

ADPA comments for the Public consultation on the draft revised Regulation on vertical agreements and vertical guidelines

ADPA is the European association of independent automotive data publishers. Its Members provide aggregated, harmonised, easy-to-use technical information for the repair and maintenance of the 320 million vehicles on European Union's roads manufactured by around 40 different vehicle manufacturers. Their services ensure the roadworthiness, safety and environmental performance of these vehicles and allows their servicing to remain reliable, timely and affordable. As such, automotive data publishers are a key segment of the wider automotive aftermarket, which creates over 4 million jobs in 500.000 companies, mostly SMEs, all over Europe.

Independent data publishers play a critical role in the aftermarket value chain, through ensuring the provision of standardised repair and maintenance information (in an increasing volume and complexity) to multi-brand repairers. The standardisation of technical information ensures that the disparate procedural and component terminology used by over 40 key vehicle manufacturers is presented to multi-brand repairers in a uniform manner. In the absence of this, repairers would face the time-consuming challenge of interpreting the different terms used by vehicle manufacturers to refer to the same components or procedures. As internal combustion engine vehicles are typically comprised of over 30,000 components, the standardisation provided by independent data publishers is invaluable for multi-brand repairers.

ADPA welcomes the draft Vertical Restraints Block Exemption (VBER). A safe harbour for distribution agreements and detailed guidelines are in the best interest of numerous supply chains, and in particular the automotive aftermarket, of which ADPA Members are a key component.

However, the draft VBER does not reflect specific characteristics of the automotive aftermarket. It is therefore necessary for the future VBER to continue to be complemented by a sector-specific legislation that deals with these characteristics, i.e. a successor to Regulation 461/2010 (MVBER). ADPA has contributed to the public consultations regarding this sector-specific instrument.

A. On the draft VBER

The current draft VBER does not contain any hard-core detailed clause on access to technical information, despite the crucial importance of such access in the automotive aftermarket. Therefore, sector-specific clauses remain necessary. Some important provisions exist but are currently included in the MVBER Supplementary Guidelines, and could benefit from being included in the MVBER legislation as such (in particular, the crucial clauses mentioned in points i. and iii. below).

B. On the draft Guidelines

ADPA considers that the European Commission's intention to publish revised guidelines goes in the right direction, but isn't sufficient when it comes to the automotive aftermarket and access to automotive technical information.

ADPA

Boulevard de la Woluwe 42
BE-1200 Brussels
Tel.: +32 2 761 95 10
Fax: +32 2 762 12 55
E-mail: secretariat@adpa.eu

In particular, the inclusion of restrictions “in supplying technical information” (paragraph 213) is important as independent operators are often prevented from accessing technical information they require to perform their services in an unrestricted and non-discriminatory manner. It remains however very high-level and lacks some essential principles.

As such, the draft VBER Guidelines do not address important issues currently identified in the sector-specific MVBER Supplementary Guidelines, and the provisions of the latter continue to be needed. As examples:

- i. Paragraph 66 of the MVBER Supplementary Guidelines importantly states that “Technological progress implies that the notion of technical information is fluid.” A pre-defined list of information items doesn’t reflect the needs for servicing a vehicle. This is particularly true for complex products such as vehicles, which are undergoing some radical changes (e.g. electrification, connectivity).
- ii. The same paragraph also contains a non-exhaustive list of examples of technical information items which should be shared with other operators. While, once again, “technical information” should be understood in a holistic manner, concrete examples such as “fault codes”, “identification numbers” or “recall notices”, to name just a few, highlight the variety and complexity of technical information which should be made available.
- iii. Paragraph 67 of the MVBER Supplementary Guidelines lays out important principles:
 - “Access should be given upon request”
 - “[Access should be given] without undue delay”
 - “A supplier of motor vehicles should be required to give independent operators access to technical information on new motor vehicles at the same time as such access is given to its authorised repairers”
 - “the information should be provided in a usable form”
 - “the price charged should not discourage access to it by failing to take into account the extent to which the independent operator uses the information”
 - “[a supplier of motor vehicles] should not oblige independent operators to purchase more than the information necessary to carry out the work in question”

These, and many other clauses on “access to technical information”, are of crucial importance for independent publishers of standardised, multi-brand RMI databases and for the entire automotive aftermarket to be able to compete on a level-playing field with the contracted networks of vehicle manufacturers. As such, the future competition regulatory framework in the European Union should not only continue to reflect these MVBER provisions, but reinforce and modernise them.

Therefore, the European Commission may want to continue complementing the draft revised Regulation on vertical agreements and vertical guidelines with a modernised Motor Vehicle Block Exemption Regulation and MVBER Guidelines, in order to address the specificities of the automotive aftermarket in general and access to automotive technical information in particular.