

Discussion Paper No. 11-034

**The Effects of the Block
Exemption Regulation Reform
on the Swiss Car Market**

Nina Leheyda, Patrick Beschoner,
and Kai Hüscherlath

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Non-technical summary

In 2002, the Swiss Competition Commission (COMCO) introduced a Notice on the Competitive Treatment of Vertical Restraints in Automobile Trade ('Car Notice'). The objective of the Car Notice has been to strengthen competition in the Swiss car market, in particular by avoiding price-fixing practices and market foreclosure and stimulating intrabrand competition in the market for new car sales and competition in the service market. The Car Notice follows the key provisions of the EU Block Exemption Regulation of 2002 in the motor vehicles sector.

In this paper, we investigate the effects of the Car Notice on competition in the Swiss car market. Based on a survey among Swiss car market players, we find that the Car Notice only had a small impact on competition in the Swiss car market. The most evident changes are observed in the service market and in the trade with car spare parts. In those two areas, competition is fostered through large dealers and independent service chains due to a simplified access to car spare parts of different qualities and to the necessary technical information. In the market for new car sales, a restructuring of the dealer network together with a partial dealer consolidation has been observed. The Car Notice eased this development as it has been taken as an opportunity to negotiate new contracts with dealers. However, the survey also revealed that the implementation of the Car Notice has created a lot of uncertainty and ambiguities between the dealers and car importers. As a consequence, entry in these parts of the car market has become more complicated. In addition, some (derived) aims of the Car Notice were not (fully) reached such as, for example, an intensified use of multibranding, a separation of service and sales, a larger independence of the dealers from the car importers, higher parallel imports as well as a fostering of intrabrand competition in the market for new car sales.

In general, although some changes have been identified after the introduction of the Car Notice, these changes typically cannot solely be explained by the impact of the Car Notice. These changes rather result from general market developments that have led to stronger competition in Switzerland. However, we find some indications that this process was supported by the Car Notice. In general, the effects in the Swiss car market appear to be similar to the effects of the 2002 EU BER in the European car market.

Das Wichtigste in Kürze

Im Jahre 2002 hat die Schweizer Wettbewerbskommission eine Bekanntmachung über die wettbewerbsrechtliche Behandlung vertikaler Abreden im Kraftfahrzeughandel eingeführt. Ziel der Bekanntmachung war es, den Wettbewerb im Schweizer Automobilmarkt zu stärken, insbesondere durch die Vermeidung von Preisabsprachen und Marktabschottung einerseits sowie die Stimulierung von Wettbewerb beim Neuwagenverkauf und im Bereich Service andererseits. Die Bekanntmachung folgt in den wesentlichen Punkten den Regelungen der Europäischen Kommission im Bezug auf den Automobilmarkt.

In diesem Papier untersuchen wir die Effekte der Bekanntmachung auf den Wettbewerb im Schweizer Automobilmarkt. Auf Basis einer Befragung verschiedener Gruppen von Schweizer Marktteilnehmern stellen wir fest, dass der Einfluss der Bekanntmachung auf den Wettbewerb im Schweizer Automobilmarkt als relativ gering eingeschätzt werden muss. Die offensichtlichsten Änderungen lassen sich im Markt für Service sowie dem Handel mit Ersatzteilen beobachten. In diesen beiden Märkten wurde ein intensiverer Wettbewerb zwischen größeren Händlern und unabhängigen Serviceketten durch einen vereinfachten Zugang zu Ersatzteilen verschiedener Qualitätsgrade sowie den notwendigen technischen Informationen erleichtert. Im Markt für Neuwagenverkäufe konnte ferner eine Restrukturierung und teilweise auch Konsolidierung des Händlernetzwerks beobachtet werden. Die Bekanntmachung hat diese Entwicklungen erleichtert, da sie als Gelegenheit aufgefasst wurde, neue Verträge mit den Händlern zu verhandeln. In diesem Zusammenhang hat die Bekanntmachung allerdings auch zu einer großen Unsicherheit zwischen Händlern und Autoimporteuren geführt und auf diese Weise den Marktzutritt erschwert. In Ergänzung dazu verdeutlicht die Befragung, dass einige abgeleitete Ziele der Bekanntmachung entweder gar nicht oder nur teilweise erreicht wurden. Dies betrifft beispielsweise die Bedeutung des Mehrmarkenverkaufs, die Trennung von Service und Verkauf, die Unabhängigkeit der Händler von den Autoimporteuren, die Bedeutung von Parallelimporten sowie generell den intrabrand Wettbewerb im Markt für Neuwagenverkäufe.

