>st</sup> Century, p.9.

<sup>6</sup> ACEA European Automobile Industry Report 07/08, p. 57.

<sup>7</sup> European Economic and Social Committee: The automotive sector in Europe: current situation and perspectives, p.7.

<sup>8</sup> ACEA European Automobile Industry Report 07/08, Key figures, p.1,3.

<sup>9</sup> ACEA EU Economic Report February 2008, table 1 and 2.

<sup>10</sup> ACEA European Automobile Industry Report 07/08, Key figures, page 6.

11. The main car producers present in the European market are Volkswagen, PSA, Ford, Renault, GM, Fiat, Daimler and BMW. Germany, France, the UK, Italy, Spain and Sweden together account for 93% of motor vehicle production in the EU-1511 in terms of value added. Almost half of this gross value added can be attributed to Germany. This is partly explained by the concentration of premium car brands in Germany and by the concentration of automotive suppliers in that country<sup>12</sup>.
12. The six main producers on the European commercial vehicle market are DaimlerChrysler, MAN, Volvo, DAF, Scania, and Iveco (a subsidiary of Fiat). Out of 19.3 million commercial vehicles produced worldwide in 2006, about 2.4 million (12%) were produced in the EU. Light commercial vehicles (up to 3.5t) accounted for 1.8 million units, heavy commercial vehicles for 0.6 million and buses for 41,000 units<sup>13</sup>.
13. In recent years, the industry has been plagued by worldwide overcapacity and a number of manufacturers have been forced to close plants in Europe. However, certain manufacturers have also opened new manufacturing sites in the EU, taking advantage of the favourable cost situation in the new Member States and Eastern Germany and the geographic proximity to Western European markets. Although still comparatively limited, automotive production in the new Member States increased by 25% in 2007 compared to the previous year and represented 15.2% of EU production (12.8% in 2006)<sup>14</sup>. The growing share of vehicles produced in the new Member States has led to the development of industrial clusters, in particular in Southern Poland, the Eastern Czech Republic, Western Slovakia and the North of Hungary. Component suppliers tend to follow vehicle manufacturers into a region. Investment in these locations reduces the overall costs in the European production chain, thus increasing the global competitiveness of the EU industry, as the bulk of direct investment originates from manufacturers of European origin. However, overseas investors have also been attracted recently, such as Hyundai, which has set up a plant in Slovakia<sup>15</sup>.
14. The motor vehicle production process has also undergone considerable change. Three major trends can be observed. First, manufacturers increasingly develop "platform strategies", which means that production is organised in a way that allows several models to be produced on the same production line.
15. Secondly, vehicle manufacturers tend to outsource more of their production. Amongst other things, outsourcing allows a manufacturer to increase flexibility, and to take advantage of economies of scale, by devolving Research and Development ("R&D") and management and production resources to specialised equipment suppliers. For example, GM and Ford span off their respective spare part manufacturers, Delphi and Visteon, at the end of the 1990s. As a consequence of this process, the value of outsourced components is now on average considerable. Although information provided by the surveyed car manufacturers is incomplete, it appears that more than

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<sup>11</sup> European Competitiveness Report 2004, p. 156.

<sup>12</sup> European Economic and Social Committee: The automotive sector in Europe: current situation and perspectives.

<sup>13</sup> ACEA European Automobile Industry Report 07/08, key figures, p. 1 and 3.

<sup>14</sup> ACEA EU Economic Report February 2008, table 1.

<sup>15</sup> European Competitiveness Report 2004, p.190.

50% of components are outsourced for most models, approaching 80% of total value for some car models. It appears that there is less outsourcing for commercial vehicles.

16. Lastly, automotive suppliers are delivering increasingly complex components or "modules" instead of mere spare parts, and are developing components and sharing R&D costs together with motor vehicle manufacturers. Suppliers often share the internationalisation process with manufacturers and set up production sites close to manufacturers' plants, due to just-in-time production requirements and shared management of the production flows<sup>16</sup>. European manufacturers are leading the trend towards modularisation, often ahead of U.S. and Japanese manufacturers<sup>17</sup>.

- *Motor vehicle distribution and after-sales services*

#### *Motor vehicle sales*

17. The number of passenger cars in use in Europe has increased steadily over the last decade. In Europe there were 247 million vehicles in use in 2005 (1.8% more than in 2004). In Western Europe there is now about one vehicle in use per two inhabitants, in Eastern Europe one vehicle for more than five people<sup>18</sup>. For European consumers, the purchase of a car is considered to be generally the most important buying decision apart from the purchase of a home. In particular, during the period 1997-2004, close to 5% of total consumer expenditure in the EU was accounted by the purchase of motor vehicles (maintenance costs not included)<sup>19</sup>.

18. The EU-27 is the largest market for passenger cars in the world in terms of registrations<sup>20</sup>. About 16.2 million new passenger cars were registered in 2006 which is equivalent to about 33% of all such registrations worldwide<sup>21</sup>.

19. In its study of 2006, London Economics reports that the average growth rate in vehicle registrations in the EU-25 over the period 1997-2004 was 0.3%<sup>22</sup>, indicating a relative stagnation. In Western Europe, the number of registrations peaked in 1999 and despite the increase in 2006 this level has still not been surpassed<sup>23</sup>. Registrations in the new Member States (except Bulgaria and Romania) have been receding from 2004 to 2005 and gained some ground in 2006. It should be noted, however, that the recent slight increase of passenger car registrations in the old Member States since 2004 (+ 1.2%) is a remarkable result insofar as worldwide registrations have decreased in the two other major developed markets (USA -3%, Japan -1.9%).

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<sup>16</sup> J. Lefilleur and Y. Lepape: *New European Geography: the case of the automotive industry*

<sup>17</sup> European Competitiveness Report 2004, p.190.

<sup>18</sup> ACEA European Automobile Industry Report 07/08, p. 55.

<sup>19</sup> London Economics: *Developments (...)*, p.102.

<sup>20</sup> According to the Auto Alliance Report, the US market is the second largest market accounting for 13.3 million passenger car registrations (Minivans, vans, SUVs and pick-ups are included).

<sup>21</sup> The EU counted for 27% of the total worldwide motor vehicle registrations which also include industrial vehicles. ACEA European Automobile Industry Report 07/08, Key figures, p.1.

<sup>22</sup> London Economics: *Developments (...)*, p.13.

<sup>23</sup> ACEA Industry report, p. 52.

20. New vehicle registration trends differ considerably amongst Member States, and national markets show considerable volatility. In 2006, two main markets (Italy and Germany) grew by 3.9% and 4.5% respectively, while in the UK, Spain and France new vehicle registrations decreased between 2.0 and 3.9%<sup>24</sup>. In the first quarter of 2007 opposite trends existed in Germany and the UK, with Germany showing a sharp decrease and the UK an increase in registrations. Moreover, motor vehicle use in the new Member States is increasing significantly faster than registration numbers for new cars, which suggests that there is a significant stream of second-hand cars going to the new Member States.
21. According to a study conducted by KPMG the volume of commercial vehicle sales also showed considerable fluctuations in the rather mature Western European markets. In Western Europe, sales fell from 2001 onwards, reached a low in 2003 and have been increasing since. Only in Eastern Europe are commercial vehicle sales supported by a relatively stable growth process<sup>25</sup>, showing a positive trend over the reference period. 1,968,832 new light commercial vehicles (up to 3.5 tonnes) were registered in 2006 in the EU-25, up from 1,723,460 in 2005. As regards medium and heavy vehicles over 3.5 tonnes, 396,148 were registered in the EU-25 in 2006<sup>26</sup>, up from 377,183 the previous year. There were 30,623 buses and coaches registered in the EU-15 in 2006, slightly more than in 2005 (30,352)<sup>27</sup> As regards the overall commercial vehicle parc, at the end of 2004 there were around 31 million registered commercial vehicles in Europe. Of these vehicles, 24.8 million were light commercial vehicles, while 5.4 million were trucks, and 0.8 million buses and coaches<sup>28</sup>.
22. Commercial vehicles carried 72.5% of all inland freight transported in Europe in 2006, while coaches and buses carried only 8.5 % of all passengers<sup>29</sup>, indicating that trucks and vans are by far the most important mode in freight transport, whereas buses carry a relatively modest share of passengers, compared to other means of transport such as cars, trains, and aircraft.
23. Overall, the data suggest that market volume for sales of both passenger cars and commercial vehicles in Europe appears to be susceptible to considerable fluctuations, pointing to a rather dynamic environment. In particular, the market for commercial vehicles seems to be closely connected to investment and economic growth cycles.
24. Despite decreasing car registrations in certain years, the number of cars in use has been increasing constantly in Europe. This apparent paradox may be explained by the improved quality and therefore an increased longevity of the cars. Growth in the overall car parc as illustrated by increasing numbers of car registrations is mainly due

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<sup>24</sup> ACEA Industry report, p. 52.

<sup>25</sup> KPMG: The European Commercial Vehicle Industry in the Age of Globalisation, p. 4.

<sup>26</sup> ERF report: European Road statistics 2007.

<sup>27</sup> ACEA press release, 26 January 2007.

<sup>28</sup> Abstract: Wireless M2M Communication and Commercial Vehicles, Berg Insight, November 1, 2005.

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ACEA:

[http://www.acea.be/index.php/news/news\\_detail/europes\\_commercial\\_vehicle\\_industry\\_a\\_key\\_economic\\_assessment/](http://www.acea.be/index.php/news/news_detail/europes_commercial_vehicle_industry_a_key_economic_assessment/)

to this increased vehicle longevity rather than to increased purchases of new cars. The average car on the road is now around eight years old<sup>30</sup>.

### *The motor vehicle aftermarket*

25. The importance of the motor vehicle sector is not limited to the primary market. The European market for the service and repair of motor vehicles was worth approximately 100 billion euros in 2004<sup>31</sup>. In the same year, the EU-wide market for repair and services for cars alone was estimated to be around €84 billion<sup>32</sup>. Currently, according to London Economics, there are around 350,000 firms engaged in motor vehicle repair and servicing in the EU-12 alone<sup>33</sup>. According to CECRA, there are around 400,000 companies in the whole EU engaged in motor vehicle repair and servicing, providing work for approximately 1.3 million employees.
26. London Economics<sup>34</sup> indicates that repair market trends diverge among the Member States. However, various factors are influencing the overall volume of the repair market. Repair prices are increasing in real terms, which may be partly explained by the fact that repairs necessitate the replacement of more complex components. At the same time, cars are becoming more reliable and service intervals are getting longer, leading to a decrease in total consumer expenditure, despite price increases for individual repairs<sup>35</sup>. The combined effect of these opposing trends is relative stagnation, especially in apparently mature markets. For the latest period under examination, the volume of the repair markets has shrunk in several such national markets (Denmark, Italy, UK and Germany).
27. The EU market for automotive spare parts is estimated to be between €42 and 45 billion<sup>36</sup>. More than 850,000 people are employed in spare parts production in the EU<sup>37</sup>. According to FIGIEFA the total market for spare parts is stagnating in the EU-15 Member States, while the market in the accession countries is growing. London Economics confirms this broad trend, indicating a moderate cumulative growth for 10 selected EU countries of 2.9% from 1999-2004. Among these countries, the markets in Hungary and Poland registered the highest growth over that period, 40.1% and 48.5% respectively<sup>38</sup>.
28. There are strong differences between passenger cars and commercial vehicles, in terms of both user characteristics and user needs. As regards passenger cars, most

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<sup>30</sup> London Economics: Developments (...), p.24.

<sup>31</sup> ZDK, Zahlen und Fakten 2005, as quoted in London Economics: Developments (...), p.117. FIGIEFA estimates the figure to be €88 billion. See its position paper at <http://www.figiefa.org/docs/FIGIEFAActivities-CARS21-AFCARPositionPaper.pdf>.

<sup>32</sup> Commission Staff working document: Proposal for a Directive of the European Parliament and of the Council amending directive 98/71/EC in the Legal Protection of designs. Extended Impact assessment ("Design Directive Impact Assessment"), p.7.

<sup>33</sup> London Economics: Developments (...), p.123.

<sup>34</sup> London Economics: Developments (...), p.117 ff.

<sup>35</sup> London Economics: Developments (...), p. 176 f.

<sup>36</sup> Design Directive Impact Assessment, p.8.

<sup>37</sup> Design Directive Impact Assessment, p.10.

<sup>38</sup> London Economics: Developments (...), p.224.

observers accept that over a vehicle's lifetime, the initial purchase price of the new vehicle is matched, on average, by the amount spent on repair and maintenance. However, there appears to be a lack of transparency and predictability as regards the overall lifetime ownership costs of a car for individual consumers. By contrast, owners of commercial vehicles are more willing and able to think of a vehicle in terms of overall ownership cost, broken down into a price per kilometre. Depreciation costs are usually foreseeable, as they are generally set by tax rules rather than by real resale prices, and the degree of financial planning implicit in the running of a business means that commercial users are acutely aware of other costs, such as maintenance, tax, fuel, and insurance. As regards maintenance, commercial operators generally seek to buy a package, including both the vehicle and after-sales services. Owners of commercial fleets will often have their own in-house maintenance service. Rapid and highly-organised brand-specific roadside assistance is also of greater importance for the operator of medium or large commercial vehicles, for whom an unresolved breakdown can result in considerable losses in terms of money and reputation.

