

Brussels, 20 January 2003

Volkswagen and Audi to conclude agreements with repair shops for the provision of after-sales services

The Commission reached agreement with Audi AG, the German car manufacturer belonging to the Volkswagen group, on the authorisation of repair shops in the Audi network. Audi has undertaken to establish a system of qualitative selective distribution for the provision of after-sales services in order to benefit from the new block exemption regulation. This permits former Audi dealers or repairers that meet the relevant quality criteria to remain active in the market as members of Audi's network. In addition, Volkswagen AG will ensure that the same policy will be followed by all the other brands of the Volkswagen group.

"The settlement achieved with Volkswagen and Audi provides the first example of action taken with respect to the new rules in the motor vehicle sector. It is intended to serve as guidance to the entire motor vehicle sector. As a result of the precedent set, many small repairers will be able to stay on within Audi's authorised network, and will have a better opportunity to compete," Commissioner Monti stated.

The new block exemption regulation for the motor vehicle sector¹ has the objective of increasing competition for both the sale of new motor vehicles and the provision of after-sales repair and maintenance services. Since September 2002, the Commission has received many formal complaints and letters from Audi dealers and authorised Audi repairers whose agreements were terminated by Audi. These complaints relate to Audi's refusal to prolong agreements with former dealers or repairers who nevertheless fulfil the qualitative criteria for authorisation as Audi repairers.

The new motor vehicle block exemption regulation entered into force on 1 October 2002. It foresees a transitional period in respect of certain agreements, which may therefore benefit from the former motor vehicle block exemption regulation² until 30 September 2003. In order to take advantage of the transitional period, agreements have to satisfy two conditions: first, they must already have been in force on 30 September 2002 and second, they must satisfy the conditions for exemption provided for in the former block exemption regulation.

In order to ensure the provision of repair and maintenance services for the cars of its brand, Audi has established a network of authorised dealers, who sell new cars and at the same time provide these after-sales services. In addition, Audi has concluded agreements with authorised Audi repairers who only provide after-sales services.

¹ Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ L 203, 1.8.2002, p. 30).

² Commission Regulation (EC) No 1475/95 of 28 June 1995 on the application of Article 85(3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements (OJ L 145, 29.6.1995, p. 25).

The agreements between Audi and its authorised repairers cannot benefit from the transitional period. Such agreements, which relate purely to servicing, were not covered by the former block exemption, as they do not provide for a link between the sale of new vehicles and the servicing of vehicles, the existence of which was one of the conditions for the application of the former block exemption regulation.

Consequently, in order to benefit from the new block exemption, Audi has now agreed to apply a system of qualitative selective distribution with regard to its after-sales services. This means that Audi will only use qualitative criteria for the selection of authorised repairers, and will conclude servicing agreements with repairers that satisfy these criteria. Moreover, Audi must not apply these criteria in a discriminatory manner.

As far as the practical implementation of this solution is concerned, Audi has extended agreements with authorised Audi dealers or repairers in respect of which termination has taken effect since the entry into force of the new block exemption regulation on 1 October 2002, as well as those where termination will take effect in the near future (i.e. before the end of the transitional period on 30 September 2003) as service agreements. To this effect, Audi is contacting the operators concerned and allowing them either to stay in the Audi network as authorised repairers or to re-enter it, as the case may be. In this respect, it is presumed that dealer/repairers whose agreements were brought to an end a short time ago, still fulfil the qualitative criteria currently applicable to authorised Audi repairers.

Audi will communicate the qualitative criteria currently applicable to authorised Audi repairers without delay to former authorised Audi dealers or repairers whose agreements were brought to an end before the entry into force of the new Regulation and who are now applying to become authorised Audi repairers once more. In these cases it can equally be presumed that these operators still fulfil the qualitative criteria currently applicable to authorised Audi repairers. Once a repairer declares that it fulfils these criteria, Audi should immediately assess whether the criteria are fulfilled and, in the affirmative, allow the candidate to become an authorised Audi repairer. Audi will apply the same procedure with regard to independent repairers who have never been members of the Audi network but who now want to become authorised Audi repairers.

Volkswagen AG and Audi AG have confirmed to the Commission that they will fully comply with the obligations described above for all brands of the Volkswagen group³.

Any manufacturer which operates a network of service outlets and which has a market share of over 30% for the relevant repair and maintenance services will thus not be able to benefit from the transition period provided for by the new Regulation with regard to its servicing agreements. Consequently, such a manufacturer must now already establish a qualitative selective distribution system for its networks of authorised repairers.

In contrast, in order to benefit from the block exemption, a manufacturer with a market share of over 30% which does not operate a network of service outlets outside of its dealer network and whose dealer network complies in all respects with the former motor vehicle block exemption regulation will have to apply qualitative selection after the end of the transitional period on 30 September 2003 at the latest⁴.

³ The main brands belonging to the Volkswagen group are Volkswagen, Audi, Seat, and Skoda.

⁴ See also answer to question 22 in the explanatory brochure on the new block exemption regulation.

A similar solution was achieved in September 2002 as regards authorised repairers for cars of the Opel brand. These cases provide guidance for other motor vehicle manufacturers in similar circumstances with regard to their after-sales servicing networks. The Commission is confident that its monitoring will be helpful for consumers, vehicle manufacturers and other interested parties with regard to the application of the new rules.

To this effect, the Commission's Competition Directorate-General has also published an explanatory brochure on the new block exemption regulation. It is available in all the official Community languages on the Commission website under the following address:

http://europa.eu.int/comm/competition/car_sector/distribution/#final_reg