Generell muss abschließend betont werden, dass trotz der Identifizierung bestimmter Änderungen im Markt diese typischerweise nicht ausschließlich als Folge der Bekanntmachung angesehen werden können, sondern vielmehr auch das Ergebnis genereller Marktentwicklungen sind, die zu einem teilweise intensiveren Wettbewerb in der Schweiz geführt haben. Wir finden allerdings einige Hinweise darauf, dass dieser Prozess durch die Bekanntmachung positiv unterstützt wurde. Insgesamt scheinen die Effekte der Bekanntmachung auf dem Schweizer Automobilmarkt sehr vergleichbar mit den Effekten der 2002 EU Gruppenfreistellungsverordnung auf dem Europäischen Automobilmarkt zu sein.

The Effects of the Block Exemption Regulation Reform on the Swiss Car Market

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Abstract

In 2002, the Swiss Competition Commission (COMCO) introduced a Notice on the Competitive Treatment of Vertical Restraints in Automobile Trade ('Car Notice'). The objective of the Car Notice has been to strengthen competition in the Swiss car market, in particular by avoiding price-fixing practices and market foreclosure and stimulating intrabrand competition in the market for new car sales and competition in the service market. Based on a survey conducted among Swiss car market players, we find that the Car Notice only had a slight impact on competition in the Swiss car market. Although some changes have been identified, they typically cannot solely be explained by the impact of the Car Notice but rather result from general market developments that have led to stronger competition in Switzerland.

Keywords: Vertical agreements, automobile market, multibranding, intrabrand competition, interbrand competition, ex-post evaluation of competition policy

JEL Classification: K21, L42, L62

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1 Introduction

The organisation of the car distribution system has always been a hot topic at the level of the European competition authorities. In 1985, various existing individual exemptions under Article 81 of the EC Treaty were institutionalized into the EU Block Exemption Regulation (BER) for the entire automobile industry. This block exemption legalized the combination of selective and exclusive distribution systems for the European car market. As a consequence, the car manufacturers were allowed to select authorized dealers and to assign them an exclusive territory. In addition, the car manufacturers were allowed to prohibit dealers to sell multiple brands (Brenkers and Verboven, 2006, Verboven, 2009).

The EU BER of 2002 aimed to create a system that allows more flexibility and prevents the adoption of a standardized distribution system by all car manufacturers. According to the new rules, the car producers are free to choose either a selective or an exclusive distribution system, however, they are not allowed to combine both systems anymore. Through these changes, the European Commission aimed to promote intrabrand competition at both the national and the international level thereby mitigating several competition concerns. For example, increased intrabrand competition could reduce or even eliminate international price discrimination as well as the double marginalization problem at the national level.

With its Notice on the Competitive Treatment of Vertical Restraints in Automobile Trade ('Car Notice')¹, the Swiss Competition Commission (COMCO) intended to follow the key provisions of the EU BER of 2002 in the motor vehicles sector and to bring the Swiss car market rules in accordance with the established practice of the European Commission. Such an adoption has already been observed in the past, for example, when the rules of the EU BER of 1985 were imposed on the Swiss car market players.

The objective of the Swiss Car Notice was to strengthen competition in the automobile market, in particular by avoiding price-fixing practices and market foreclosure and stimulating intrabrand competition and competition in the service markets (WEKO, 2002). In this paper, we investigate whether these objectives have been achieved, in particular, whether existing competition concerns in the car distribution system have been addressed, what effects the Car Notice has had on the Swiss car market and what policy recommendations could be derived.