- *Evolution of consumption patterns*

29. In addition to car ownership, renting and leasing represent for individual end consumers a concrete commercial alternative to satisfy their mobility needs. Furthermore, a distinction should be drawn between private and corporate customers, as the countervailing power that fleet owners can exercise over vehicle manufacturers is clearly stronger than that enjoyed by individual car owners.
30. In its 2006 study, London Economics<sup>39</sup> pointed out that the average size of company car fleets increased by 20% and the size of the parc of leased cars grew by 72% from 1998 to 2005. ACEA reports that 44% of all cars were sold to fleet owners and leasing companies together in 2006, up from 41.3% in 2002 (excluding France).
31. The incomplete and patchy responses received from individual car manufacturers show a different picture, according to which sales to leasing companies account for less than 10% of total sales in most main markets. Car manufacturers also report that although there is no uniform EU wide trend, the share of total sales going to leasing companies and company fleets would be on the decrease in many EU Member States. The majority of car manufacturers report that the UK is the EU country where leasing is the most common. The difference between the extrapolation of the incomplete information provided by individual manufacturers and the higher share estimated by ACEA and London Economics may be explained by the fact that car manufacturers seem to have included only their *direct* sales to fleet owners and leasing companies, whereas London Economics and ACEA refer to fleet data of leasing companies and other business customers, apparently including sales from independent authorised dealers. Sales to leasing companies seem not to be widespread in the truck sector, in contrast to the position for buses, where sales to leasing companies in some Member States make up over 50% of total sales. This is probably because leasing arrangements in the truck sector are generally made directly between the manufacturer and the operator.

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<sup>39</sup> London Economics: Developments (...), p 94 f.

32. The fact that sales to leasing companies make up a sizable proportion of total sales indicates that consumers increasingly have a concrete alternative to car ownership to fulfil their mobility needs. The dominant model for vehicle provision – that of selling cars to end users - seems therefore increasingly subject to competitive pressure arising from consumers' ability to switch from one mode of consumption (ownership) to another (leasing). This opportunity to choose another model of ownership is all the more likely to benefit consumers, in view of the favourable purchasing conditions that leasing companies currently seem able to obtain from car manufacturers<sup>40</sup>, and of the competitive conditions prevailing on the car leasing market.

## **B) Development of the competitive environment in the motor vehicle distribution sector**

33. This sub-section analyses specific economic indicators that are useful for measuring the degree of competition in the EU markets for new motor vehicles and its evolution over the period of application of Regulation 1400/2002. Firstly, the analysis will focus on indicators which are useful measures of competition between motor vehicle brands produced by competing manufacturers (i.e. inter-brand competition), before going on to look at indicators which are relevant to the assessment of the evolution of the competitive interaction between distributors of a specific brand (i.e. intra-brand competition).

34. As to inter-brand competition, the present sub-section will look firstly at how the market shares of vehicle manufacturers have fluctuated, as volatility of market shares and a relative instability of incumbents' market positions are generally the result of competitive struggles in the fields of product innovation, improved sales services, aggressive marketing and/or competitive prices. Analysis will then focus on how the degree of market concentration at vehicle manufacturer level has evolved, before examining the extent to which players have entered or left the vehicle supply markets over the reference period. Next, the sub-section will look at the degree of choice available to consumers within each market segment, before examining how research and development investments, price trends and manufacturers' operating margins have evolved. High R&D expenses are usually generated by a drive for product innovation resulting from competitive pressure, while significant downward or upwards movements of consumer prices and industry margins are important indicators which may help to understand the extent to which the markets for motor vehicles within the EU are effectively working to the benefit of final consumers.

35. Concerning intra-brand competition, the diversity of distribution formats may provide evidence that manufacturers allow different types of distributors to operate in the market and/or that retailers are willing and able to develop different business models with different cost structures so as to gain a competitive advantage over their rivals on the retail markets. Levels of dealer concentration and network density are indicative of the degree of intra-brand competition in downstream retail markets, while the rate of vertical integration across local or regional markets constitutes an additional indicator of the scope for effective competition between distributors of the same brand. Finally, the evolution of dealers' operating margins may provide a useful indication as to the

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<sup>40</sup> Anecdotal evidence suggests that leasing companies are often able to purchase cars at prices lower than those paid by authorised dealers.

likelihood that the efficiencies generated by the existing distribution systems are passed on to final consumers, while the degree of price dispersion across Member States is informative as to whether cross-border arbitrage by consumers and/or intermediaries may exercise an effective competitive constraint on dealers of the same brand established in different countries.

- *Market indicators relevant for inter-brand competition*

#### *Vehicle manufacturers' market shares*

36. As regards passenger cars, vehicle manufacturers' market shares have developed divergent trends, depending on the manufacturer and the Member State, supporting the view that incumbents' market positions in the car sector have been relatively volatile during the reference period.
37. Certain car manufacturers, such as Kia, Hyundai, Honda, Toyota, and BMW, have benefited from a steady increase in market shares since 2002, but there are also examples of both broadly stable (Renault, Suzuki) and declining (PSA) market shares. In most national markets, the gap between the market share of the leading car manufacturer and its closest rival is small and narrowing. Moreover, since 2002, several car manufacturers have been able to enter the top four leagues at the expense of others in certain European markets<sup>41</sup>.
38. Such trends seem also to characterise the market over the longer term. Since 1995, brands such as Ford, which experienced losses of more than 25% in volume terms in some markets, have experienced a steady decline. Others have increased their share continuously (Toyota), while Fiat is an example of a major market share loss followed by a remarkable recovery in that period.
39. London Economics observed in its 2006 study that sales of premium and specialist branded vehicles had increased and that in Western Europe, the ratio of sales of volume brands to specialist and premium brands had decreased from 1998 to 2004 in most of the 12 countries analysed, showing that certain consumers were moving up-market. This trend has been confirmed by the individual car manufacturers' answers to the Commission's inquiry covering the period from 2002 to 2006: Ford, Fiat, Peugeot, Citroen, Opel/Vauxhall and the Ford brand lost market shares, whereas BMW and a number of smaller brands gained market shares.
40. It appears that no manufacturer enjoys strong market power. In 2006, the largest manufacturer Volkswagen commanded an EU-wide market share of 20.1%, followed by PSA (12.9%), whereas even when taken together, manufacturers of Korean origin only account for a total share of 3.8%<sup>42</sup>. However, certain brands achieve relatively high market shares in some Member States, in particular in their home markets (e.g.

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<sup>41</sup> London Economics: Developments (...), p.30. These data are confirmed by the analysis of the replies provided by individual manufacturers in the context of the Commission's inquiry.

<sup>42</sup> Comité des Constructeurs Français d'Automobiles, Statistiques.

Volkswagen in the Czech Republic (49.4%), in Germany (32.6%) and Austria (30.7%), PSA in France (30.7%) and Fiat in Italy (30.8%))<sup>43</sup>

41. The European market for commercial vehicles is dominated by six manufacturers which together control more than 90% of the truck market. KMPG points to considerable fluctuations in the overall market size in the mature Western European markets when measured in terms of units sold. In Western Europe, sales fell from 2000 on, reached a low in 2003, and have since been increasing. In the European market as a whole, unit sales have increased from approximately 2.6 million vehicles in 2002, to 3.2 million in 2005. Some manufacturers point out that the size of the overall markets fluctuates over the investment cycle, in particular due to the existence of large tenders in several markets.
42. Market shares in the commercial vehicle sector have been shifting in all segments, with individual manufacturers witnessing gradual declines or gradual increases in market share since 2002. For example the increase in market share enjoyed by DAF before 2002 for trucks of more than 6 t continued between 2002 and 2006. Iveco's position in the bus market from 2002-2006 is marked by a declining market share. In the same market, Daimler's market share fluctuated, rising from 2002 to a peak in 2004, before declining over the following two years.
43. According to KMPG, the 2005 EU-wide market shares for lighter trucks (6-16t) ranged from 22.9% for Volvo to 10.3% for Scania. For trucks over 16t, Volvo led with a 25% market share, while the smallest of the six competitors was Iveco (10.0%)<sup>44</sup>. For buses, Daimler and Iveco recorded the highest market shares, of 22.9% and 21.8% respectively, while Scania had the smallest share with just 8%.
44. As in the car sector, market shares for commercial vehicles differ considerably between individual countries, and manufacturers often enjoy relatively high market shares in their home countries. An example is Iveco trucks (3.5 – 16t), which in 2006 attained a market share of 35% in Italy (39.4% in 2002) but only 3.4% in Finland. Volvo attains market shares in France and Sweden of around 50%, depending on the vehicle category, and Scania enjoys a share of close to 50% in some Scandinavian countries
45. Despite a strong presence in several national markets, it appears that no car or commercial vehicle manufacturer enjoys strong market power in the EU as a whole. Fluctuating market shares in the motor vehicle markets both for cars and industrial appear to point to competitive pressures in both areas.

### *Market concentration*

46. The EU market for passenger cars has become less concentrated since 2002. Calculated on a pan-European basis, the share of the four largest producers (CR4) declined from 57% to 54% between 2002 and 2006, according to answers collected from individual car manufacturers. According to ACEA the indicator dropped from 54% to 52%. It should be noted that the analogous index for motorbikes, which are not

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<sup>43</sup> Comité des Constructeurs Français d'Automobiles, Statistiques. These data refer to the year 2006.

<sup>44</sup> KMPG: The European Commercial Vehicle Industry in the Age of Globalisation, p. 11.

subject to Regulation 1400/2002, indicates a CR 4 of 64% (based on 15 EU-countries including all major national markets)<sup>45</sup>. The EU-wide market share of the four largest truck producers, on the other hand, stood at 71.7% in 2003, down from 72.2% in 2002<sup>46</sup>.

47. The concentration of the four largest producers calculated as an *average of country-specific markets*, is by definition higher, as the higher market shares of a manufacturer in one country are not compensated by its lower market shares in another country. According to the data reported by London Economics, this ratio declined by 2.8% during the reference period<sup>47</sup>.
48. According to London Economics, between 1997 and 2004, the HHI index - another method used to measure the concentration ratio in the market<sup>48</sup> - fell in 7 out of 12 countries and, when considered together, in the 12 EU-countries analyzed in their study. The average country-specific index reached a level of about 1,600 points (measured by turnover), showing that concentration levels are now rather moderate. Usually, a HHI ratio of 1,600 is not considered in itself likely to raise competition concerns. For instance, in the context of its merger control policy, the Commission is unlikely to identify horizontal competition concerns in relation to an operation of concentration with a post-merger HHI between 1000 and 2000<sup>49</sup>.
49. However, it should also be recalled that in the few years before Regulation 1400/2002 was adopted, several mergers, takeovers, and strategic alliances took place amongst car manufacturers in Europe (and worldwide): e.g. Daimler-Chrysler; VW-SEAT, Skoda, Lamborghini, Bentley; BMW-Rover/New Mini, Rolls Royce; Renault-Nissan, and General Motors-Fiat. At the time, most industry analysts expected this consolidation to continue for the foreseeable future. Nevertheless, in the event, several major alliances and acquisitions have since been abandoned or reversed, including the merger between Daimler and Chrysler; the alliance between General Motors and Fiat, and BMW's ownership of MG Rover, while talk of further M&A activity in this area has tailed off.

### *Entry barriers*

50. In its 2006 study, London Economics<sup>50</sup> considers that overall barriers to entry in the EU car retailing market are relatively low. This perception of low entry barriers is confirmed by the responses to the Commission's questionnaires provided by most car manufacturers and their associations. In particular, ACEA and JAMA refer to the successful entry and expansion of Japanese and South Korean car manufacturers in various EU markets and to the recent entry of a Malaysian carmaker. The rapid growth

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<sup>45</sup> ACEM, Association des Constructeurs Européennes de Motocycles.

<sup>46</sup> EMCC Case studies - Trends and drivers of change in the European automotive industry: Volvo Truck Corporation.

<sup>47</sup> London Economics: Developments (...), p. 27.

<sup>48</sup> It is defined as the sum of the squares of the market shares of each individual firm; a higher index number indicates thus a higher concentration in the market.

<sup>49</sup> [Guidelines on the assessment of horizontal mergers](#) OJ C 31, 05.02.2004, p. 5-18.

<sup>50</sup> London Economics: Developments (...), p.89.

of Eastern Asian entrants generated by aggressive pricing is also underlined by the European consumer association BEUC.

