

## TECHNICAL ANNEX 5

### IDENTIFICATION AND WEIGHTING OF THE RELEVANT ASSESSMENT CRITERIA

#### A. Economic criteria related to the protection of effective competition

1. The following analysis is based on competition-specific criteria reflecting the policy objectives which have been identified in chapter 3 above.
  - (a) *Preventing the foreclosure of competing vehicle manufacturers and safeguarding their access to the vehicle retailing and repair markets*
    2. As regards the Commission's aim of ensuring that the grant of the block exemption meets the requirements of Article 81(3), options will score higher or lower depending upon the degree to which they adequately safeguard against the risk of competing manufacturers being foreclosed from the market by the widespread use of single branding obligations by the incumbents. Risks of foreclosure are generally taken seriously where vertical restraints are concerned, because they may lead to incumbent firms being sheltered from new competition, which may in turn lead to higher prices and less choice for consumers. These risks should however be balanced against inefficiencies generated by free-riding associated with multi-brand sales.
    3. The exclusion from the block exemption of non-compete obligations currently constitutes the main instrument allowing newcomers or existing players who want to respectively enter the market or expand their presence<sup>1</sup>. It allows dealers to sell additional brands from competing suppliers and authorised repairers to also repair and maintain vehicles of competing brands.
    4. With regard to the sale of new vehicles, it should be noted that like Option 1, Options 2-4 would not allow vehicle manufacturers to impose indefinite single-branding obligations on dealers, because these options are based on the conditions provided for in the general block exemption for vertical restraints which only grants exemption to such obligations up to a market share threshold of 30% and for a maximum of 5 years. Once this period expires, or when the market share threshold is exceeded, dealers would have the opportunity to renegotiate their arrangements with the incumbent manufacturer with a view to selling a competing brand.
    5. A first evaluation of the new opportunities for multi-branding in twelve Member States surveyed by London Economics<sup>2</sup> revealed that the proportion of dealers engaged in such practices increased from 7% to 17% over the period from 1997 to 2004 and that the trend quickened in more recent years, particularly after 2002.<sup>3</sup>

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<sup>1</sup> Article 5(1) of Regulation 1400/2002

<sup>2</sup> London Economics, report on the block exemption, 2006, page 63

<sup>3</sup> London Economics, report on the block exemption, 2006, page 63

According to the findings of the Commission, multi-brand dealers mainly sell volume rather than luxury or niche brands. They also tend to take on smaller brands newly entered into the European market such as Hyundai and Kia.<sup>4</sup>

6. The growth in multi-branding reported above does not however reflect any large-scale take up of the same-showroom multi-brand sales that the Commission wished to encourage through the specific rules established in Regulation 1400/2002. As was the case before Regulation 1400/2002 entered into force, same-showroom multi-branding is mostly used by low volume brands in low volume markets, by smaller dealerships lacking the funds to make the required investments to construct a separate showroom, and in sparsely-populated areas such as Finland. Selling competing brands from the same showroom therefore appears to have done little to safeguard access of newcomers to the market, and indeed instead has had negative effects on distribution efficiency. Instead, the increase in the number of firms selling more than one brand has been mainly due to the growth of multi-brand dealer groups in search of economies of scale. This finding has been confirmed by the Commission's inquiry, which came to the conclusion that the main area of growth over the past five years has been the expansion of these groups, which has led to an increase in the number of dealers selling competing brands from different sites.<sup>5</sup>
7. The Commission's enquiries have shown that the ability to access existing showroom space within the existing vehicle manufacturers' networks is not a major factor determining whether market entry will take place. Overall barriers to entry in the EU car retailing market appear relatively low, as confirmed by the responses to the Commission's market inquiry. In particular, ACEA and JAMA refer to the successful entry and expansion of Japanese and South Korean car manufacturers in various EU markets<sup>6</sup>, which has taken place mainly through the progressive establishment of their own brand-specific dealerships throughout the EU.
8. It is therefore fair to say that general market developments have been the main driver behind multi-brand distribution, and that the specific provisions of Regulation 1400/2002 have not had any appreciable effect. Based on market information it appears that even in the absence of rules in a block exemption regulation, many car manufacturers would conclude contracts allowing for multi-branding where it makes commercial sense to do so (e.g. in scarcely-populated areas).
9. All in all, barriers to market entry seem to be less of a competition concern than they were in 2002, since the European markets for new car sales are more competitive than they were seven years' ago. Real consumer prices for new vehicles have been steadily declining, and most carmakers have expanded their model ranges, so that in any given market segment, consumers now have more choice. Therefore, the current risk of foreclosure in the markets for distributing new cars is rather low on the basis of the available data.
10. As regards the aftermarket, it should be observed that Options 2-4 are based on the general regime for vertical restraints, which implies that single-branding obligations concerning the provision of repair services for vehicles of competing brands would not