In general, based on our survey among Swiss car market players, we find that the Car Notice only had a small impact on competition in the Swiss car market. Although some changes have been identified, they typically cannot solely be explained by the impact of the Car Notice. These changes rather result from general market developments that have led to stronger competition in Switzerland. However, we find some indications that this process was supported by the Car Notice. In general, the effects in the Swiss car market appear to be similar to the effects of the 2002 EU BER in the European car market.

The remainder of the paper is structured as follows. First, we present the building blocks of the Car Notice and give a short overview of previous studies of the European and Swiss car markets. Subsequently, we present the results of the survey among market players. We conclude the paper with a discussion of the economic effects of the Car Notice and a summary of the most important findings.

¹See WEKO (2002). Throughout the article, we will refer to this Notice as "Car Notice".

2 The Swiss car market regulation at a glance

With its Car Notice, the COMCO intended to follow the EU BER of 2002 in the motor vehicles sector and bring the Swiss car market rules in accordance with the established practice of the European Commission in the motor vehicles sector.

The building blocks of the Notice are as follows:

Distribution of new cars: Selective and exclusive distribution systems cannot be combined anymore, i.e. manufacturers have to choose between the two systems. Parallel imports are allowed. Car importers or producers are not allowed to hinder multi-brand businesses, i.e., they may not restrict the possibility of the seller to offer several brands in the same showroom. The authorized dealers can set their prices for the final consumers without any restrictions imposed by car importers.

Sale and supply of spare parts: Sales and parallel imports of car spare parts have been simplified. Importers must allow original parts suppliers or suppliers of car parts of matching quality of other producers to enter the Swiss market if they fulfil the respective quality criteria.

Aftersales servicing: Every car dealer is allowed to sell any brand without being obliged to provide services for that brand. Independent repair shops have guaranteed access to car parts, technical information (including education), and diagnostic instruments. Importers are allowed to issue quality criteria for service and repair works. However, they are forced by law to admit every garage that fulfils the corresponding criteria into their dealer network as an authorized garage. Furthermore, the authorized dealers are obliged to repair all cars of the same brand (from a sales point in the European Economic Area (EEA) or in Switzerland) in the boundaries of the warranty and to conduct service and all repairs for free in the boundaries of a potential callback action.

In addition to the Car Notice as such, the COMCO has published “Explanations of the Competition Commission to the Car Notice about the Competitive Treatment of Vertical Restraints in Automobile Trade”². As a response to the strong interest of the market players to the published Car Notice, especially to its implementation in practice, the objective of the explanations has been to provide answers to the most frequently asked questions.

The Car Notice bears a reference to the Regulation of the European Commission No. 1400/2002 as of 31 July, 2002 in the motor vehicles sector that came into effect on 1 October, 2002.³ Although the Car Notice takes into account the existing economic and legal conditions in Switzerland, the contents of the EC Regulation and the Swiss Car Notice rules are very similar. The Notice replaces the COMCO Decree about Exclusive Contracts in the Motor Vehicles Sector (WEKO, 1997)). According to the transition period rule, the Car Notice came into effect on 1 November 2002. The existing dealer contracts had to be brought in line with the Car Notice until 1 January 2005.

²The document is available at: <http://www.weko.admin.ch/dokumentation/00160/index.html?lang=de>.

³See European Commission (2002). Throughout the article, we refer to this regulation as ‘EU BER of 2002’. The EU BER of 2002 replaced the EU regime of 1985 that had been reformed in 1995 (EU Regulation No. 1475/95).

3 Previous studies on the effects of the EU BER and the Swiss Car Notice

Several empirical studies are available that either investigate selected problems of the EU BER of 1995 or investigate possible scenarios for the BER reform of 2002. Furthermore, some studies analyse the effects of the liberalization of the EU car market based on the EU BER of 2002.

