

**DISTRIBUTION AND SERVICING OF MOTOR VEHICLES IN THE
EUROPEAN UNION**

COMMISSION REGULATION (EC) NO 1400/2002 of 31 July 2002¹

**ON THE APPLICATION OF ARTICLE 81(3) OF THE TREATY TO
CATEGORIES OF VERTICAL AGREEMENTS AND CONCERTED
PRACTICES IN THE MOTOR VEHICLE SECTOR**

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¹ OJ L 203, 1.8.2002, p. 30.

7. DISTRIBUTION OF AND ACCESS TO SPARE PARTS

Regulation 1400/2002 aims at ensuring competition in the spare part market. To this end it lists a number of hardcore restrictions and does not allow suppliers, in particular vehicle manufacturers and their importers, to restrict the right of their distributors and authorised repairers to obtain original spare parts and spare parts of matching quality from any third undertaking of their choice and to use them for the repair and maintenance of motor vehicles²⁰⁴. Nor may vehicle manufacturers restrict the right of spare part manufacturers to sell original spare parts or spare parts of matching quality to authorised or independent repairers²⁰⁵. Moreover, Regulation 1400/2002 does not allow suppliers to restrict the right of their distributors and authorised repairers to sell spare parts to independent repairers, who use them for the repair and maintenance of motor vehicles²⁰⁶.

In order to improve the conditions for effective competition, Regulation 1400/2002 introduces the new term “original spare part”²⁰⁷. These are spare parts of the same quality as the components used for the assembly of a new motor vehicle. Original spare parts can be manufactured by the vehicle manufacturer, but most are manufactured by part manufacturers based on supply agreements with the vehicle manufacturer. They are manufactured according to the specifications and production standards provided by the vehicle manufacturer and in many cases they are produced on the same production line as the components used for the assembly of the motor vehicle.

The word “provided” means that these specifications and production standards are employed by the spare part manufacturer in question with the vehicle manufacturer’s consent with a view to the incorporation of parts corresponding to those specifications and standards in its vehicles. It is however not necessary for the vehicle manufacturer to have developed these specifications and standards; these may also result from a joint development programme or may even have been developed exclusively by the component or spare part manufacturer. In the latter case the specifications and production standards are deemed to be provided to the spare part manufacturer with the vehicle manufacturer’s consent and the spare part manufacturer can use them for the production of original spare parts. It is also not necessary under Regulation 1400/2002 for the vehicle manufacturer to explicitly give permission for the part manufacturer, which produces components, to use these specifications and standards for the production and distribution of original spare parts: the fact that these standards are available to the spare part manufacturer allows it to also use them for the production of original spare parts which are not supplied to the vehicle manufacturer, but are rather sold directly to spare part distributors or repairers²⁰⁸.

²⁰⁴ Article 4(1)(k).

²⁰⁵ Article 4(1)(j).

²⁰⁶ Article 4(1)(i) clarifies this for selective distribution systems of spare parts; within an exclusive distribution system this follows from Article 4(1)(b)(i) which prevents a supplier using exclusive distribution to restrict passive sales to any type of customer.

²⁰⁷ See the definition in Article 1(1)(t).

²⁰⁸ Indeed any restriction on this ability would constitute a hardcore restraint under Article 4(1)(k).