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<sup>4</sup> See Report, WD 2, page 21

<sup>5</sup> See Report, WD 2, page 22

<sup>6</sup> See Report, WD 2, page 11

benefit from block exemption, because the networks' market shares almost always exceed the 30% threshold

11. Although the structurally fierce competition in conjunction with the absence of specific concerns on entry barriers in the vehicle sales markets described above do currently not give grounds to any particular concern, it should be noted that the prevention of foreclosure and safeguarding of competing manufacturers' market access remains a basic objective of the competition policy. Against this background, the scores each option achieves for this criterion will be given a normal weighting.

*(b) Protecting intra-brand competition through increased diversity of distribution systems across the market*

12. This criterion aims at measuring the impact of each option on intra-brand competition. Options will score higher or lower depending upon the degree to which they reinforce intra-brand competition through increased diversity of distribution formats and systems.
13. According to accepted competition theory, intra-brand competition is of importance in markets where inter-brand competition is weak. However, in markets where inter-brand competition is strong, competitive interaction between suppliers naturally drives contracting parties towards the implementation of the most cost-effective and efficient transactions and ensures that the resulting benefits are passed on to consumers. In these circumstances, seeking to increase intra-brand competition by means of regulatory intervention entails the risk of imposing an unnecessary burden on companies, which may ultimately translate into consumer harm.
14. Fierce inter-brand competition is reflected in declining real prices for new motor vehicles. Both the Commission's car price report<sup>7</sup> and the 2006 study by London Economics<sup>8</sup> point to a steady trend of decreasing retail prices for passenger cars. According to London Economics<sup>9</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 more significant decrease. Once hedonic calculations are included, real prices dropped in 2005 and 2006 by 1.4% and 1.2% respectively. In 2007 and 2008 car prices fell by 3% in both years.
15. As the Commission's Evaluation Report indicates, this overall decrease in prices appears to be driven by technological development, globalisation, production overcapacity and other factors which are independent of the motor vehicle block exemption. It cannot be the result of the opportunities granted to dealers to intensify intra-brand competition, such as the opening of additional sales outlets or the specialisation in sales and subcontracting the repair and maintenance service. In fact,

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<sup>7</sup> It should be noted that the Commission's car price report does not reflect manufacturers' special discounts or individual dealers' discounts.

<sup>8</sup> London Economics: Developments (...), p.101.

<sup>9</sup> London Economics: Developments (...), p. 101.

few dealers have opened extra outlets, according to the Commission's survey of 2007, specialised dealers make up less than 1% of all authorised dealers.<sup>10</sup>

16. In the light of the high degree of inter-brand competition in the vehicle sales market, the safeguard of intra promotion of intra- brand competition does not raise particular concerns. However, the relevance of intra-brand competition may increase in case of decreasing competition between manufacturers. Against this background, the scores each option achieves for this criterion will be given a normal weighting.

i. *Avoiding impediments to parallel trade in motor vehicles between EU countries*

17. Each option will also be measured against how well it safeguards citizens' rights to buy their vehicles in any Member State of the EU by preventing obstacles to parallel trade.