One key hypothesis investigated in several studies is whether the combination of selective and exclusive distribution systems in the past has hindered cross-border trade and led to price discrimination in the European car market. In this respect, Degryse und Verboven (2000) provide a summary of various reasons for the observed car prices differences in the European Union that includes differences in the car model specifications, margins, taxes, exchange rate variations, etc. As a consequence, the European price differences must not be an immediate consequence of the set up of the distribution systems in car trade.

Additionally, some studies analyse specific challenges of the car distribution systems such as the separation of service and sales (Autopolis (2000) and Dr. Lademann & Partner (2001)) and the access to technical information (IKA (2004)). The study of Autopolis (2000), for example, states that there generally is no natural link between sales and service. The link is often artificially enforced and is producer- rather than market-driven, however, it also cannot be denied that a significant group of customers exists that value a link between sales and service ('one-stop shopping'). The study of Dr. Lademann & Partner (2001) came to the conclusion that a customer already considers after-sales servicing possibilities at the time of purchasing a car and that brand-exclusive distribution and after-sales servicing is the most favoured option of car customers. Furthermore, new sales channels such as, for example, the internet, are more accepted by the customers when they are linked to a minimum service level. Additionally, both studies argue that the EU BER of 1995 has given the automobile industry the possibility to link the sales and service of new cars through selective and exclusive contracts. The IKA (2004) study finds that the situation of the independent repairers has improved after the adoption of the EU BER in 2002, whereas the access to technical information is still restricted by high prices and the incompatibility of different information systems.

Andersen (2001) studies the economic effects of the possible legislative scenarios for the 2002 reform of the car distribution system on competition in the European car market. Complementary, separate problems of the current distribution system such as, for example, the link of sales and service, multi-branding, access to technical information, etc. have been investigated under different scenarios.

On a more general level, Brenkers and Verboven (2006) simulated and quantified the effects of the 2002 liberalization of the European car market by estimating a structural model for the European car market. London Economics (2006) investigated the ex-post effects of the EU BER of 2002. The results of their evaluation of competition in the EU car market after the reform are, however, mixed. While competition seems to function well in the market for new cars, competition concerns in the service and repair market as well as in the market for car spare parts were identified. Additionally, the study of the European Commission (2008) on the effects of the EU BER of 2002 finds that the competitive situation

in the market for new cars, service and repair market as well as the market for car spare parts has improved between 2002 and 2007. Interbrand competition has indeed been strengthened. However, this observation could also be explained by factors other than the introduction of the EU BER of 2002 such as over-capacities, innovations, and intensified market integration in car markets. In general, the majority of studies come to the conclusion that the EU BER of 2002 mainly had positive effects. However, many detailed BER industry-specific rules are viewed as unnecessary and overly complicated.

In addition to studies on the effects of the EU BER of 2002, there also exist several car market studies that provide evidence about the effects of the COMCO Car Notice on competition in the Swiss car market. For example, according to a UBS (2007a) survey, price-fixing practices among car importers disappeared in Switzerland. The dealers are free to choose the car brands they would like to sell and repair. However, it remains unclear whether the liberalization of the car market will lead to a consolidation of the dealer network. In the years following the Car Notice, large sums were invested by car dealers into showrooms and special equipment in order to meet the stricter requirements of the car producers and importers.

In another survey, UBS (2007b) argues that despite strong competition in the car market and new rules on the basis of the Car Notice, there has been no significant 'shake-out' in the Swiss car market. According to business census data, in October 2005, 15,429 businesses were registered in the car sector – a reduction of only about 2% compared to 2001. The number of sales outlets (+15%) and petrol stations (+8%) has increased, whereas the number of repair and service shops has decreased by 2%.

With respect to Swiss car prices, a study by Galambos (2007) identified a downward trend since the introduction of the Car Notice in 2002. Furthermore, garages and dealers have adjusted their business practices in order to compete under the new market environment following the Car Notice. Some smaller businesses, however, either ceased to exist or are facing bankruptcy.