51. This trend is the result of a number of concomitant factors, including the general trend towards globalisation of motor vehicle manufacturing, the competitive edge recently gained by several Asian manufactures through the development of successful car models with attractive price/quality ratios, as well as an increasing degree of acceptance for new entrants and higher volatility of brand loyalty by European consumers. In addition, the eastern European market is generally seen as particularly accessible to new entrants due to growing demand for low-price vehicles, a market segment in which the newcomers enjoy a distinct competitive advantage.
52. Moreover, although new entrants from emerging countries such as China and India have so far not gained substantial market shares, carmakers such as Geely, Chery and Tata are expected to expand their presence in the European market in the near- or medium-term.
53. It should also be noted that there have only been a few market exits in the EU during the reference period, most prominently by the MG Rover Group, which went into liquidation in 2005. The brand Rover disappeared, whereas MG became part of the Chinese Nanjing Automobile. In 2007 Marcos, a minor sports car manufacturer, left the market.
54. Another indication that entry barriers in motor vehicle manufacturing are relatively low is provided by the decreasing level of market segmentation and by the proven ability of most car manufacturers operating in the EU to expand their presence across virtually all the various car market segments<sup>51</sup>. In general, car manufacturers replying to the Commission's questionnaire have confirmed that they are expanding their activities into segments hitherto not covered and that this trend, which could already be observed before 2002, has become more pronounced in recent years. Notably, Asian manufacturers are moving into segments adjacent to their traditional volume markets, while most European car manufacturers, including those manufacturing premium brands, are following the same strategy by broadening their product portfolios to include vehicles in the segments for smaller cars. On the whole, car manufacturers indicated that expansion into new segments is more frequent than withdrawal from segments. As a consequence inter-brand competition as regards new car sales is increasing, as there is a tendency for more manufacturers to compete in a given segment.
55. In contrast, for commercial vehicles, manufacturers report that overall, there has been little movement to expand or reduce brand ranges.
56. The decision to purchase a given brand of commercial vehicle is influenced in particular by the need for the availability of good quality after-sales networks across the whole region in which the vehicle is to be used. The benefits in the form of scale effects accruing from extensive service networks may constitute an entry barrier for manufacturers wishing to come onto the European market. It is notable in this regard

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<sup>51</sup> Passenger cars are classed into segments according to their size. One classification attributes an alphabetic system. Microcars = A, Supermini cars = B, Small family cars = C, Large family cars =D, Executive cars = E, Luxury cars=F. Subcategories apply for example for specific characteristics, as SUVs.

that no major market entry in the commercial vehicle sector has been observed in the reference period. There has been one notable merger in the sector, in that in 2001, before Regulation 1400/2002 came into effect, Volvo purchased the commercial vehicle arm of Renault.

57. As regards the nature of possible entry barriers in the car sector, some car manufacturers claim that the establishment of authorised repair networks based on purely qualitative selective distribution which followed the entry into force of Regulation 1400/2002 has had the effect of deterring some dealers from joining the distribution networks of smaller car manufacturers and/or of new entrants. It is claimed that prospective dealers might fear that overall profits accruing to a dealership would fall, as profits made in repair and maintenance were eroded as a result of competition from stand-alone<sup>52</sup> authorised repairers. Moreover, while most car manufacturers and their associations (in particular JAMA) consider that the continued existence of large-scale single-brand networks do not constitute a significant entry barrier, some other manufacturers (e.g. Suzuki) and certain dealers associations (e.g. CECRA and several national dealer associations) stress that dealers' ability to multi-brand makes it easier for new brands to enter and/or expand in the EU market.
58. Moreover, several respondents to the Commission's questionnaires indicated that national car tax systems, including those pursuing environmental objectives, still vary considerably between Member States and that the market-specific adaptation costs due to these different regimes may act as a significant entry barrier for non-domestic manufacturers.

### *Product innovation*

59. The European automotive industry is a leading investor in R&D, with an annual investment of around €20 billion<sup>53</sup>. ACEA indicates a continuous industry average of about 4% to 5% relative to revenue; London Economics<sup>54</sup> estimates the average to be from 3.0% to 3.4% (1997 to 2003). The information given by individual car manufacturers also confirms that R&D expenditure in the sector has remained broadly stable since 1997. Commercial vehicle manufacturers indicate that R&D amounts to between 2.5% and 5.5% of revenues. On average, this has declined over the past ten years. It may be noted however that in a number of other sectors the R&D expenditure has fluctuated to a greater degree (Aerospace: 14.0% in 1997, down to 7.2% in 2001, up to 12.2% in 2003. Electrical engineering: 2.5% in 1995, down to 1.6% in 2002, up to 3.8% in 2003).
60. The relatively high and constant R&D spending appears to be a consequence of the competitive pressure manufacturers are facing. The sector is driven by the constant need for product innovation, as a lack of new models translates quickly into a falling

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<sup>52</sup> i.e. repairers that do not sell vehicles of the brand in question

<sup>53</sup> European Commission: CARS 21 report.

<sup>54</sup> London Economics: Identification of Industrial Sectors with weak competition, analyses of cause and impacts; forthcoming.

market share. As a consequence the typical life cycle<sup>55</sup> of a passenger car model has decreased sharply since the second half of the 1990s, from ten years to six or seven<sup>56</sup>.

### *Price trends*

61. Both the Commission's car price report<sup>57</sup> and the 2006 study by London Economics<sup>58</sup> point to a steady trend of decreasing retail prices for passenger cars. According to London Economics<sup>59</sup>, real car prices (i.e. adjusted for inflation) came down by 12.5% between 1996 and 2004. Hedonic prices (i.e. prices that take into account evolution in the size and performance of vehicles) show an even steeper drop. Once hedonic calculations are included, real prices dropped from May 2005 to May 2006 by 1.6% and from May 2006 to May 2007 by 1.0%<sup>60</sup>. Intense competition is indicated by several surveyed stakeholders, including consumer associations<sup>61</sup>, as well as by certain national competition authorities. BEUC and the German Consumer association note explicitly that real prices for cars have been in a downturn over the last years, without however being able to quantify precisely these price decreases.
62. The national dealer associations that replied to the Commission's questionnaire mostly indicate that, on average, end customer rebates granted by dealers are in the region of 5 to 15% off the list price and up to 20% on some models sold in the context of promotional campaigns<sup>62</sup>. CECRA puts the average EU-wide rebate at 7%. Not surprisingly, a number of dealer associations reported significant higher discounts to fleet customers<sup>63</sup>.
63. A further indicator of competitive pressure is the fact that in some markets a proportion of new motor vehicles are registered by authorised dealers as "0 km" or "pre-registered" vehicles. These registrations, for vehicles that are usually subsequently sold at lower prices than those revealed in price surveys, serve to temporarily push up registration numbers, to relieve manufacturers of unsold stock, and to maintain list prices. Estimations from dealer associations indicate that these "0 Km vehicles" account for 3%<sup>64</sup> of all sales in Spain (20% for high volume brands<sup>65</sup>), more than 10% in Austria<sup>66</sup>, 2-12% in France<sup>67</sup>, 5% in Italy<sup>68</sup>, 10% in the Netherlands<sup>69</sup> and 4% in Germany<sup>70</sup>.

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<sup>55</sup> The life cycle indicates the period after which an old model in the product range is replaced by a new one which is substantially different, although it may bear the same name.

<sup>56</sup> ACEA response to the Commission's Inquiry.

<sup>57</sup> It should be noted that the Commission's car price report does not reflect manufacturers' special discounts or individual dealers' discounts.

<sup>58</sup> London Economics: Developments (...), p.101.

<sup>59</sup> London Economics: Developments (...), p. 101.

<sup>60</sup> Commission car price report – Eurostat.

<sup>61</sup> BEUC and the German consumer association.

<sup>62</sup> ZDK, German dealer association.

<sup>63</sup> Federaicpa, ZDK, WKA, CNPA, Bovag, AKL (national dealer associations).

<sup>64</sup> Faconauto.

<sup>65</sup> GANVAM.

<sup>66</sup> WKO.

<sup>67</sup> CNPA.

## *Profitability*

64. Profitability varies greatly between car manufacturers, and profitable periods for one manufacturer can coincide with low profits or losses for others<sup>71</sup>. However ACEA and London Economics<sup>72</sup> point out that manufacturers' net operating margins in Europe tend on average to be lower than those that manufacturers experience at worldwide level. In particular, London Economics pointed out that carmakers' operating margins were as low as 3.9% in 2004, a rate which compares unfavourably with other industries (e.g. 10.5% for chemical manufacturing, 8.1% for the tools/appliances industry and 6.5% for the technical/scientific industry)<sup>73</sup>.
65. Although incomplete, the information provided by vehicle manufacturers during the Commission's inquiry indicates average returns on car sales for 2005 ranging from -10% to 19% (1995: -9% to 4%), depending on the brand and the Member State concerned.
66. Despite the lack of complete data, individual passenger car manufacturers generally underline highly fluctuating profit margins in the industry. These generally tend to be low as regards car sales, but significantly higher in the after-market business.
67. Commercial vehicle manufacturers point to net margins in the low single figures, and on average, there would appear to be no overall trend over the past ten years. Data provided by Federaicpa appears to confirm this position – the EBIT of Italian dealers rose from 0.8% in 2000, to 1.1% in 2002, before falling to 0.4% by 2006.
68. According to a London Economics multi-sector inquiry<sup>74</sup> study, the rate of return on investment on motor vehicle sales was 5.2% in 2006 (2002: 6.8%, 2004: 4.2%) - one of the lowest of the European industries analysed. Once adjusted for the cost of capital, the rate of return on capital for European motor vehicle sales was negative in 2003 and 2004.
69. The fact that overall profits in the sector appear to be rather modest (and even negative for a range of passenger car brands over certain periods) seems to suggest that as a result of vigorous inter-brand competition, the incumbents are currently not in position to exercise any significant degree of market power, such as would cause a detriment to consumers.

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<sup>68</sup> Federaicpa.

<sup>69</sup> Bovag.

<sup>70</sup> ZDK.

<sup>71</sup> Answers to the inquiry, and London Economics: Developments (...), p. 109.

<sup>72</sup> London Economics: Developments (...), p.109.

<sup>73</sup> London Economics: Developments (...), p. 110, reference: Reuters.

<sup>74</sup> London Economics: Identification of Industrial Sectors with weak competition, analyses of cause and impacts; forthcoming.

- *Indicators relevant for intra-brand competition*

### ***Types of distribution agreements and key elements thereof***

70. As has already been observed, the sector-specific regime established by Regulation 1400/2002 was aimed firstly at strengthening intra-brand competition so as to respond to a perceived lessening of such competition resulting from the process of consolidation that industry underwent in the late 1990s. The Commission was also concerned that this process could continue, leading to a concentration of market power in the hands of fewer vehicle manufacturers. Secondly, the Regulation aimed at moving away from the form-based and legalist approach of the previous block exemption Regulation 1475/95, which imposed a legal straitjacket on the sector that hampered the development of competing/innovative distribution systems.
71. In order to give the motor vehicle retail sector the opportunity to diversify its distribution systems, Regulation 1400/2002 exempted all types of vertical agreements up to certain market share thresholds, subject to a detailed list of hardcore restrictions and specific conditions. Contractual freedom, rather than regulation, was regarded as the factor driving the degree of diversity in distribution. In turn, diversity in distribution was seen as an important condition for improving competition both between and within distribution networks and for enabling consumers to rip the full benefits of the internal market. In the event, as will be seen below, although there has been some move towards multi-branding, particularly as a result of the development of larger dealer groups, the distribution landscape is still largely characterised by homogeneity of formats.
72. By and large, passenger car and commercial vehicle manufacturers have not taken advantage of the wider scope of the block exemption. Following the adoption of Regulation 1400/2002, all motor vehicle manufacturers have adapted their dealers' contracts so as to bring them in line with the requirements of the new legal framework, but virtually all of them have chosen to use selective distribution across the whole of the EU. Suzuki may be seen as an exception, in that it has adopted a system of exclusive distribution in all countries except Hungary<sup>75</sup>. Four other manufacturers have indicated that, alongside their selective distribution systems, they have also entered into commercial agency agreements in some countries. In general, the use of commercial agents seems to be more common among commercial vehicle manufacturers than it is in the passenger car sector.
73. In this connection, it should be noted that all manufacturers concerned have ensured compliance with the provisions of the block exemption by avoiding the combination of selective and exclusive distribution and by proposing to their dealers separate contracts for vehicle resale and after-sales activities. As a result of this uniform choice, there has been little manufacturer-driven innovation at retail level since the block exemption entered into force. This position is confirmed by many vehicle manufacturers replying to the Commission questionnaire, which emphasized that the current dealer-based distribution format will continue to characterise motor vehicle distribution for the foreseeable future. In particular, they confirmed that there has been no appreciable development of car sales in supermarkets or hypermarkets, except for

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<sup>75</sup> Volkswagen in the Czech Republic applies qualitative selective distribution. The move has been motivated by the block exemption, which does not exempt quantitative selection when a producer has a market share of more than 40%.

occasional campaigns operated by certain large retailers mainly through stocks sales of vehicles purchased on the grey market.

74. No purely Internet-based retail concepts have emerged. London Economics points out that it is likely that less than 1,000 new cars are sold by authorised dealers over the internet annually within the EU. While the use of the Internet by authorised dealers and car manufacturers appears to be limited to marketing and advertisement, an increasing number of intermediaries seem instead to use the Internet in order to improve the efficiency of their business, in particular to collect mandates and process orders from final consumers. BEUC goes even further by pointing out that, as comparison tool for prices of motor vehicles, the Internet is not fully effective, as neither dealers nor manufacturers offer independent information as to the real resale prices.
75. In addition to revealing uniformity in terms of distribution systems, the Commission's inquiry also shows a remarkable homogeneity as regards the key elements of dealers' contracts concluded by vehicle manufacturers following the entry into force of Regulation 1400/2002.
76. In the first place it should be noted that all manufacturers concerned have opted for quantitative selective distribution, which combines the application of selection standards linked to the nature of the product and the quality of the specific sale services required from the dealers with discretionary criteria aimed at further limiting the number of authorised dealers in function of the desired territorial footprint and network density.
77. In the second place, it should be observed that the dealership contracts concluded by various carmakers are based on a large set of selection standards which, while differing in their material content, are nevertheless similar as regards their basic requirements. In particular, all passenger car manufacturers have profited from the entry into force of Regulation 1400/2002 to introduce more formal and stringent standards, covering aspects such as customer satisfaction, operating methods and equipment, staff training, signage, interior furnishing, architectural detail, and other forms of corporate identity, so as to strengthen the brand-specific profile of their authorised outlets. A similar trend can be observed in the commercial vehicle sector.
78. In the third place, as regards dealers' remuneration, manufacturers usually offer a mix of fixed/basic margin and variable margin, the latter being constituted of qualitative and quantitative bonuses. Qualitative bonuses are linked to the degree of compliance by the dealers with the various qualitative standards, which are assessed and regularly reviewed through an auditing procedure enabling the carmakers concerned to monitor dealers' achievements. Quantitative bonuses are instead linked to the performance of each individual dealer in relation to the sale targets which are to be negotiated between the parties on a yearly basis and regularly monitored by the manufacturer (sometimes on a quarterly basis). In general, CECRA observes a tendency away from contracts awarding fixed margins and towards contracts with more variable elements. CECRA also observes that, out of the total dealer's gross margin, the proportion represented by variable bonuses based upon performance and the degree of achievement of quality standards is gaining in importance relative to the fixed/basic margin. Furthermore, out of the two variable elements, the qualitative proportion has increased significantly since 2002 to the detriment of the other components of a dealer's gross margin.