18. The main tool used by the Commission to measure the functioning of the Single Market is its Car Price Report, published by DG Competition, which tracks price differentials for new motor vehicles between Member States. In the past, these were substantial. Moreover, parallel trade between Member States, which would normally bring such price differentials down, had been regularly hindered by car manufacturers, resulting in the Commission taking several prohibition decisions between 1998 and 2005<sup>11</sup>.

19. It is unlikely that prices will ever be uniform across the Single Market, because of (i) differences in various national tax regimes (including registration, annual circulation and environmental taxes), (ii) variations in consumers' purchasing power leading to heterogeneous demand across national markets and (iii) consumer preferences for national brands.

20. However, the Car Price Reports show a general trend towards price convergence across the EU since 2002. 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 2004) 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. From 2004-2008, car price differentials in the EU-15 were broadly stable. However, in the EU-25 countries, the deviation decreased, falling from 6.9% in May 2004 to 6.4% in May 2007, thanks to price convergence in the new Member States.

21. Against a general background of falling prices, price divergence between Member States rose significantly over 2008 for two main reasons. Firstly, the crisis which began in 2007 and which had a major impact on consumer confidence and willingness

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<sup>10</sup> See Report, WD 2, page 20

<sup>11</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, around the same time Regulation 1400/2002 entered into force.

to purchase high-value goods in particular, meant that car prices decreased more steeply in some rather low-priced countries dominated by particularly price-sensitive consumers. As a consequence the price deviation in the euro zone rose from 5.2% in January 2008 to 6.0% in January 2009. Secondly, several EU currencies, among others the UK pound and Swedish krona, depreciated sharply against the Euro in the last half of 2008, entailing a correspondingly dramatic fall in Euro-denominated car prices in these countries. As a consequence of this exchange rate turbulence, the EU-wide dispersion in car prices increased sharply from 7.0% in January 2008 to 9.8% in January 2009. In January 2009, the lowest car prices could therefore be found in Member States outside the euro zone.

22. Protecting parallel trade is a core objective of the Common Market and, as such, has been the subject of long standing case-law from the European Court of Justice. As recent as September 2008 the ECJ reiterated that "*Indeed, parallel imports enjoy a certain amount of protection in Community law because they encourage trade and help reinforce competition.*"<sup>12</sup> The scores each option achieves for this criterion will be given a normal weighting.

ii. *Protecting competition between independent and authorised repairers*

23. As regards the aftermarkets, options will rank higher or lower depending upon how well they enable independent repairers to compete with the manufacturers' networks of authorised repairers. Competition from independent repairers may be seen as inter-brand, and therefore imposes the most powerful competitive constraint on the authorised networks. Independent repairers can only compete effectively if they have access to both technical information and spare parts, which are key inputs for performing repair and maintenance work.
24. Ensuring that independent repairers have adequate access to technical information by means of competition law may begin to lack relevance after September 2009, once Regulation 715/2007, which regulates the type approval of vehicles, enters into application. That regulation contains a broad provision requiring vehicle manufacturers to provide repairers with all technical information on models launched after September 2009. Regulation 715/2007 will therefore progressively take over from the competition framework as the means for ensuring that independent operators have sufficient access. However, for several years the car park will still contain large numbers of vehicles of models launched before September 2009 that are not covered by the obligation in Regulation 715/2007.
25. Independent repairers source between 70-80% of their spare parts requirements from independent wholesalers, while the remaining 20-30% is obtained from members of the authorised networks.<sup>13</sup> Many of these parts are captive to the vehicle manufacturer – i.e. they are not available from other sources. It is therefore important that independent repairers will be able to source these captive parts also in the future, either from the networks or directly from the vehicle manufacturers.