A survey of Swiss and German car dealers and dealership groups has been conducted by Dudenhöffer et al. (2006) which especially investigated the structure of the distribution channels and the service market. Furthermore, Evenett and Meier (2007) estimate the welfare effects of the Car Notice of 2002 for the Swiss customers and their impact on prices. The authors ascertain that the car prices in the middle and luxury car market segments have decreased as a consequence of the Car Notice of 2002 by 4.2% (cumulatively for 2003-2004) and 6.6% (cumulatively for 2004-2005) respectively after having accounted for transport costs, exchange rate fluctuations, and inflation rates in the price variation.

Finally, a study by ZHAW (2009) finds that the Car Notice has intensified competition in the Swiss car market. Both intrabrand and interbrand competition has increased between 2002 and 2008. The number of multibrand dealerships has also increased considerably. The margins in the market for new car sales are under pressure so that the Swiss car price level has become closer to the EU car price level.

4 Results of the survey

In this section, we summarize the results of our survey among car importers, dealers/producers of car spare parts, dealers and associations in Switzerland. The car importers are relatively well represented in our survey. The same holds true for the service market, especially for the independent after sales market. In contrast, the dealers and garages are underrepresented in our survey. Additionally we interviewed several competition lawyers to obtain a different perspective of the car market and the role of the Car Notice in the recent market developments. In sum, we conducted 15 interviews between January and April 2008.

4.1 Developments in the market for new car sales

Restructuring of the dealer network

The car importers have used the Car Notice – in combination with several other factors – as an opportunity to restructure and optimize their dealer network. In the aftermath of the introduction of the Notice, the negotiation process for new contracts between the car importers and dealers turned out to be partly difficult. In addition to a general uncertainty due to the new rules in the car market, some car importers further increased their requirements and investment obligations for the dealers. In particular, a number of small dealers perceived these requirements as being too high and decided to leave the authorized dealer network. The majority of them decided to become independent dealers. In general, due to these developments, market entry has become more difficult in the years after the introduction of the Car Notice. Only a few new dealers have joined the dealer networks of car importers.

Intrabrand and interbrand competition

According to some respondents, the Car Notice has not led to more intrabrand or interbrand competition in the Swiss car market. Other respondents, however, argued that it is unclear whether competition in the car market has intensified due to the Car Notice. For example, a recently observed increase in the number of dealership groups could lead to less competition under certain circumstances. Additionally, some respondents stated that competition from other car brands has intensified. More intensive interbrand competition might arise through a larger number of dealership groups as well as multi-brand businesses.

According to several respondents, although there has been intensive competition and high pricing pressure on the Swiss car market, this has first of all been driven by the globalization trends in the car markets. In addition, the Swiss car customers have become more price-sensitive. Consequently, the observed increase in the competition intensity in the Swiss car market cannot be solely explained by the Car Notice.

It was argued further that, in spite of the stronger competition pressure, there remains a price difference between new cars on the Swiss and EU car markets. This could be partially explained by the better equipment of the Swiss car models. Equipment features that are built in the car for an additional charge in the EU are available within a standard car model in Switzerland.

Multi-brand dealers

According to the majority of respondents, the Car Notice had practically no impact on the practice of taking an additional brand into the brand portfolio of the dealers. This is

true for adding another brand of the same car manufacturer group as well as for another brand of a competing manufacturer group. Most dealers who decided to take an additional brand into their business soon decided to reverse this decision. One of the reasons for this development was that the dealers overestimated their capabilities and the potential for synergies. Multibranding is argued to be a very complicated business as every brand has to be conducted as a separate business and the expectations of the car importers towards the dealers are very high and complicated. Although multibrand businesses have some tradition in Switzerland, the Car Notice did not trigger a permanent increase in the number of multibrand dealers.