79. The trend towards variable elements based on the achievement of qualitative criteria, such as customer satisfaction, configuration of dealers' facilities, training, etc. is confirmed by a number of national dealer associations (namely from Italy, France, Spain, UK, Germany, and the Czech Republic), which also observe that, in order to obtain the full qualitative bonus, dealers have increasingly to make significant investments: a situation which has further reduced the already low returns on vehicle sales gained on average by dealers and, as an ultimate consequence, has further increased dealers' dependence on vehicle manufacturers<sup>76</sup>.
80. Despite these common features, it should be stressed that most manufacturers do not have a single way of calculating margins for the whole of Europe. For many brands the material content of the mechanism underpinning such a system may vary considerably between countries, as well as over time.
81. In the fourth place, most manufacturers have entered into dealer contracts of unlimited duration. Exceptions are BMW (BMW has concluded five-year fixed term contracts), PSA (PSA has mostly concluded contracts of limited duration before 2006) and Toyota (which has contracts concluded for an indefinite period in the majority of Member States but not in all). CECRA notes that few contracts of unlimited duration (entailing the application of the two-year notice period provided by the block exemption) have been terminated since the entry into force of the Regulation. As for commercial vehicle manufacturers, most of them have also concluded contracts of unlimited duration, with the exception of MAN, which has opted for five-year agreements.

#### ***Dealer concentration and network density***

82. The numbers of dealers belonging to each individual manufacturer's networks, their relative dimension in terms of throughput, as well as their share of the overall sales of the relevant brand, constitute important factors for estimating the degree of intra-brand competition on the market, as well as its evolution over the reference period. In essence, the information collected by the Commission shows that during recent years, the motor vehicle sector has undergone a process of rationalisation, characterised by a significant reduction in the numbers of dealers and by a relative increase in the levels of concentration on the main retail markets across the EU. The entry into force of Regulation 1400/2002 seems to have given an additional impetus to this phenomenon which, however, would not seem to have reached a point where consumers' interest might be negatively affected.
83. As regards the passenger car sector, the manufacturers' replies to the Commission's survey point to a decrease in numbers of both dealer contracts and dealer outlets by around 6% from 2002 to 2006. However, trends have varied depending on the brand and the Member State. The density of individual networks broadly follows the fortunes of the brands in question as regards market share; brands that lose market shares subsequently experience a decrease in numbers of both contracts and outlets, and vice versa.
84. Car manufacturers indicate that considerations relating to efficiencies and economies of scale have led them to rationalise their networks, and reduce numbers of outlets and

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<sup>76</sup> Federaicpa, WKO.

dealers. ACEA also indicates succession problems and legal capital ratio requirements as an explanation for the decline. While most car manufacturers appear to view consolidation as positive, some claim that the uncontrolled growth of dealer groups is endangering competition on the market.

85. JAMA and ACEA point out that the start of this rationalisation process preceded the current block exemption; something which is also borne out by figures supplied by CECRA, which indicates that while numbers of sales outlets declined by 12% between 2002 and 2003, the figure was 30% in the wider 2000-2003 period, suggesting that the most dramatic decline in outlets took place before contracts in line with Regulation 1400/2002 were signed. This finding appears to be broadly in line with the information provided by vehicle manufacturers. They report a significant decline in outlets between 2002 and 2004, which has been partially compensated by an increase from 2004 to 2006.
86. Both JAMA and ACEA expect that the ongoing rationalisation of the networks will continue (in Western Europe in particular<sup>77</sup>). CECRA and national dealer associations also expect a continued concentration (although CECRA expects that this will slow down). However, the individual manufacturers responding to the Commission's questionnaire do not expect further general rationalisation of networks in terms of general reductions in dealer contracts. Instead, they indicate network reduction in some Member States but also expansions plans for a large number of countries, which are not all confined to the new Member States.
87. On the whole, this consolidation does not appear to have affected to the same extent the commercial vehicle sector, in which the numbers of outlets and contracts both appear to be broadly stable, probably because the sector had already undergone a considerable rationalisation before Regulation 1400/2002 entered into force. DAF however reports a sharp decline in the number of its outlets.
88. Furthermore, it stems from the analysis of the replies to the Commission's questionnaires that average sales per car dealer are mostly increasing. According to CECRA<sup>78</sup>, in Europe average passenger car sales per dealer contract in the EU-15 countries, including Switzerland increased from 301 in 2002 to 340 in 2005. In contrast, the average US dealership sold 628 passenger cars in 2006<sup>79</sup>.
89. The car manufacturers that responded to the Commission's questionnaire confirm this finding. In general, they indicate that the average sales numbers per dealer are increasing in most main markets for the majority of brands, while no car manufacturer has observed an appreciable decline in average sales numbers per dealer. However some large market players do not observe a uniform trend towards higher sales numbers per dealer in all main markets, such as Volkswagen (for its main brand), Fiat and GM (for all brands). Average sales per commercial vehicle dealer also seem to have increased over the past decade. Federaicpa in particular indicates that average sales per contract rose from 515 in 2000 to 599 in 2006 in Italy.

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<sup>77</sup> ACEA.

<sup>78</sup> Reporting data from the HWB handbook

<sup>79</sup> Dealership number NADA data 2007; Automotive Alliance.

90. Following the process of rationalisation which continued and, to a certain degree, intensified after the entry into force of Regulation 1400/2002, concentration among the leading passenger car dealers has increased but seems to be still moderate. In 2006, taken together, the largest 50 (25) car dealers in Europe had a share of 10.0% (6.9%) of the market for the sale of all passenger cars (based on units sold)<sup>80</sup> In the US, the corresponding figures are 13% and about 8% respectively<sup>81</sup>. London Economics reports that between 1998 and 2004, the market share of the top 20 car dealers increased in all twelve investigated countries for all brands except for Renault. It also reported an increase in the market share of the top dealers in the national markets in France, Germany and Italy, but not in the UK, where the share was constant between mid- 2001 and end-2003. These market shares increased over the same period in France from 19% to 22%, in Germany from 10% to 14% and in Italy from 11% to 15%.
91. The majority of car manufacturers replying to the Commission's questionnaire confirm that the relative market share of their largest 20 dealers in the main markets has increased during the reference period, while no car manufacturer has observed the opposite. However, some major manufacturers, such as Volkswagen, Peugeot and Toyota, claim that their own dealer networks in the main markets have not followed such a general trend.
92. The position is different in the commercial vehicle sector, where manufacturers report that their top 20 dealers sell between 40% and 100% of all vehicles of the brands that they represent. The figure varies according to the brand and the Member State.

### *Vertical integration*

93. As regards the evolution of vertical integration at the retail level, the information at the Commission's disposal suggests that, in recent years, car manufacturers have slightly increased volumes of direct sales to both business and private end customers via fully or partially owned retail outlets, in particular in metropolitan regions and other high-cost areas. This observation is confirmed by certain individual manufacturers, as well as by CECRA and by several national dealer associations<sup>82</sup>. ACEA however considers that the degree of vertical integration is broadly stable, observing that the increase in the proportion of outlets that are manufacturer-owned is particularly strong among carmakers that were already highly vertically integrated.
94. In absolute terms, the current levels of vertical integration are the object of different opinions by the main market participants. As regards passenger cars, ACEA and JAMA refer to data showing that manufacturers directly operated 2% of all outlets in 2006, indicating a stable trend. However, ACEA and JAMA are not able to provide data on direct sales to end customers. Answers from dealer associations indicate an increase in direct sales to end customers, excluding sales to leasing companies and fleet customers. In Italy direct sales by manufacturers to end customers have increasing rapidly in the last five years, accounting in 2006 for 25% market share in

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<sup>80</sup> ICDP Top dealer groups in Europe; ACEA.

<sup>81</sup> ICDP.

<sup>82</sup> AKL, Bovag, CNPA, Federaicpa, Faconauto, Gangám, NFDA.

terms of units<sup>83</sup>. In Spain, direct sales to end customers accounted in 2006 for 14% of units (2002: 9%). Most dealer associations did not however provide disaggregated market share information on all direct sales to end customers. Nevertheless, the information on direct sales in Europe provided by CECRA<sup>84</sup> and for Germany and France by the respective dealer associations (which are not directly comparable<sup>85</sup>) point to an increase as well.

95. Compared to the passenger car sector, the degree of vertical integration at retail level would appear to be higher in the commercial vehicle sector, although the data vary greatly depending on the manufacturer<sup>86</sup>.
96. On a more general note, most dealer associations express a critical view on direct sales, while one national association confirms (in line with ACEA and the Bundeskartellamt) that intra-brand competition is rather strengthened by increased direct sales, leading to higher discounts for consumers. Furthermore, one national dealer association observes that vertical integration is a reaction to the introduction of the current block exemption<sup>87</sup>. In particular, a UK dealer association claims that at least one vehicle manufacturer has expanded its direct ownership of retail outlets in that country<sup>88</sup> as a reaction to stricter requirements imposed by the current block exemption.
97. As regards vertical integration at the wholesale/import level, individual manufacturers' answers, as well as the 2006 study by London Economics, suggest that integrated importers are more common now than they were in 2002. In 2006, most car manufacturers served all the main markets (i.e. Germany, Italy, France, UK, Poland and Spain) via vertically integrated importers, Hyundai and Mitsubishi being the exception. The same holds true for the commercial vehicle sector, where the limited numbers of large markets that were served by independent importers in 2002 now follow a continuous trend towards full vertical integration. However, according to ACEA, only 50% of importers and wholesalers of both passenger cars and commercial vehicles are national sales companies controlled by the vehicle manufacturers, and that no clear-cut trend towards higher levels of vertical integration could be observed during the reference period.
98. Smaller markets tend to be served both by independent and integrated importers, depending on the manufacturer. However movements away from independents towards integrated importers can also be observed in small markets and no movements away from integration towards independent operators has been reported, with the sole exception of Mitsubishi.

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<sup>83</sup> Federaicpa.

<sup>84</sup> CECRA estimates that in their respective main markets, BMW and Audi distribute 40 to 45% of their vehicles directly, while for Daimler, the figure is estimated around 50% in terms of vehicles. However, the figures include sales to commercial fleet owners and leasing companies.

<sup>85</sup> The information for France contains only sales from integrated outlets, the German information includes only sales from headquarter, and both include sales to fleet /leasing customers from manufacturers' outlets only.

<sup>86</sup> Scania and MAN would seem to be the most integrated.

<sup>87</sup> NFDA.

<sup>88</sup> NFDA

*Innovation in vehicle distribution: (1) Specialisation in sales*

99. In order to stimulate intra-brand competition through the development innovative distribution formats driven by dealers' autonomous initiatives, Regulation 1400/2002 excludes from the benefit of the block exemption agreements which provide that authorised dealers may not contract-out the provision of repair and maintenance services for the contract brand of vehicles.
100. In the light of the information obtained by the Commission, it would seem that despite such provisions, the development of stand-alone dealers specialised in sales activities remains a marginal phenomenon. Most car manufacturers that replied to the Commission questionnaire report that, in the EU as a whole, less than 1% of their dealers have outsourced repair services. Two car manufacturers report that only 1% to 2% of dealers are stand-alone, while three others report that 2-4% of their dealers fall into this category. ACEA estimates the number of sales-only outlets across the EU at 2% or less. However, in some Member States, higher rates are reported for specific brands, in particular in Italy, Finland and Greece. In Italy, car manufacturers report that 6 to 9% of dealers in their network have contracted out their repair activities, while in Finland there are four brands for which 6% to 15% of their dealerships are stand-alone, and in Greece four brands report that stand-alone outlets make up a double digit percentage of all dealerships. Specialisation in vehicle sales activities seems to be even rarer in the commercial vehicle sector. The DAF network is an exception, with 14% of DAF dealers not directly operating a workshop.
101. For their part, dealer associations confirm that specialisation in sales is rare or non-existent due to the fact that stand-alone dealerships are not attractive commercially as most of dealers' profits are generated by after-sales activities rather than through the sale of new motor vehicles<sup>89</sup>.

*Innovation in vehicle distribution: (2) Multi-branding*

102. Another form of dealer-driven innovation in vehicle distribution which Regulation 1400/2002 was meant to stimulate, is represented by the development of dealers selling new vehicles of competing brands (multi-brand dealers), in particular from one single showroom.
103. In this respect, the 2006 study by London Economics<sup>90</sup> reports that in most of the twelve countries surveyed there has been an overall increase in the number of dealers selling brands of competing manufacturers. According to this study, there are substantial variations across Member States. For instance, in 2004, the proportion of multi-brand dealers ranged from 35% in Denmark to 9% in Portugal. In terms of general trend, however, the share of car dealers engaged in multi-branding increased, at the EU level, from 7% to 17% over the period from 1997 to 2004, which represents a significant progression.
104. This trend is confirmed by the information provided to the Commission by a majority of car manufacturers and some dealer associations. In particular, the German

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<sup>89</sup> Federaicpa, ZDK, NFDA, Ganvam, Faconauto, PIM, CNPA.