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<sup>12</sup> Judgment of the ECJ of 16 September 2008 in Joined Cases C-468/06 to C-478/06, *Sot. Lelos kai Sia EE & Others v GlaxoSmithKline AEEVE Farmakeftikon Proionton, formerly Glaxowellcome AEEVE*, at para 37

<sup>13</sup> WD 2, p.37

26. The independent sector offers consumers a comparable service at significantly lower prices. In Italy, for instance, independent repairers charge 10-15% less than do members of the authorised networks, whereas the figures for Germany is 16%. In Spain, the services of independent repairers are 7% and 33% cheaper than those performed by members of the authorised networks.<sup>14</sup> These savings can have a major impact on a motorist's overall budget, because repair and maintenance accounts for roughly 40% of the total ownership costs of a car. In addition, the monetary costs of car accidents and pollution are considerable.
27. Given the importance of the independent sector for consumers the scores each option achieves for this criterion will be given a high weighting.

iii. *Ensuring effective competition within the manufacturers' networks of authorised repairers*

28. The score that each option receives will also vary depending upon how well they **protect competition within networks of authorised repairers**. Competition between authorised repairers of a given brand is particularly important for motorists owning a younger vehicle (i.e. up to four years old). The percentage of repairs on such vehicles carried out within the authorised networks is high due to consumer preferences and, in particular, to the higher residual value that is normally attributed to a car which has a complete set of authorised repairer stamps in its service booklet ("full dealer service history").
29. Repair and maintenance services are considered to be brand-specific markets. The intensity of competition between authorised repairers of a given brand depends on how easy it is to access to the network, and on the degree to which authorised repairers are able to buy spare parts from sources other than the vehicle manufacturer. As the network of authorised repairers and parts distributors of a given brand is normally considered to have (brand-specific) market shares well in excess of 30%, vehicle manufacturers that wish to benefit from Regulation 1400/2002 can only apply qualitative selective distribution. This means that they have to admit into their networks all candidate service partners that meet their qualitative selection criteria. As a consequence, numbers of stand-alone authorised repairers (i.e. repairers that do not sell new cars) have been increasing considerably since 2002.<sup>15</sup>
30. As well as having to buy captive parts from the car manufacturer, authorised repairers are also obliged to buy carmaker-branded parts for use in repairs covered by warranty and "free" servicing packages. Since sourcing parts from several suppliers is complex and expensive to administer, authorised repairers tend to use car manufacturers as their principal suppliers, and source between 70% and 100% of their spare parts from them. Spare parts from sources other than the car manufacturer are often available at lower prices. The only exception is captive parts, and those parts which are used for warranty work, which the authorised repairer has no choice but to source from the vehicle manufacturer. This situation, however, cannot be remedied by competition law as it is either linked to the existence of design rights or other IPRs held by vehicle manufacturers, is the result of sub-contracting agreements falling outside Article 81(1) or is the direct consequence of manufacturers' legitimate requirements as to the parts to be used for repair works covered by their warranties. Because spare parts make up

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<sup>14</sup> London Economics, pages 171/172 (WD 2, p. 30)

<sup>15</sup> WD 2, p.33

such a large percentage of the overall repair bill, the extent to which an option improves authorised repairers' access to alternative brands of parts will have a major bearing on competition between authorised repairers.

31. Given the importance of competition between authorised repairers for consumers, and in particular for owners of vehicles less than four years old, the scores each option achieves for this criterion will be given a high weighting.

(f) *Preventing foreclosure of spare parts producers in the automotive aftermarkets*

32. Options will rank higher or lower depending upon how well they protect alternative supply channels for spare parts, both to authorised and independent repairers. Some of these parts are made on the same production line as the original component of the vehicle (OES parts), while others are made by "matching quality" parts manufacturers. It should be noted that parts falling into these categories are often cheaper than identical parts bearing the logo of the vehicle manufacturer.
33. The assessment will first measure how well spare parts producers are able to reach both authorised and independent repair shops directly. Over the lifetime of the current Regulation spare parts producers have maintained their position on the aftermarkets of between 45% and 50%, despite the prevalence of captive parts that prevent independent parts distributors from offering a full range. Scores of the options considered will depend on how well they prevent car manufacturers from limiting the ability of spare part suppliers to sell to the aftermarkets.
34. The assessment will then measure the extent to which authorised repairers are free to purchase original spare parts or parts of matching quality from spare parts manufacturers directly rather than from their car manufacturer. While the first measure is more a question of exercise of IP rights in the context of upstream agreements between the car manufacturer and the component supplier, the second is, in particular in the case of parts of matching quality, a matter of non-compete obligations contained in contracts between the vehicle manufacturer and its authorised repairers.
35. Given the importance of spare parts prices for consumers the scores each option achieves for this criterion will be given a high weighting.