Consolidation trend

According to the majority of respondents, the consolidation pressure on the dealers increased in recent years. This development may be partially attributed to the high quality standards imposed by the car importers. However, some respondents argued that this consolidation trend has not been significant so far. The consolidation process has been first of all driven by the large dealership groups 'Emil Frey' and 'AMAG'. Large companies would rather appear in the market for new car sales than in the service and repair market and in the market for car spare parts. The consolidation process is reflected in a decreasing number of owners, while the reduction in the number of locations is, on the contrary, not so significant. Some respondents argued that they do not expect any further consolidation of the car market. The dealers are not ready to invest and to expand their businesses. Especially, the financing expenses and investment obligations are considered as particularly high.

Selling cars through dealership groups is often viewed as a solution for certain towns/regions with low sales volumes and without sales growth potential or as a (temporary) solution for brand quality problems of the car importers. The car dealers criticise the equal status of all brands within a dealership group and the absence of bargaining power. Large dealership groups often have a different regional focus which might cause anticompetitive effects as they can eliminate competition among dealers.

According to the majority of respondents, the number of cars sold per dealer is unlikely to change substantially in the near future. The demand for small businesses will likely remain especially due to factors such as language or topography. The local market boundaries are clearly defined, and consequently, no sales growth is expected in the future.

Parallel/direct imports

According to most respondents, parallel car imports have not increased as a result of the Car Notice. All respondents expect that they will not increase in the future either. Premium brands and especially niche brands are more interesting for parallel car importers than volume brands. The exchange rate has a large impact on the dimension of parallel imports.

Direct imports by the final car customers are possible but they are associated with high administration expenses as each car needs a type homologation from the Federal Roads Office (Bundesamt für Strassen (ASTRA)). In addition, the parallel or direct car imports have become less attractive as a result of the harmonization of the Swiss and EU new car prices.

Innovative distribution channels

All respondents doubt that innovative distribution channels such as the internet will have a growing importance in the market for new car sales and car spare parts in the near future.

While purchasing a new car, the emotions and the physical presence of the product plays a large role. The internet fulfils a function as information and marketing medium rather than a function as a platform for new car sales. However, for parallel car importers, the role of the internet is likely to be more significant as their offer of cars is often only available online. Furthermore, the internet already plays a large role in the market for used cars.

4.2 Developments in the service market

Competition in the service market

According to some respondents, the adoption of the Car Notice has not led to any effective change in the Swiss service market. Several large system suppliers serve the independent service market; however, these organisations already existed before the Car Notice. The system suppliers compete partially directly with the car importers (for example, with respect to car spare parts, lubricants, etc.). Some respondents argued that the Car Notice has led to the liberalization of the service market with the largest winners being the independent garages that have gained business opportunities (such as, for example, the simplified purchase of the car spare parts, improved access to technical information and diagnostic instruments). The system suppliers have also benefitted from the widening of the customer base.

According to most respondents, the expectation that the authorized service market will purchase spare parts more often in the independent service market has not been realized although the usual practice of the authorized garages to purchase some car spare parts on the independent service market has been legitimized. The authorized car dealers are often bound to order/buy nearly all car spare parts from the car importer. One key reason is the existence of bonus systems that bind the dealers more strongly to the car importers. According to such bonus systems, the dealers get rebates after they have sold a certain amount of new cars or car spare parts. However, the large system suppliers offer advantages such as availability, speed and competence. According to most respondents, it is against the facts to argue that the independent service market is hindered by the car importers in the purchase/supply of the original spare parts. Dealers and garages that would like to avoid the close relationship to the importers often become independent businesses.

Development of service chains

The opinions about the current and future role of service chains such as A.T.U in Switzerland are divided. Some respondents have argued that the service chains deliver good service but they do not meet the needs of the average Swiss car customer. Therefore, the service chains are unlikely to establish their position in the Swiss car market. This expectation was justified by the strong local and personal relationships of the car customers as well as the Swiss topography. Furthermore, in the service area, labour costs represent a high share of total costs. This is especially true for service chains, service garages and dealers that offer both sales and service to the same extent and therefore makes it particularly difficult to gain a cost advantage for any type of service business.