<sup>90</sup> London Economics: Developments (...) p. 59 ff.

dealer association reports that in Germany, about 20% of dealers selling volume brands are multi-brand dealers, while the figure is lower for premium brands and substantially higher (about 50%) for smaller brands having entered the market in recent years, such as Hyundai and Kia. The observation that multi-brand dealers mainly sell smaller brands newly entered into the European market is confirmed by other national dealer associations, such as Federaicpa, which reports that in Italy 15% of dealers are multi-brand, and the Czech dealer association, which estimates that 30 to 40% of Czech dealers are multi-brand.

105. In the commercial vehicle sector, multi-branding seems to be extremely uncommon.

106. Car manufacturers' views on the economic rationale for multi-branding vary considerably across brands, with a more positive attitude shown by manufacturers of volume brands than by those producing premium brands. Some car and commercial vehicle manufacturers explain in their replies to the Commission's questionnaires that they have occasionally approached dealers selling competing brands with a view to integrating them within their networks. However, other manufacturers, including certain Asian carmakers, expressly denied taking this approach. Most manufacturers that approached dealers selling competing brands claim that dealers with experience of selling an existing brand within a local area are greatly valued by brands seeking to enlarge or improve their territorial footprint, particularly if the brands sold by the dealers concerned are complementary and the potential risks of cannibalisation are consequently limited. In contrast, two of the manufacturers responding to a Commission questionnaire considered that dealers' experience with other brands would not be particularly relevant, especially where the dealers in question sold premium brands with very specific model ranges and product image.

107. It is possible to distinguish three main types of multi-branding. Firstly, a dealer may sell different brands from several outlets located in totally different sites. This is a typical model for dealer groups, i.e. undertakings having acquired the control of several dealerships operating as authorised distributors of different makes. Alternatively, a firm may sell brands of more than one manufacturer from different showrooms which are located within one single site. This model is typical for larger dealers, but not necessarily limited to dealer groups. In a third model, the brands of more than one manufacturer are sold in the same showroom. This was the type of multi-branding which the block exemption was intended to promote, so as to enable smaller dealers to improve their profitability by spreading their initial investment costs and recurring fixed costs over a larger volume of units sold.

108. The growth in multi-branding reported above does not however reflect any large-scale take up of the same-showroom sales that the Commission wished to encourage. Instead, as CECRA observes, the main area of growth over the past five years has been the expansion of large dealer groups, which has led to an increase in the number of dealers selling competing brands from different sites. This "first model" multi-branding represents the main factor that has contributed to the recent increase of multi-branding across the various manufacturers' networks. As to the second model, several national dealer associations point to a positive trend which would have become more robust since 2002, particularly in connection with the wide-spread phenomenon of network reorganisations and reconfigurations of existing facilities which followed the entry into force of Regulation 1400/2002. For instance, the Spanish association

Ganvam states that multi-brand dealers usually use separate showrooms built on the same site as pre-existing showrooms. The UK dealer association did not report on the share of dealers engaged in multi-branding but indicates that multi-branding is being taken up by dealers, albeit not on a dramatic scale. Multi-branding in the UK is rather characterised by the addition of low-volume emerging brands that do not compete directly with the established ones.

109. The French dealer association reports that, following the entry into force of Regulation 1400/2002, the vast majority of multi-brand dealers have opted for either the first or the second model, reflecting the relative parallel growth of large dealer groups.

110. As to the third model, several dealer associations report disadvantages in the form of negative impacts on brand identity, and disparities and conflicts between different brands' standards and systems. These disadvantages may explain why there had not been a widespread take-up of this model, in spite of declarations of interest from dealers. There are, however, certain advantages, in particular relating to shared costs and other synergies. The majority of respondents giving an opinion indicate that that multi-branding from the same showroom has either not taken off at all, or is less popular than other types of multi-branding. The French, the Spanish and the Polish dealer associations report that multi-branding from the same showroom is virtually non-existent in their respective countries, or is used only occasionally when it is possible to complete the model range of the existing brand with complementary models of a niche manufacturer. CECRA, on the other hand, suggests that multi-branding from the same premises and the same showroom has recently increased, while confirming however that multi-brand dealers continue to develop mainly on the basis of the first and second model. The UK, the Belgian and, to some extent, the Austrian dealer associations support this view, reporting that before 2002, there were virtually no sales of competing brands from the same showroom whereas, since Regulation 1400/2002 was introduced, such activity has developed to some degree. Multi-branding from the same showroom seems to be significant in Finland (the Finnish dealer association indicating that the second and third models have been taken up by 80% of the dealers concerned).

*Innovation in vehicle distribution: (3) Development of secondary sales and delivery outlets*

111. London Economics indicates that a quarter of the dealers responding to its questionnaire intended to take advantage of the opportunity to open secondary outlets following the exclusion of the so-called location causes from the benefit of the block exemption, i.e. those contractual arrangements preventing authorised dealers from operating out of an unauthorised place of establishment. Half the respondents had no economic interest in doing so, while another quarter lacked the financial means and/or managerial skills. Information gathered by the Commission suggests that despite this apparent interest expressed by certain dealers, in reality only a very few have opened secondary outlets. GM (Opel and Chevrolet) dealers in Germany appear to be an exception<sup>91</sup> to this rule.

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<sup>91</sup> 87 Opel dealers in Germany alone have announced their intention, and 79 have actually opened secondary outlets

112. According to London Economics, dealers show almost no interest in opening outlets outside their home country. Virtually all of the replies obtained in response to the Commission's questionnaires from car manufacturers and most national dealer associations confirm this position.

113. Although no respondent to the Commission's questionnaires reported any significant development of secondary sales and delivery outlets, CECRA observes that it would be premature for the Commission to make any definitive assessment as to the potential development of such business as the transitional period provided for by Regulation 1400/2002 in respect of location clauses ended only on the 1 October 2005.

#### *Dealer profitability*

114. London Economics estimates the average dealer margin for car sales to be between 1% and 2%, showing that savings from economies of scale may have compensated dealers for increased expenses incurred through compliance with higher contractual standards.

115. Although estimates as to dealer profitability vary considerably, CECRA observes broadly that dealers' profits have been broadly stable since 2002, with a net operating margin on car sales of around 0.6%. National dealers associations make the following estimates for operating margins for car sales:

- UK: (net operating margin): 2.2% (1995), 1.3% (2000), 1.7% (2002), 1.0% (2005)
- Italy: (gross operating margin) between 1.2% and 1.5% in 2005.
- France (gross operating margin): 5.4% (2000), 5.4% (2002), 5.0% (2005)
- Germany (gross operating margin): 9% (1995), 7% (2002), 10% (2005).
- Spain (net operating margin): 1.7% (1995), 1.1% (2005).

#### *International price dispersion and parallel trade between Member States*

116. One of the key features of Regulation 1400/2002 was to remove restrictions to cross-border sales of new motor vehicles, especially in the context of selective distribution agreements. This policy objective appeared as particularly important due the continuous existence of substantial prices differentials within the internal market during the 1990s and in the light of the repeated attempts by several car manufacturers to hinder parallel trade between Member States (which resulted in several prohibition decisions taken by the Commission prior to the adoption of the new block exemption)<sup>92</sup>.

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<sup>92</sup> See in particular, Commission Decision of 28 January 1998 in the case IV/35.733 — *Volkswagen I*, Commission Decision of 20 September 2000 in the case COMP/36.653 — *Opel NL*, Commission decision of 10 October 2001 in the case COMP/36.264 — *Mercedes-Benz*. It worth noting that the Commission decision of 5 October 2005 in the case Comp/E-2/36623- *Peugeot NL* sanctioned a practice retraining parallel trade which ended in 2003, in connection with the entry into force of Regulation 1400/2002.

117. It is worth noting that since the entry into force of Regulation 1400/2002, the Car Price Reports published by DG Competition show a general trend towards price convergence across the EU. The standard deviation, (a measure indicating the degree of price dispersion) for car prices (without taxes) between the EU-15 Markets (the countries that were EU Members before 2002) dropped from 7.0% in November 2002 to 5.5% in May 2004. The car price deviation in the Euro-Zone countries came down from 5.2% in November 2002 to 4.4% in May 2004. Since 2004 the car price deviation in the Markets in the EU-15 has been broadly stable. In the EU-25 countries the deviation has been however decreasing, falling from 6.9% in May 2004 to 6.4% in May 2007 thanks to price convergence in the new Member States.
118. The European association of independent traders (EAIVT) indicates several reasons for price differentials in the EU, such as differences in (i) various national tax regimes (including registration, annual circulation and environmental taxes), (ii) consumers' purchasing power leading to heterogeneous demand across national markets and (iii) consumer preferences for national brands.
119. Given the remarkable price convergence it appears worthwhile to have a closer look at parallel trade between the member states. According to EAIVT around 10% of sales in the EU are generated by parallel trade in the broader sense between Member States and this share has been stable during the reference period. BEUC indicates that parallel imports of right-hand drive vehicles destined to the UK have decreased, while exports flows to Germany have increased, as this country remains firmly at the top of the EU league of countries with the highest list prices for cars.
120. For Germany, the Bfi93 estimates that the share of all parallel traded vehicles increased from 20% of all German sales in 2002 to 25% in 2006. Bfi reports also that certain manufacturers, especially premium brands, increasingly apply pan-EU pricing and are therefore less prone to parallel trade. Several car manufacturers and two national dealer associations report parallel trade generated by intermediaries acting on behalf of consumers to be stable or increasing, while no manufacturer reports a decreasing trend. By contrast, parallel trade in new commercial vehicles appears to be virtually inexistent for most brands, although DAF is an exception, in that 10% of its new trucks are parallel-traded. Not surprisingly, intermediary activity in the commercial vehicle sector has not developed to any significant extent.
121. Both CECRA and a number of vehicle manufacturers indicate that bogus intermediaries are a problem. These are traders who put themselves forward as representing an individual consumer, while in reality they intend to resell the new vehicle for their own account.
122. Neither CECRA, nor most of the vehicle manufacturers were able to provide detailed information on sales made by authorised dealers to end users/final consumers established in other Member States. Those estimates that were received from vehicle manufacturers indicate mostly numbers of less than 1%. Porsche reports a share of less than 5% EU-wide. It appears that in Germany authorised dealers are increasingly importing new cars<sup>94</sup>.

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<sup>93</sup> Association representing importers not contractually linked to the vehicle manufacturers.

<sup>94</sup> ZDK and BEUC.

- *Concluding remarks*

123. Falling real price levels, a number of successful entries, relatively few exits, significant fluctuations in market shares, moderate and decreasing concentration, increased choice in the sub-segments of the market, and shortening model life-cycles indicated by a higher rate of range renewal suggest strong and increasing inter-brand competition in the car sales market. Rather moderate and slightly decreasing market concentration, comparatively modest but fluctuating average profits and undiminished R&D expenses are further supportive elements. Looking forward, competitive pressure can be expected to increase, as car manufacturers from emerging countries enlarge their presence on the EU markets.
124. The reasons why the Commission took a tough stance in 2002 reflected a number of concerns regarding the negative evolution of some of the indicators described above. Many car manufacturers had high market shares on their home markets, due to consumer preferences for national manufacturers. Brand ranges covered a smaller number of segments than is currently the case, meaning that in certain segments, there were a more limited number of competitors. Moreover, the sector was in the midst of a merger wave, which was rapidly reducing the overall number of competitors. Structural rigidities were manifested by high price dispersion between Member States. However, the market has since evolved towards a more competitive environment.
125. As regard the assessment of the evolution of the competitive interaction between distributors of motor vehicle, it would appear that concentration among car dealers has increased moderately over the period under review. Network rationalisation and the evolution of dealer groups have reduced dealer numbers, although in some areas multi-branding may have acted as a moderating element.
126. There has been no real move on the part of either car dealers or vehicle manufacturers to innovate at distribution level. As a result, price remains the main factor of competition between dealers in the same network. Moreover, pricing within a network is not transparent, in that consumers are unable to determine the real price charged by a particular dealer without visiting his dealership and going through an individual bargaining procedure. The Internet has not had the same impact vis-à-vis the facilitation of price comparison that it has had as regards other tangible consumer goods and intangible products such as airline tickets.
127. Notwithstanding this relative rigidity of the prevailing selective distribution models, dealer profitability as regards new vehicle sales is low and stable. There has also been considerable price convergence in headline "list" prices across the EU for passenger cars. For both of these two elements, it is difficult to untangle the effect of intra-brand competition from that of competition between brands. Dealer profitability is affected by competition from other brands as well as from other dealers marketing the same make of vehicle. Similarly, the ability of dealers or manufacturers in a given Member State to sell at a price higher than that in other EU countries will not only be influenced by the ability of consumers to buy abroad, but will also be affected by inter-brand competition from other manufacturers.
128. One could therefore conclude that despite a general consolidation of the motor vehicle retailing sector, intra-brand competition in the car sector has not decreased to

any significant extent over the period under review, and that the generalisation of similar systems of distribution across the sector has not been such as to harm final consumers, due in particular to increasingly intense inter-brand competition.