(g) *Preserving the deterrent effect of Article 81*

36. As explained in the Report at Section 3.2.7, in designing a block exemption applicable for the motor vehicle sector, the Commission should ensure that the manufacturers do not use the safe harbour granted by regulation in order to hinder independent pro-competitive behaviour of authorised dealers and repairers through various forms of pressure and threats which may lead to similar outcomes as those prohibited by means of hardcore provisions (e.g. hindrances to parallel trade). In the baseline option, the achievement of this objective is sought through specific contractual dealer protection measures. In Options 2 to 4, this is the result of the extension of the scope of the relevant hardcore provisions aimed at encompassing both direct and indirect restrictions. Given that, under whatever option, this objective cannot have but an ancillary nature, this criterion will be given a low weighting.

**b. Other economic criteria**

*(a) Compliance costs for firms*

37. As noted above, the purpose of the legal framework in this area is to provide a degree of legal certainty and clarity for firms. Such a framework makes it easier to predict outcomes, and reduces error costs, thereby encouraging dynamism in decision-making to the benefit of competition. Policy options will score higher to the extent that they make it easier for economic operators, courts and competition authorities to assess the legal status of agreements, by providing simple and unambiguous rules, in respect of which the consequences of non-observance are clearly and correctly explained. Certainty and clarity also have the potential for reducing error costs borne by such firms when a competition authority or Court makes an incorrect decision that affects them. This could take the form either of finding a breach of the rules where in reality there is none (type I error) or of incorrectly deciding that no breach has occurred (type II error).
38. Moreover, some options would treat passenger cars differently from other types of machinery and motorcycles, which are sometimes supplied or sold by the same firms. Certain options may therefore score higher than others depending upon the **degree of commonality** that they offer.
39. Some options may involve the permanent dedication of more resources to monitor or to ensure compliance with the rules, while some may also lead firms to incur transitory **adjustment costs** in response to changes in the legal framework.
40. Where **dispute resolution costs** are low, this is a benefit to firms. Policy Options will therefore score higher in this respect to the extent that they make it cheaper and easier for firms to resolve disputes.
41. Overall, the criterion relating to compliance costs borne by firms will be given a normal weighting.

*(b) Particular impact on SMEs*

42. It is firstly possible that some options may cause SMEs to have to **spend more on investment** if they cause vehicle manufacturers to respond by raising quality standards, particularly those related to brand promotion. Secondly, some options may affect the cost of and access to essential inputs, in that they may make it more or less easy for SMEs to access spare parts and technical information.
43. Thirdly, some parties allege that certain scenarios, in particular those that do not include the continued existence of provisions along the lines of Article 3 of Regulation 1400/2002 may affect the contractual bargaining position of SMEs vis-à-vis their suppliers.
44. Fourthly, some options may promote entrepreneurship by allowing owners to get full value for their businesses when they are sold.
45. These four issues may also affect SMEs' access to finance, if they mean that banks are less willing to lend. Car dealers may be particularly sensitive to changes in their ability to access finance because of high stocking requirements.

46. Given the importance of SMEs for the sector and for the European economy as a whole, scores in respect of this criterion will receive a high weighting.

a. *Competitive position of European vehicle manufacturers*

47. If an option favours the use of more efficient distribution and repair networks by EU vehicle manufacturers on their home markets, this will favour their competitiveness abroad. It is notable in this regard that the carmakers which are encountering the worst problems in the current crisis are those based in the US. These manufacturers have suffered from rigidities on their home markets including overcapacity and legacy social costs, but also the costs of distributing through a distribution system that is rendered inflexible by rigid franchise laws.

