

**Proposed prolongation of the Motor Vehicle Block Exemption Regulation and updates
to the Supplementary Guidelines
Explanatory note**

1. INTRODUCTION

In July 2022, the Commission published for public feedback a draft Regulation extending the period of validity of Regulation 461/2010 (“MVBER”),¹ together with a draft Communication amending the Commission Notice containing the Supplementary Guidelines (“SGL”).² These two drafts reflect the changes that the Commission proposes to implement following its evaluation of the MVBER regime,³ the findings of which are set out in the Evaluation Report,⁴ together with the Commission Staff Working Document,⁵ both published on 28 May 2021.

The MVBER exempts vertical agreements relating to the conditions under which parties may purchase, sell or resell spare parts or provide repair and maintenance services for motor vehicles from the application of Article 101(1) of the Treaty, subject to certain limitations. The SGL set out principles for assessing, under Article 101 of the Treaty, particular issues arising in the context of such agreements.

Overall, the evaluation concluded on 28 May 2021 showed that the MVBER regime had been useful and remained relevant for stakeholders. The evaluation also demonstrated that while the motor vehicle market was likely to evolve in the coming years, there had been no material developments in the last decade that would justify a major revision of the MVBER regime. The evaluation revealed however that an update was necessary to reflect the importance that access to vehicle-generated data was likely to have as a factor of competition.

In the light of these findings, the Commission is proposing to: (i) prolong the duration of the MVBER for five years (i.e. until 31 May 2028); and (ii) introduce small and targeted updates to the SGL.

2. THE PROPOSED DRAFT RULES

a. Draft Regulation prolonging the validity of the MVBER

The evaluation showed that although the competitive environment in the motor vehicle markets had not changed greatly since 2010, the sector was now under pressure to adapt to:

¹ Commission Regulation (EU) No 461/2010 of 27 May 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ L 129, 28.5.2010, p.52).

² Commission Notice "Supplementary guidelines on vertical restraints in agreements for the sale and repair of motor vehicles and for the distribution of spare parts for motor vehicles" (OJ C 138, 28.5.2010, p.16).

³ The MVBER regime consists of: (i) the Vertical Block Exemption Regulation (“VBER”) and the Guidelines on Vertical Restraints (“VGL”); and (ii) the sector-specific block exemption provisions, as provided for in the MVBER and the SGL, applicable to the distribution of spare parts and repair and maintenance services for motor vehicles.

⁴ COM(2021) 264 final.

⁵ SWD(2021) 112 final.

(i) the technological evolution, including the growing importance of vehicle-generated data; (ii) the constant pressure to reduce emissions, and shift to more environmentally-friendly fuels and power trains; and (iii) changes in mobility patterns. The evaluation found that, as a consequence, some parts of the sector would evolve rapidly over the coming years and that this would have an impact (not yet quantifiable) on the conditions of competition. It is expected that between 2025 and 2030 some of the changes that are only emerging now will have materialised to a greater extent.

In this context, the Commission is proposing to prolong the current MVBER for five years. This will allow some of the currently emerging changes to consolidate and will put the Commission in a better position to re-assess the situation under the new market reality.

Consequently, the Commission is proposing a draft Commission Regulation amending the MVBER as regards its temporal scope: namely to extend its validity until 31 May 2028. In parallel, the Commission proposes to introduce a renewed obligation to monitor the MVBER and evaluate it before it expires, in line with the Better Regulation Guidelines.⁶

No other changes to the existing Regulation are proposed.

b. Draft Communication amending the SGL

At present, although the SGL deal in detail with the competition principles applicable under Article 101 of the Treaty to other key inputs for vehicle repair, such as tools, training, and technical information, they do not explicitly refer to vehicle-generated data.

As the evaluation revealed that an update was necessary to reflect the importance that access to vehicle-generated data was likely to have as a factor of competition, the draft Communication extends the principles already in place for the provision of technical information, tools and training, so that they explicitly cover vehicle-generated data which is necessary for the provision of repair and maintenance services. These changes will provide clarity for companies concerning the way the Commission views issues related to access to vehicle-generated data when assessing vertical agreements between vehicle manufacturers and their authorised networks under Article 101 of the Treaty. These changes are implemented by means of the proposed amendments to paragraph 60 to 68 of the current SGL.

In addition to the above, the draft Communication introduces updates to the legal references included in the SGL, namely by: (i) updating the cross-references to the VBER and VGL with the appropriate references to the new texts that will replace them; (ii) aligning the content of certain paragraphs of the SGL with the provisions of the new VBER and VGL; and (iii) updating cross-references to legislation within DG GROW's remit that has been replaced by new texts or repealed. These updates will ensure consistency across relevant policy instruments and will help stakeholders to apply the SGL.

⁶ See Chapter III of the [Better Regulation Guidelines](#) and [Tool #44](#) of the Better Regulation toolbox 2021.