### **C) Development of the competitive environment of the motor vehicle repair and maintenance sector**

129. The main aims of Regulation 1400/2002 as regards the after-market were to foster competition among authorised repairers and parts distributors through specific rules designed to facilitate newcomers' access to the selective networks, and to protect competition between authorised and independent repairers by ensuring that the latter had full access to the relevant technical information, tools and spare parts. To this end, the Regulation also sought to protect competition between spare parts bearing the vehicle manufacturers' brands, and those supplied directly to the after-market by spare parts manufacturers.
130. This section analyses specific economic indicators that are useful for measuring the degree of competition in the EU markets for the repair and maintenance of motor vehicles together with the evolution of that competition over the period of application of Regulation 1400/2002. Firstly, the analysis will focus on indicators which are useful measures of competition between authorised and independent repairers (i.e. inter-brand competition), before going on to look at indicators which are relevant in order to assess the evolution of the competitive interaction between repairers within a given authorised networks (i.e. intra-brand competition). Finally, the section will look at how competition on the spare parts markets has evolved.
131. As to competition between authorised and independent repairers, the present section will look firstly at changes in the overall numbers of authorised and independent repairers and will examine how their market positions have evolved, before looking at market entries and exits over the period. Analysis will then focus on price trends and sector profitability.
132. As regards competition between authorised repairers belonging to the same network, diversity of distribution formats may indicate that there is less risk that a network effect could arise due to a large number of agreements containing essentially the same types of restriction. The degree of innovation may show that repairers are willing and able to develop different business models with different cost structures so as to gain a competitive advantage over their rivals. Network density is also indicative of the degree of intra-brand competition, while the rate of vertical integration across local or regional markets constitutes an additional indicator of the scope for effective competition between repairers belonging to the same brand network.
133. Turning to competition on the spare parts markets, this section will look at the evolution of market shares over the period of validity of the block exemption, before examining how the vehicle manufacturers' and spare parts manufacturers' distribution channels have developed. It will then look at the degree to which Original Equipment Suppliers and other parts manufacturers are able to access the aftermarket, before giving an overview of price trends and sector profitability.

- *Indicators relevant for assessing competition between authorised and independent repairers*

*Market position and numbers of operators*

134. During the Commission's investigation, national dealer associations report that authorised repairers currently have market shares of about 45% to 60% in most European main markets (although no information was provided about the UK market). Perceptions as to how the relative turnover of the independent and authorised car repair sectors has evolved during the reference period depend very much on the category of operator. ACEA, for instance, reports no overall trend as regards the market shares of its members' authorised networks; the same is true of replies received from most vehicle manufacturers. Associations of authorised dealers, however, seem to perceive that independents are gaining ground. In the UK, SIMI reports that according to franchised dealers, independent repairers are gaining in market share. The ZDK reports that independents gained ground in 2002/3, but thereafter, relative turnover remained stable. Disappointingly, the main European independent repairers' association reports that it has no data in this respect. On the other hand, the Spanish dealers' and repairers' association FACONAUTO reports that authorised repairers are gaining ground over their independent counterparts. Perhaps the most neutral viewpoint comes from London Economics, which estimates that the average turnover of the independent repairers that they had sampled had grown at a rate of only 1.2% per year: a clear decline in real terms<sup>95</sup> over the past ten years, showing that independent repairers are steadily losing ground to their authorised rivals.
135. In the commercial vehicle sector, the market share of the authorised networks varies greatly depending on the brand and the manufacturer. At one extreme, the Iveco network has a market share of 93% for repairs on vehicles of its brands in Germany, while the MAN network's market share in Poland is put at only 9%. Most brands exhibit no trend, although Iveco claims that its network is losing market share to the independent sector in all Member States.
136. As to car repair, both the London Economics study and the Commission's investigation have shown that numbers of independent repairers are on a fairly steep downward trend, with most national repairers' associations in the EU-15 reporting that numbers of independent repairers declined between 1995 and 2006. Only the Finnish repairers' association reported an increase. The London Economics study showed that in 1999, there were 7.3 times more independent repairers than authorised repairers. By 2003, there were only 5.2 times as many<sup>96</sup>. FIGIEFA reports that this downward trend has continued, and that in France and Italy, the ratio is now 3:1, while in Germany there are equal numbers of independent and authorised repairers. It reports that 25% of all independent repairers have left the market since the 1990s. The SMMT indicates that in the UK, the ratio between independent and authorised repairer numbers is now 3.5:1. The Spanish association reports that the proportion is now 5.5:1, while in Italy, the ratio declined from 3.9:1 in 2000 to 2.6:1 in 2006. However, in France, FEDA reports that the ratio has increased from 1.28:1 in 2008 to 1.50:1 in 2006.

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<sup>95</sup> London Economics: Developments (...), p. 145.

<sup>96</sup> London Economics: Developments (...), figure 94 on page 135.

137. Part of this downtrend is undoubtedly due to the fact that many existing businesses were simply not able to cope with the far greater technical skills, equipment and training needed to repair the increasingly technologically complex vehicles brought onto the market during the first years of the millennium. Moreover, during the first few years after the regulation was adopted, a lack of adequate access to technical information undoubtedly had a negative impact on the ability of independent repairers to compete. This position appears, however, to have improved recently, following Commission action which is described in the Working Document No. 3.. Another problem appears to have been the poor availability of full-function multi-brand electronic repair tools, due to the fact that vehicle manufacturers exercise intellectual property rights over certain information that might otherwise allow tool manufacturers to produce tools that work on several brands of vehicle. Since, in contrast to authorised repairers, almost all independent repairers repair a wide spectrum of vehicles from different manufacturers, the absence of fully effective multi-brand tools may be a considerable handicap.
138. Several respondents indicate that the proportion of repairs carried out within the authorised repair networks declines as vehicles get older. The Italian dealer association reports that the figure is very high during the first few years of a vehicle's life: during the first year it is 91%, while in the second, it is 82%, and by the third year it is still 62%, and in the fourth 49%. The French dealer association CNPA confirms this picture. While in the first year, 90% of repairs are carried out by authorised repairers; this share drops to below 20% after a vehicle is more than eight years old.
139. This phenomenon is partly due to the perception that the residual value of a vehicle may be negatively affected if repairs are carried out outside the authorised networks. It is notable in this respect that cars are still often advertised as having a "full dealer service history". When the residual value drops as the vehicle gets older, car owners may be more tempted to take their vehicles to an independent garage. It should not be forgotten in this context that in many cases, by this time the vehicle will have a new, probably more price-sensitive owner.
140. The fact that a car is under a manufacturer's warranty for the first few years of its life is another reason why consumers tend to turn to the authorised repair networks during this period. Repairs carried out under warranty are obviously captive to the vehicle manufacturers' authorised networks, in that the manufacturer pays for this category of work, and is therefore able to specify that only authorised repairers may carry it out. Standard warranty periods have been increased since the block exemption was adopted, and many brands now offer a three-year warranty. Often, the vehicle manufacturer offers a corrosion warranty that goes beyond three years. In addition, authorised dealers increasingly give consumers buying a car the possibility of buying an extended warranty and/or a servicing package. These extras have the effect that certain defined categories of repair are captive even after the standard warranty has expired.
141. This captivity also has an overspill effect into areas not covered by the warranty or free servicing package for two main reasons. Firstly, consumers have a natural preference for a one-stop-shop, and if it is necessary to carry out a repair under warranty, they are also likely to have other work, such as minor collision damage, carried out in the authorised repair shop even if it would be cheaper to take the vehicle elsewhere. Secondly, consumers may be afraid that if they have repairs or servicing

done in an independent repair shop during the warranty period, this may invalidate the warranty.

### *Market entries and exits*

142. Although overall, numbers of independent repairers have seen a considerable decline, this masks a more complex picture, within which a large proportion of small repairers have left the market, while there have also been market entries in the form of repair chains.
143. Traditionally, the vast majority of independent repairers operated out of small, often family run, multi-brand garages. Such firms relied upon the fact that their overheads could be shared over several vehicle brands. Know-how and other technical information gained with one brand were often transferable to another, and most tools were not specific to one brand. This flexibility and breadth of knowledge may have given these repairers a competitive advantage over authorised repair shops attached to franchised dealerships.
144. Today, however, the traditional business model of such repairers appears to be under threat. Increasing proprietary technology content in vehicles means that most technical information is now brand- or carmaker-specific. Dedicated electronic diagnostic and repair tools are needed for each brand, reducing the economies that had previously accrued to small multi-brand repairers, and necessitating major investments that may exceed the financial resources of a small garage. Restrictions on access to technical information risk exacerbating this competitive decline.
145. As a result, many small independent repairers are leaving the market, and the overall makeup of the independent sector is changing. ADIRA, for instance, indicates that while in 1995, 70% of all independent repairers could be categorised as "small" (having less than 3 technicians), by 2006, the figure had dropped to 37%. In Italy, 70% of independent repairers could be classified as "small" in 1995, but this figure had declined to 37% by 2006. In Germany, the decline was from 75% in 2000 to 60% in 2006. In France, small repairers also saw a marked decline, from: 64% of all independent repairers in 1995, to only 55% in 2006. Spanish repairers report no trend, but 80% of all independent repairers are currently "small. The Belgian and Dutch national repairers' associations report no change over the period, with 90% of independent repairers being small in Belgium and 50% in the Netherlands. Only in Poland have small repairers shown a slight resurgence, from 40% in 2004 to 45% in 2006.
146. The second development has been the arrival and rapid evolution of various types of multi-brand repair chains. The automotive supply association CLEPA estimates that for Europe as a whole, such operators will represent around 50% of the independent repair sector by 2010. The CNPA estimates that in 2006, more than 48% of French independent repairers were part of a chain, up from 37% in 2005. ADIRA indicates that over the period 2002-2006, 25% of all independents were part of a chain, compared to only 1% between 1995 and 2002. AUTIG estimates that at least 60% of all independent repairers in Austria will be part of a repair chain within five years.

### *Innovation in repair*

147. These repair chains are evolving and innovating in response to market conditions, and in particular, to consumer demand. In the past, many of these chains, such as those operating under the Speedy/Kwikfit/Pitstop brands, as well as ATU, could be thought of as fast-fit repairers, meaning that they concentrated on a narrow range of frequently-required services, such as exhaust, tyre or shock absorber replacement, and aimed to have a fast job turnaround. Increasingly, however, repair chains are offering a broader palette of services, in order to cater for customers who demand a more-or-less one-stop-shop. The spare part manufacturers' association CLEPA foresees that fast-fit repairers will experience a stagnation or erosion of market share unless they broaden the range of services that they offer. CLEPA also reports that repair chains covering a broader range of services have increased their market share and will continue to do so. Some of these repair chains are franchise operations operated by spare parts distributors (Profi-Service, AutoFit, AutoCheck), while others are operated by spare parts and tool manufacturers such as Bosch, which can not only offer spare parts and multi-brand repair tools but also technical information on the most complex electronic vehicle systems. Others, such as Autocrew, are operated by parts manufacturers. Finally, chains such as Rhiag and Stahlgruber are run on a contractual, non-franchised basis.
148. In contrast to the position as regards cars, chains of independent repairers would appear to be relatively uncommon in the commercial vehicle sector.
149. In response to the development of repair chains within the independent sector, many car manufacturers have introduced "soft franchising" concepts, such as the Renault-based chain Motrio, Volkswagen's Stop&Go, or Citroen's Eurepar. Independent repairers who sign up for such a franchise provide a narrower range of services to those carried out within the "fully-authorized" sector, but can display the brand of the soft-franchise chain, and also receive spare parts, technical information, tools and training. This kind of franchising allows car manufacturers to have a greater presence on the market for older vehicles, which has traditionally been the preserve of independent repairers<sup>97</sup>. London Economics reports that six percent of independent repairers have entered into such an arrangement with car manufacturers. ACEA and FIGIEFA both report that there is an increasing tendency for independent repairers to join franchised networks. However, FIGIEFA reports that this tendency is still very limited.
150. Probably due to the complexity of commercial vehicle repairs and the demand for full-range service, soft-franchising for such vehicles is very uncommon, although Iveco does have lower standards for repairers that only wish to repair the (smaller) Daily range of trucks.

#### *Price trends*

151. Overall, real prices for repair and maintenance services increased in the EU-25 countries by 17.8%<sup>98</sup> between 1996 and 2006. However, since vehicles now need less frequent attention, consumer expenditure on repair and maintenance has declined in real terms<sup>99</sup>. This rise in prices is partly due to the fact that today's repairers have to make far greater investments in terms of tools and training than was the case in the

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<sup>97</sup> ACEA.

<sup>98</sup> Eurostat, Harmonized indices of consumer prices.

<sup>99</sup> London Economics: Developments (...), page 182.

past. It may also be that skilled labour shortages have pushed up the cost of hiring a modern technician over the period in question. Finally, as will be seen, the fact that captive parts have been increasing above the rate of inflation may also have had an effect on the average overall repair bill

152. Authorised repairers have historically been perceived as having a premium status within the repair sector, despite the fact that surveys generally tend to show little difference as regards the quality of the services provided. The main reason for this is probably that, unlike most independent garages, authorised repairers are able to offer a near-full range of services for the brand that they represent – a "one-stop shop". Another reason is that, as has been seen, independent repairers tend to repair older vehicles, whose owners are often more price-sensitive. Independent repairers are therefore constrained to pitch prices for their services at a lower level to those practised within the authorised networks. In Italy, for instance, independent repairers charge from 10-15% less than do members of the authorised networks. London Economics reports that in Germany, the average price charged is 16% higher at authorised repairers. In Spain, the services of independent repairers are also significantly cheaper than those performed by members of the authorised networks: price differences range between 7% and 33%.