Some respondents have argued further that the development of service chains could have slowed down through the combination of product and service packages. When offering a bundle consisting of a new car, service, and insurance at a single monthly price, there is no incentive for car customers to have certain repairs done by service chains. Although it is argued that this bundling is demanded by the car customers, it factually reduces the entry

possibilities and growth expectations of independent service chains.

In contrast, other respondents argued that the service chains will maintain their market share in the Swiss car market. However, they are expected to have a limited potential for future growth in Switzerland. The customers' attitude towards the independent garages is influenced by several factors. For example, on the one hand, some garages have given up their brand relationship during their contract negotiations with the car importers while the relationships to the car customers continue to exist. On the other hand, service chains have entered the Swiss car markets that do not have any established customer-brand relationship which, however, could develop in the years to come. Therefore, the acceptance of the independent garages could increase further and might intensify competition in the service market. Such a development is further promoted by an increased awareness of customers that the relationship to a particular brand garage is not a given. The increase in advertising of the service chains and their intended expansion of the branch network in Switzerland may have contributed to these recent developments.

Separation of service and sales

According to some respondents, it is rather uncommon that a dealer will give up the dealing of cars and continue to offer service only. Typically, an integrated dealer makes more profit from after-sales services than from the sale of new cars. The latter activity, however, serves to create a customer base for repair and maintenance services. Furthermore, sales problems and risks by the sales of new cars could be compensated through the service business so that a dealership can stay profitable. Only a few garages concentrate solely on service. These are rather well-established garages with a settled customer base which has strong personal ties to the particular garage.

The other respondents have stated that some small garages have given up the sales of new cars and have concentrated on services instead. Given the generally high standards for the sales of cars, a critical number of cars must be sold in a particular period to break-even. In cases where these required sales volumes are not reached, the only alternative is a full specialization in the service business. In Switzerland, a garage with two or three mechanics can operate profitably. This is particularly true for rural areas in which a customer may undertake a longer journey to buy a car, however, prefers to have the service for the car close to the area where he lives. This constellation gives smaller service garages in rural areas an opportunity to stay in business.

Access to technical information

The majority of respondents have argued that access to technical information, trainings etc. is open for all types of garages, independent and authorized, under identical conditions (such as, for example, product prices). A few respondents have argued that although it is theoretically possible to get all the required technical information, in practice, access to technical information remains very complicated. On the one hand, the respective data is not always disclosed and, on the other hand, the acquisition of technical information can be quite expensive.

Innovative distribution channels

According to most respondents, the internet is especially important for the system suppliers in the sales and distribution stage. However, it is a technical medium and has not been fostered by the Car Notice. The costs of the system suppliers could be reduced with the set-up of internet sales and marketing that could eventually lead to a price decrease in

the service and repair market.

4.3 Developments in the market for car spare parts

According to most respondents, there have been no effective changes in the market for car spare parts as a result of the Car Notice. In general, price competition in this market has increased and will eventually lead to cheaper car spare parts.

It has been argued further that spare parts of different quality levels as well as original car spare parts are available from the distributors. The Swiss car customers would not be willing to pay a comparable price for no-name spare parts as for original spare parts. Warranty services play a large role while choosing spare parts. Overall, the growth potential in this market is expected to be modest.

With respect to the definition of the respective spare parts, no problems have been identified. The respondents have not received any complaints and inquiries concerning the lack of clarity in this respect. The original spare parts are sold under the name of the producer of the spare parts and not under the name of the car producer.

There have been no identified changes in the use of innovative distribution channels such as internet in the Swiss market for car spare parts. The new possibilities based on the Car Notice have not been put into practice by the market players.

4.4 General effects and policy recommendations

According to the respondents, the Car Notice has not changed the competition intensity in the Swiss car market and the car consumers have not noticed any other significant changes. Therefore, in this respect, the Notice has not fulfilled the expectations of the car market players.