48. Options may allow carmakers more or less flexibility to adjust to or protect themselves against changes in economic circumstances. It is easier for firms producing a range of different products to operate efficiently if there is a degree of commonality as to how the competition rules are applied across their product range. Insofar as some options imply the adoption of a specific regime for road vehicles with three wheels or more, this may lead to these products being treated differently from comparable products such as motorcycles, scooters, farm machinery, and specialised industrial vehicles.

49. Scores under this criterion will receive a high weighting; given the importance of the motor vehicle industry for the broader European economy, even a minor impact on competitiveness can have a major knock-on effect for the economy.

b. *Particular impact on consumers and households*

50. Some options could affect prices for new vehicles, repair services and spare parts. Increased competition generally causes prices for products and services to fall. More importantly, the margins derived from selling new vehicles are low, sometimes even negative, while most profits are generated by after-sales services and sales of spare parts. Since competition in the market for the sale of new vehicles is already fierce, it might be thought that the scope for further reductions in prices paid for new vehicles is limited. However, it should not be forgotten that competition authorities' resources can also be dedicated against anti-competitive behaviour on the upstream component markets, as occurred in the recent case involving a cartel in the car glass sector<sup>16</sup>. On the aftermarket, there may also be room for competition to lower prices. Options will therefore score higher or lower depending on the impact that they may have on prices for new vehicles and aftermarket services.

51. Options may have more or less effect on the maintenance of consumer choice on the markets for new vehicles, spare parts, and repair services, either by increasing the number of providers, or promoting alternative formats. Moreover, some policy options could improve the quality of vehicles and of services.

52. Scores in this area will receive a high weighting, given that motor vehicles represent a high percentage of consumer expenditure, as regards both car purchase and upkeep.

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<sup>16</sup> Commission Decision in case COMP/39.125 "Carglass" of 12 November 2008

## **C. Impact on public administration**

### *(a) Effective use of enforcement resources*

53. The respective options' impact on the effective use of enforcement resources is not limited to the Commission, but amplified in magnitude as the impact extends also to national competition authorities and national courts in determining the degree to which the enforcement resources can be focused on serious infringements to EU competition rules or are diverted to issues unrelated to competition. It should be noted in this context, that competition rules *per se* may have a limited impact or turn out to be outright ineffective in case they are not backed up by adequate enforcement. For example, despite the existence of a provision in Regulation 1400/2002 referring to independent repairers access to technical information, the competitive conditions improved markedly only in 2007 following four decisions of the Commissions that bound four car manufacturers to commitments to give independent repairers proper access to repair information. As a consequence, this impact is of pivotal importance for the future competition in the sector. Given that the efficient use of enforcement resources is indispensable for the implementation of competition rules and that one example of effective enforcement has a knock-on effect and sets the example for the whole sector and indeed for others, the scores achieved for this criterion will, therefore, attract a high weighting.

### *(b) Impact on the EU budget*

54. Moreover, this policy initiative may have a slight direct impact on the EU budget, in that if the Commission is able to better allocate its resources, in particular, towards the prosecution of serious breaches of the competition rules, the aggregate level of fines imposed on undertakings may increase. Such fines are paid into the Community budget. The scores achieved for this criterion will receive a low weighting, since implications for the overall budget are minor.

## **D. Social and environment criteria, public health**

### *(a) Employment and job quality*

55. Given that low unemployment and high job satisfaction are essential indicators of economic welfare, any possible impact of the respective options on these criteria appears relevant.

56. It is possible that some options may have consequences for employment in particular professions, if they have an effect on numbers of dealers or repairers in the sector. The automotive trade and repair sector in Europe is composed of some 350,000 enterprises, of which around 120,000 are authorised dealers and repairers and 230,000 are independent repairers. Motor vehicle dealers and repairers employ a total of 2.8 million people across the EU<sup>17</sup> - more than the 2.2 million employed in the manufacture of motor vehicles and components<sup>18</sup>. These are therefore relatively labour-intensive sectors. However, it should be noted that the link between changes in the relevant competition law framework and possible variations in the number of employees in the motor vehicle sales and after sales sectors is extremely tenuous.