#### *Sector profitability/ profit margins*

153. After some year-to-year variation, but no discernable upward or downward trend, the average operating margin of all firms engaged in vehicle repair and maintenance (including both independent and authorised repairers) within the EU-27 was 13.2% in 2004<sup>100</sup>.
154. Replies to Commission questionnaires indicate that the net operating profit in the independent sector usually varies between 2 and 5%, although it can reach 10-15% for small family-owned businesses. Larger independent repairers usually do not achieve more than a 3% net profit margin. A German national repairers' association indicates that independent repairers' net operating margin varies between 2.5 and 3.5% in that Member State, while the French association puts the figure at between 4 and 6% in France.
155. These tight margins compare unfavourably with those in the authorised sector. Although replies from associations of authorised dealers show no clear picture and are often confused, reporting gross rather than net margins, it is clear that authorised repair shops enjoy very comfortable profit margins, which are far higher than those achieved for vehicle sales. The Dutch association BOVAG, for instance, indicates that, though declining, gross margins for after-sales activities are around 50%, compared to a 6.5% gross margin for sales of new vehicles. According to the French CNPA, gross after-sales margins were around 19.5% in 2005, a figure which was marginally on the increase. Gross margins for new car sales were falling, and in 2005 stood at 5.0%. The UK NFDA shows that authorised repair shops enjoyed a 31.3% operating profit in 2005, while the equivalent figures for parts sales and sales of new cars were 11.9% and 1.0% respectively. Profit levels in all areas were, however, declining. The German

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<sup>100</sup> Eurostat: European business – Facts and figures 2007, p 278.

association ZDK indicates that gross margins for after-sales in 2005 were stable at around 77%, while gross margins for new car sales were around 10%.

156. In the commercial vehicle arena, FEDERAICPA estimates that the EBIT<sup>101</sup> for authorised dealers' after-sales activities amounted to 6.1% in 2001, rising to 8.2% in 2006.

- *Competition between members of the vehicle manufacturers' repair networks*

#### *Types of contracts and key elements thereof*

157. The contractual landscape across the authorised repair sector exhibits considerable uniformity. Almost without exception, car manufacturers have adopted qualitative selective distribution as a model across the EU. Most car manufacturers offer the members of their selective networks indefinite-term contracts, covering spare parts distribution as well as repair and maintenance. However the Dutch association BOVAG and the Austrian association both point out that PSA offers separate contracts for spare parts distribution.

158. Since Regulation 1400/2002 was adopted, there has been a move away from two-tier car distribution networks towards a simpler single-tier system in which car manufacturers are able to exercise tighter control over the way in which their brands are projected. In a single-tier system, all repairers have a direct commercial relationship with the vehicle manufacturers, whereas where there is a second-tier, these "sub-repairers" only have such a relationship with a given member of the first tier. Between 2002 and 2006, there was a decline of around one sixth in the numbers of car repair outlets operating at the second tier, and the CNPA reports that this rationalisation was especially felt in France. Currently, only three vehicle manufacturers (Fiat, PSA and Renault) use two-tier networks to any great extent, although some operate on a mixed system of one-tier / two-tier outlets depending upon the country.

159. While most commercial vehicle repair networks operate on a purely qualitative basis, MAN operates a quantitative system in all Member States bar Germany, and Iveco uses quantitative selective distribution in most Member States, presumably because the market shares of these manufacturers' networks as regards the repair of vehicles of their brands do not exceed 30%. Most commercial vehicle manufacturers also offer their authorised repairers indefinite-term contracts. Stand-alone contracts for spare parts distribution are very uncommon in the world of commercial vehicles. Two-tier systems appear to be more common in the commercial vehicle arena, although these are on the decline for certain manufacturers' brands in certain markets.

160. Vehicle manufacturers' selection criteria generally require the members of their authorised networks to carry out a full range of repair services for the brands that they represent. Authorised outlets typically concentrate their activities on the repair of a single brand, although there are instances where one repair shop is authorised to repair more than one brand from the same manufacturer, or even brands from different

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<sup>101</sup> Earnings before interest and taxes

manufacturers. It should also not be forgotten that authorised repairers may also act as independent repairers when they are called upon to repair vehicles of brands for which they do not hold a franchise; indeed many national dealer associations, such as the CNPA and SIMI, indicate that this practice is widespread in certain Member States<sup>102</sup>. Overall, however, authorised repair outlets can be viewed as full-range brand specialists, and as such, they are in the possession of all relevant brand specific equipment, technical information and training.

161. This is not to say that authorised repairers are able to carry out absolutely every category of repair; indeed, it may not be economical for them to have the facilities to carry out complex work in fields such as bodywork. Such repairs are usually carried out in field-specialist bodyshops, many of which operate outside the vehicle manufacturers' networks, and for which insurance companies are the main customers. Both FACONAUTO and the Spanish dealers' and repairers' association GANVAM indicate that it is becoming increasingly common for authorised repairers to outsource body repair to specialist independent bodyshops.

162. One notable evolution within the authorised car repair networks since the Regulation was introduced is that vehicle manufacturers have increased requirements for tooling, training, signage, and other forms of corporate identity. The Commission's investigation has shown that repairers' attitudes to increased standards are generally negative. FACONAUTO, for instance, indicates that the new standards increased the yearly costs of operating an authorised repair shop by 25% in 2004, 2005, and 2006, and that the necessary upgrades cost on average €0.9 million. GANVAM indicated that increased standards added 25% to the running costs of such of a workshop in Spain between 2004 and 2006. Repairers' associations claim that standards are so high that independent repairers either choose not to apply for authorised status (CNPA, and the Czech dealer association) or that their application fails (ZDK, Germany) or is withdrawn (GANVAM, Spain). Bonus schemes are now often tightly linked to the extent to which a repairer meets these standards. Despite the overall picture of homogeneity within the networks, it should be noted that bonus and target schemes for authorised repairers vary greatly between Member States, both for passenger cars, and commercial vehicles.

### *Network density*

163. The authorised car repair networks generally have market shares that exceed 30%, and carmakers that wish their networks to benefit from the block exemption are therefore obliged to admit all candidate authorised repairers that met their criteria<sup>103</sup>. As a result, both independent repairers and dealers who are expelled when the authorised networks are rationalised have been able to apply to join or re-join those networks as stand-alone repairers, leading to resurgence in what had been declining numbers prior to the adoption of the Regulation. The London Economics study shows that while the number of authorised repair partners in the twelve Member States under study fell from 43,000 to 40,000 from 1997 to 2002, the figure had rebounded sharply to over 50,000 by 2004<sup>104</sup>. The Commission's investigation has confirmed this trend,

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<sup>102</sup> However, the ZDK indicates that the practice is not common in Germany.

<sup>103</sup> See Article 3(1) of Regulation 1400/2002.

<sup>104</sup> London Economics: Developments (...), figure 97, p.138.

showing that the number of authorised car repair outlets increased by 9% between 2002 and 2004. Among the commercial vehicle networks, on the other hand, network density appears to have remained stable.

### *Vertical integration*

164. Around the time that the Regulation was adopted, certain commentators perceived a trend towards car manufacturers owning their own dealerships. However, in the event, the Commission's investigation has revealed that this phenomenon of vertical integration in the passenger car sector remains limited. The car manufacturers responding to the Commission's inquiry reported that the percentage of manufacturer-owned repair outlets for their main brands across the EU increased from 1.9% in 2002 to 2.2% in 2006. Brands in the premium segment tend to have a larger share of integrated repairer outlets than the average.
165. Vertical integration in the commercial vehicle sector appears to be more common, although there seems to have been no overall trend in either direction over the period from 2002 to 2006.

### *Innovation within the selective distribution systems*

166. Car manufacturers report that numbers of stand-alone authorised repairers (i.e. repairers that do not sell new cars) have been increasing considerably since 2002<sup>105</sup>. The proportion of car repairers of this type varies considerably among manufacturers and between Member States; such firms seem to be particularly widespread in Italy (ACEA, manufacturers). The Italian dealer association points out that since 2002, the number of stand-alone repair outlets has increased dramatically.
167. In the commercial vehicle sector, a particularly high percentage of authorised outlets are repair-only, although it should be noted that this is mostly due to the fact that it is common for commercial vehicle manufacturers to sell vehicles directly, and for some brands in certain Member States there are no authorised sales outlets. In these circumstances, authorised repair outlets are inevitably stand-alone. Stand-alone repair outlets make up almost 100% of all MAN authorised repairers in the main EU markets. The same is the case for DaimlerChrysler buses, as well as for Renault trucks in DK, AT, and FI, and for Volvo Trucks in CZ, EL, HU, and AT.
168. Despite the provisions of Regulation 1400/2002, authorised repairers still typically concentrate their activities on the repair of a single brand, although there are instances where one repair shop is authorised to repair more than one brand from the same manufacturer, or even brands from different manufacturers. It would appear that this practice has moderately increased since Regulation 1400/2002 was adopted. Although many vehicle manufacturers only provided information on certain countries, most indicated that the proportion of authorised repairers engaged in multi-brand repair services had increased. For four of the five brands in respect of which EU-wide shares were provided, the proportion of multi-brand repairers rose from 2002 to 2006

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<sup>105</sup> BMW, Daimler, Ford (Volvo Brand), Honda, Kia and PSA provided EU-wide percentages quantifying the increase of repair-only outlets Volkswagen, Mitsubishi Nissan and GM, did not provide EU-figures but also point to an increase.

(brand A: 9% to 10%, Brand B: 6% to 9%, Brand C: 21% to 27%, and Brand D: 3 to 7%. One manufacturer reported that the percentage of multi-branding remained stable at 11% from 2002 to 2006. As to commercial vehicles, in the main markets, up to 30% of all repairers are authorised to repair the brands of more than one manufacturer, although for Iveco, DaimlerChrysler, and Volvo, the percentage is much lower. The figure is far higher for some brands in peripheral EU states, or those with low population density, such as Finland.

169. It should also not be forgotten that authorised repairers may also act as independent repairers when they are called upon to repair vehicles of brands for which they do not hold a franchise; indeed many national dealer associations, such as the CNPA and SIMI, indicate that this type of multi-brand activity is widespread in certain Member States<sup>106</sup>.

Since 2002, few authorised repairers have clubbed together to buy spare parts, or even to use common warehousing facilities. The only major such co-operation appears to be the Retail Automotive Alliance in the United Kingdom. However, this appears to have been set up by certain Ford dealers under the aegis of Ford itself, as a more efficient means of reaching both Ford dealers and independent repairers.

- *Competition in the market for spare parts*

#### *Market shares*

170. The vast majority of spare parts supplied by vehicle manufacturers are purchased from spare parts producers and sold on to the members of their authorised networks. Only a very small percentage is produced by the vehicle manufacturers themselves. Nonetheless, nearly all parts distributed via what may be thought of as the vehicle manufacturers' channels bear those manufacturers' brands. Although answers provided by car manufacturers to Commission questionnaires are incomplete, most report the overall market share of their own brands of spare parts to be high (in most cases between 40-65%). According to the French dealers' and repairers' association, CNPA, the vehicle manufacturers have around 55.6% of the French spare parts market. These figures are boosted by the fact that many parts lines are "captive", in that they are only available from the vehicle manufacturer.

171. Parts may be captive for any of several reasons: it may be, for instance, that the vehicle manufacturer has had input into the design of the part, and by thereby acquiring design rights is able to forbid the parts manufacturer from directly supplying the aftermarket. Alternatively, it may be that the parts manufacturer has entered into a "tooling arrangement" with the vehicle manufacturer, whereby the latter funds all or part of the tooling used to produce the parts line in question, and prohibits the parts manufacturer from using this tooling to supply the aftermarket directly. In other cases, it may simply be that the part in question is so infrequently replaced that it is not worth a parts manufacturer's while to produce it.

172. Three manufacturers of volume car models report that their market share as regards spare parts supply has declined in most main markets, while other

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<sup>106</sup> However, the ZDK indicates that the practice is not common in Germany.

manufacturers point to a broadly stable market share over the period 2000-2006. No car manufacturer reports that its market share is on an upward trend. However, these figures conflict with what the spare parts producers report: CLEPA, the main association of such producers, estimates that the market for spare parts is divided 50/50 between the vehicle manufacturers and the spare part producers, and that the vehicle manufacturers have been increasing their market share for the last four years.

173. As for commercial vehicles, the claimed market shares of the vehicle manufacturers' brands vary between 9% (Iveco, Germany) and 53% (DAF, France) in the main markets. For bus parts, the market share of the vehicle manufacturer-branded parts appears to be higher than is the case for truck parts. There is no discernable overall market share trend in either direction, although DaimlerChrysler claims that its market share is falling.

174. Those parts that are not sold to the vehicle manufacturers are either sold by the parts manufacturers directly to repairers or through independent parts distributors. Since the block exemption entered into force, direct sales are likely to have increased, as repair chains run by parts manufacturers such as Bosch increased their presence on the market.

175. There are independent distributors of spare parts in all Member States<sup>107</sup>. Their function is to consolidate parts streams from various manufacturers and importers in order to provide repairers with as full a range as possible. Repairers' associations' estimates of the market share of these distributors paint a mixed picture. In Italy, the share fell from 47% in 2002 to 45% in 2006. In France, the independents' market share rose from 52% between 2000 and 2002 to 54% in 2006. No data was provided for the United Kingdom or Portugal, while in Germany, independent distributors' market share fluctuated between 44% in 1995, 53% in 2002, and 50% in 2006. In Spain, ANCERA reports that independents held an 80% from 1995 to 2006.