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<sup>17</sup> CECRA press release, 31 July 2008.

<sup>18</sup> Source, ACEA website.

57. The motor mechanic's job has become very much more skill- and knowledge dependent with the arrival of today's technically advanced vehicles. Mechanics are now commonly referred to as "service technicians", and their career path depends upon training and acquiring on-the-job skills. It is theoretically also possible that some options may lead to training and technical information being more freely available, thereby improving the **job quality** of mechanics and technicians in the independent repair sector by allowing them to improve their skills and giving them access to a broader spectrum of repair jobs, including jobs on newer vehicles that are still covered by warranty. However, this link is again extremely tenuous.

58. Scores in respect of this criterion will have a normal weighting.

(b) *Public safety*

59. Physical integrity can be considered a high good, as injuries and in particular the endurance of corporal damage impairs the quality of life. As a consequence, the respective options' impact on public safety is relevant.

60. It is in particular possible that by affecting the availability of technical information, some options may reduce the risk that vehicles are driven in a dangerous condition leading to a public safety risk. Moreover, if an option affects the density of repair outlets, this may lead to cars being driven longer distances in an unsafe condition on the way to the repair shop, or to reduce consumers' propensity to get their cars checked and repaired at regular intervals.

61. However, each Member State has rules in place which foresee technical checks at regular intervals by state licensed bodies. Any intervention via competition law can only be of residual value in lowering the safety risk. Therefore, scores as regards this criterion will be given a normal weighting.

(c) *Health and environment*

62. Physical health and an intact environment are important goods, as they have, similar to public safety, a major impact on citizen's life quality. As a consequence, the respective options' potential impact on health and environment is relevant.

63. By their nature, motor vehicles have an impact on public health and the environment. The European Environment Agency reports that cars and light commercial vehicles alone produce 14% of all the EU's carbon emissions. According the World Health Organisation<sup>19</sup>, road traffic injuries in the WHO European Region represent a major public health problem. About 127,000 people are killed and about 2.4 million injured every year. The cost of road traffic injuries to society is an estimated 2% of GDP. It is estimated that health costs from traffic pollution amount to around 1.7% of total GDP<sup>20</sup>. Particulate pollution alone (PM10) is responsible for around 350,000 deaths

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<sup>19</sup> Preventing Road Traffic Injury: A Public Health Perspective For Europe, 2004.

<sup>20</sup> Lancet Medical Journal – September 2, 2000. A 2005 study commissioned by the European Commission "Baseline Scenarios for the Clean Air for Europe (CAFE) Programme" estimates that the damage to human health from all air pollution costs the European economy between €427 and €790 billion a year (between 2.8 and 5.3% of GDP).

per year in the EU<sup>21</sup>, and half of this pollution is produced by motor vehicles. Increasing vehicle safety and reducing emissions are therefore key regulatory aims for the European Union.

64. The main drivers to ensure that vehicles are correctly tuned are national laws which require regular emission controls as a precondition for using a vehicle on public roads, as opposed to competition law. Although competition rules are not intended to regulate this area, changes in the competition regime may nevertheless have an impact, if they improve maintenance quality or lead to consumers choosing one form of transport over another. If an option affects the availability of technical information or the price of repair, it may lead to cars being better or worse tuned, which may lead to lower or higher **emissions of greenhouse gases and other harmful air pollutants**. In view of the fact that transport accounts for a high percentage of air pollution, but that competition law intervention only has a residual effect, scores in this area will be given a normal weighting.

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<sup>21</sup> Statement by Stavros Dimas, European Commissioner for Environment, European Commission, CSD14 PLENARY SESSION 'THE WAY FORWARD', Thu 11 May 2006