#### *Development of vehicle manufacturers' and spare parts producers' distribution channels*

176. Vehicle manufacturers' brands of spare parts are usually distributed exclusively via their authorised repair networks. However, two car manufacturers have networks of authorised distributors of spare parts which do not carry out any repair activity; these represent less than 10% of all contracts for the distribution of car manufacturers' brands of parts. In the commercial vehicle sector, stand-alone spare parts distributors are also extremely rare. It should also be noted, that although the phenomenon is uncommon, certain car and commercial vehicle dealers do club together to purchase spare parts.

177. FIGIEFA indicates that few independent distributors of car parts specialise in a given category of spare parts, and the emerging distribution chains usually continue to carry the whole range. However, commercial vehicle manufacturers claim that independent parts distributors tend to cherry-pick parts for which they can make the

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<sup>107</sup> In Germany alone, there about 200 spare parts distributors with around 1,000 branches between them, covering 80% of the market - Commission Staff working document: Proposal for a Directive of the European Parliament and of the Council amending directive 98/71/EC on the Legal Protection of designs. Extended Impact assessment.

most profits, and that this is damaging the profitability of the authorised truck and bus repair networks.

178. CLEPA reports that by introducing new definitions of original spare parts and spare parts of matching quality, the Regulation has improved the competitive position of independent parts distributors vis-à-vis the vehicle manufacturers' spare parts distribution channels. This improvement has been confirmed by certain independent repairers and distributors<sup>108</sup>, as well as by car manufacturers and producers of commercial vehicles. On the other hand, associations of parts distributors reported to London Economics that Original Equipment Suppliers are not making much use of the definition of original spare parts. This is probably because such firms have long-standing commercial relationships with the vehicle manufacturers, which they fear might be disrupted by aggressive marketing. This is illustrated by the fact that parts manufacturers whose sales to vehicle manufacturers are declining tend to make more efforts to sell directly to the after-market.
179. Many independent spare parts distributors are small and medium-sized undertakings, and numbers of such firms appear to be on the wane, although not dramatically so. This may be due to the sheer scale required to handle and stock ever-increasing numbers of spare parts. FIGIEFA together with most car manufacturers confirm that independent spare part distributors are growing in size, partly due to consolidation. The car manufacturers attribute the growth of large independent distributors to the higher complexity and number of spare parts and the more intensive service requirements of the independent repairers.
180. The way in which the structure of the independent parts distribution market has evolved varies between Member States. FIGIEFA reports that there has been concentration in many EU-15 countries, such as Germany, the UK and Netherlands. In France and the southern European EU-15 countries on the other hand, distribution structures have so far remained fragmented. In the EU-10 countries (i.e. the "new" Member States) larger distributors have grown organically rather than by concentration, leaving pre-existing small outlets in place. FIGIEFA's observations are broadly confirmed by national independent associations which report increasing concentration in DE, UK and NL, but no such development in FR and IT. However the Spanish association also reports concentration on the Spanish market.
181. There are also a number of expanding groups of car parts distributors that are mainly active in national markets. Independent chains, such as Stahlgruber in Germany, European Truck Parts in the UK, AD Distribution in France, and Rhiag in Italy also appear to have a growing presence in the commercial vehicle sector. Due to their size, these groups enjoy a strong bargaining position vis-à-vis spare parts manufacturers. Recent years have also seen the emergence of wholesalers operating in several Member States. CLEPA reports that four expanding EU-wide spare parts wholesalers together control a turnover of about €13.5 billion, and that these are particularly strong in the new Member States. A number of national associations also report the entry of spare parts distributors operating across borders.
182. Although independent distributors are growing in sophistication and scope, the range of spare parts that they stock can never be as complete as that available from

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<sup>108</sup> GVA, FIGIEFA, SMMT, TKL.

authorised outlets. Although most spare parts lines are "competitive parts"; that is to say that alternative brands are available on the market, certain lines are "captive parts", which are only available from the vehicle manufacturer, and are therefore not stocked by independent distributors.

*Access to the aftermarket by OES and other parts producers*

183. Independent repairers are generally free to shop around for the best deal that they can find on spare parts, in order to offer a more competitive price on the overall repair bill. National associations of independent repairers report that there are normally no obstacles in obtaining original spare parts from authorised dealers or repairers. However, CECRA reports that independent repairers source between 70-80% of their spare parts requirements from independent wholesalers. Many of the remaining 20-30% are probably captive parts that can only be obtained from members of the authorised networks.

184. It should be noted in this regard that alternative brands of parts sold by independent parts wholesalers tend to be cheaper than those marketed by vehicle manufacturers and their networks; the NFDA estimates that this difference amounts to 20-30% for "volume" vehicle brands and 30-40% for prestige and luxury brands. The main revenue stream for independent repairers comes from work on vehicles more than four years old, and owners of such vehicles may be more sensitive to the cost of spare parts, since the residual value of their cars is low. Moreover, beyond this point, the car's warranty will have expired, and the owner may therefore be less fearful that the use of alternative parts may invalidate the warranty.

185. The purchasing patterns of independent repairers are in stark contrast to those within the authorised networks. Although five car manufacturers report that in the main EU markets, their authorised repairers are purchasing a higher percentage of their spare parts requirements from alternative sources, these claims do not seem to be supported by other market observers. According to the London Economics study, authorised repairers of cars still obtain between 87 and 95% of their spare parts from car manufacturers. The NFDA reports that in the UK, authorised car repairers source close to 100% of their spare parts from the vehicle manufacturer. BOVAG estimates that in the Netherlands, the figure is 60%, while the CNPA indicates that the figure in France is 75-85%, and the ZDK indicates 80-85% for Germany. PIM reports that in Poland, the figure varies between 93 and 95%. For Finland, AKL reports that the figure is 60%. ACAP indicates that in Portugal, 70% of parts purchased by authorised car repairers are sourced from the vehicle manufacturer. FEDERAIPA estimates that in Italy, authorised car dealers purchase 70% of their spare parts from car manufacturers, while for stand-alone authorised repairers the figure is 50%. Commercial vehicle manufacturers estimate that between 50% and 90% of spare parts purchased by authorised repairers bear the truck or bus manufacturers' brand.

186. As regards spare parts purchases for the brands that they represent, the percentage may be even higher: FIGIEFA reports that although 25% of independent parts distributors' sales are made to authorised repairers, only 3% are for the brands that the repairers in question represent. Moreover, it is likely that many of the alternative brands of parts purchased by authorised repairers are tyres or lubricants, which are products that do not usually bear a carmaker's brand.

## Price trends

187. It would appear that real prices for spare parts declined in the few years before the block exemption was adopted and that this decline continued into 2003, following which real prices took on a slight upward trend. This is illustrated by figures from Eurostat, which show that real consumer prices for spare parts and accessories for personal transport equipment - a category that mainly comprises motor vehicle spare parts - declined prior to 2002, and that in 2002 and 2003 real prices declined by 0.7% and 0.8% respectively, before rising in each of the following three years (2004: 0.3%, 2005: 0.1%, 2006: 0.3%)<sup>109</sup>.
188. However, this situation of slowly fluctuating real spare parts prices masks a more complex picture. A total of sixteen Member States have legal provisions that grant design protection for visible spare parts thus granting vehicle manufactures a monopoly over these types of parts, rendering them captive to the authorised networks. Nine Member States, on the other hand, have more liberal regimes. There is strong evidence that where parts are design protected, produced in-house, or otherwise captive to the vehicle manufacturers, prices are rising at a far higher rate. Roughly 25% of the overall spare parts market is subject to design protection. London Economics, for instance, points out that in France, where aftermarket body panels benefit from design protection, the price of such parts increased by 14% between 1999 and 2004, while mechanical parts, which are not design-protected, registered practically no increase.
189. An analysis of prices for a range of eleven spare parts for twenty car models in nine Member States together with Norway showed that the prices for ten of the eleven were between 6.4% and 10.3% higher in those countries that had granted design protection. The true advantage that a liberal market brings to price-sensitive consumers is likely to be greater, since the figures for countries without design protection also include vehicle manufacturer-branded parts, which continue to be sold at higher prices. For example, in Germany in 2003, vehicle manufacturers charged prices for wings which were not subject to design protection that were between 48% and 223% higher than prices from alternative producers<sup>110</sup>.
190. Moreover, these price differences do not reveal the wider costs of design protection in terms of distorted trade patterns and inefficient allocation of resources: if design protection on spare parts were removed, increased economies of scale due to an increased number of open markets would decrease the producers' costs, resulting in further price decreases. The overall costs that the European consumer bears as a result of the design protection of spare parts can therefore be assumed to be higher than the bare figures suggest.
191. Estimates based on prices prevailing in the U.S., where design protection does not exist, indicate that if aftermarket design protection in the EU were to be

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Eurostat:  
[http://epp.eurostat.ec.europa.eu/portal/page?\\_pageid=0,1136173,0\\_45570701&\\_dad=portal&\\_schema=PORTAL](http://epp.eurostat.ec.europa.eu/portal/page?_pageid=0,1136173,0_45570701&_dad=portal&_schema=PORTAL)

<sup>110</sup> Design Directive Impact Assessment, p. 25/26.

withdrawn, this would lead to a reduction in the average price of previously-protected spare parts of 14% within two years<sup>111</sup>.

### *Profitability*

192. Like repair and maintenance, spare parts supply is a profitable business. According to Eurostat's estimates, the gross operating profit for the motor vehicle parts and accessories manufacturing sub-sector in the EU-27 was 7.5% in 2004, significantly higher than in the vehicle manufacturing sector (3.7%)<sup>112</sup>. The gross operating profit rate for distributors of vehicle parts and accessories is estimated to be 6.8% in 2004<sup>113</sup>.

193. Vehicle manufacturers indicated that net operating margins on the after-sales markets remained high over the period from 2002 to 2006; four reported that margins were more than 30%. On the other hand, FIGIEFA reports that independent distributors experienced a decline in profits in the recent years, and that net profit margins are mostly between 0.2 and 2.2%. At the wholesale level, net margins are only around 1%. This is likely to be due to a combination of factors. Firstly, parts distributors have to stock increasingly wide ranges of parts in order to remain viable. Secondly, it is difficult for independent distributors to raise prices, since they operate under the major disadvantage of being unable to stock the 25% of parts that are subject to design protection and are therefore only available from the authorised networks. Authorised parts distributors are therefore the only firms on the market able to offer independent repairers a one-stop shop. Thirdly, vehicle manufacturers have been able to take advantage of increasing revenues from captive parts to reduce prices on competing parts, thus obliging independent distributors to cut their margins.

- *Concluding remarks*

194. Within the authorised networks, the basic distribution model is qualitative selective distribution. The fact that quantitative selective distribution is no longer exempted at market shares above 30% has led to a significant rebound in repairer numbers and network density. Vertical integration remains a marginal phenomenon. As far as innovation is concerned, many repairers operate stand-alone repair shops (i.e. without selling new cars), and multi-branding in repair is becoming more common. However, rigorous standards can have the effect of limiting differentiation. It is also notable that there are few instances of co-operation between authorised repairers, for instance, spare parts purchasing co-operatives, or common spare parts stocks. Overall, however, it would appear that the shift to qualitative selection has led to more competition within the authorised networks.

195. It would appear that since the Regulation was adopted, the authorised networks have slowly continued to gain ground vis-à-vis independent repairers. During this period, the independent repair sector has been faced with the necessity to make rapid adjustments in terms of highly-skilled labour, training, and tools, in order to repair the

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<sup>111</sup> Design Directive Impact Assessment, p.26.

<sup>112</sup> Eurostat: European Business – Facts and figures, p.204.

<sup>113</sup> Eurostat: European Business – Facts and figures, p. 278.

increasingly technically-complex vehicles on Europe's roads. These investments have proven to be beyond the means of many smaller, less-well-equipped garages. However, the independent sector has since undergone considerable consolidation that puts it in a better state to compete. Large chains of independents have emerged that are broadening the palette of services that they offer in order to meet the challenge of the authorised networks head-on. While prices have risen, the yearly cost of maintaining a vehicle has declined in real terms due to lengthening service intervals and greater reliability. Nevertheless, profit margins remain comfortable, showing the necessity of protecting competition from the independent sector.

196. During this period, an artificial bottleneck, in the form of a lack of access to technical information was applied, and this, as will be seen, only began to be removed following Commission intervention. In future, type approval regulation 715/2007 will take on the mantle of protecting access to such information. Two other major rigidities still exist, neither of which can be satisfactorily removed by competition rules. Firstly, design protection for certain categories of spare parts means that independent distributors cannot offer the full range, leaving independent repairers partially dependent on their authorised competitors. The negative effects brought about by after-market design protection are the subject of an ongoing legislative procedure in view of the review of the Design Directive<sup>114</sup>. Secondly, while the extension of warranty periods undoubtedly has consumer benefits, it also has the effect of shutting independent repairers out from a sizeable slice of the overall repair market.

197. It should also not be forgotten that part of the key to maintaining after-market competition lies in the hands of consumers, who until now have demonstrated a certain reluctance to turn to the independent sector, particularly for the repair and maintenance of younger vehicles. Ultimately, this reticence may only be overcome if the independent sector is able to build brand images that are equal to those of the vehicle manufacturers' networks. The evolution of independent chains is one sign that this may be beginning to happen.

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<sup>114</sup> Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs, OJ L 289, 28.10.1998, p. 28–35