However, on the positive side, the Car Notice has brought more transparency and clarity into the car market. In this respect, it was partly argued that the COMCO should aim at improving its information and communication policy concerning the implementation of the Car Notice. For example, the market players should have been informed in advance about changes in the car market regulation in order to avoid ambiguities between the car importers and dealers (triggering problems in implementation at the dealer level). Some respondents have stressed that the implementation, control and enforcement of the Car Notice is very important. The widespread opinion of the interviews was that the car market does not need any kind of regulatory intervention.

5 Discussion of the economic effects of the Car Notice

One key objective of our study has been to investigate whether the anti-competitive effects of the past car distribution system (such as for example, restrictions of cross-border trade through international price discrimination, restriction of intrabrand competition, internal trade and interbrand competition, and market foreclosure against competing car parts manufacturers) have been (at least partially) eliminated due to the Car Notice and whether efficiency gains were realised on the basis of the new relationships in the car market. Such a

welfare analysis is particularly difficult as, especially in the car sector, vertical restraints are often justified by economic efficiency arguments such as a reduction of double marginalization, the creation of service incentives and as a solution to the free-riding problem by dealers. Given the prevalent data limitations, we refrained from conducting a quantitative analysis to investigate these issues but concentrated on a qualitative assessment of selected aspects.

Creating service incentives and solving free riding problems by dealers

In general, the car producers aim to ensure an optimal level of the dealer services. The dealers, however, can have very low incentives to offer service and, as a consequence, the car producers would like to ensure an optimal service level through vertical agreements.

After 2002, all car producers except for Suzuki chose a selective distribution system. This system gives the car producers the possibility to offer incentives in the form of bonuses to the dealers to ensure the optimal degree of service. The bonus, for example, contains qualitative elements that could further increase the service level. The strict requirements concerning quality could, however, increase the dependence of the dealers on the car producers, which is, in fact, observed in the Swiss car market. This strong relationship can restrict entry of new dealers or new service stations. These foreclosure effects might over-compensate the benefits of higher service quality for the car customers.

Restrictions of cross-border trade through international price discrimination

The price differences for new cars between Switzerland and the EU have decreased in recent years, first and foremost due to increased global competition. Although the 2002 Car Notice has created more possibilities for parallel imports, they have remained at a low level.

Restrictions of intrabrand competition

The Car Notice has not led to an increase in the variety of the distribution channels. The internet rather remains an advertising medium. The number of dealers that have given up their service business and the number of independent dealers or service garages in Switzerland remained largely stable.

Restrictions of internal trade and interbrand competition

Although the multibranding business has been simplified, it remains a complex business and has not been extensively implemented in practice. The current dealership groups already existed before the Car Notice. Interbrand competition is rather stimulated through increased global competition in the automobile markets.

Market foreclosure against competing car parts manufacturers

In general, the bundling of sales and service could lead to the foreclosure of car spare parts producers. The separation of sales and service has not been increasingly implemented in Switzerland. However, no complaints have been expressed that the producers of car spare parts actually were foreclosed from the market. They can supply their spare parts through independent trade, although the authorised dealers/garages buy the major part of the car spare parts from the car importers. It has to remain undecided whether this finding is a consequence of competition or a result of successful foreclosure of the car spare parts producers from the authorized market.

In general, the effects of the Car Notice in the Swiss car market appear to be similar to the effects of the BER in the European car market summarized above. It becomes apparent that the objectives of the COMCO and the European Commission have not been fully achieved, in particular with respect to the stimulation of intrabrand competition, independence of the dealers from car producers, liberalization of the service and repair market as well as the

market for car spare parts.

6 Conclusions

In 2002, the Swiss Competition Commission (COMCO) introduced a Notice on the Competitive Treatment of Vertical Restraints in Automobile Trade ('Car Notice'). The objective of the Car Notice was to strengthen competition in the Swiss car market, in particular by avoiding price-fixing practices and market foreclosure and stimulating intrabrand competition as well as competition in the service markets. In this paper, we investigate whether these objectives have been achieved.

In general, it can be concluded from our survey among Swiss car market players that the impact of the Car Notice on competition in the Swiss car market has been rather small. The most evident changes are observed in the service market and in the trade with car spare parts. In those two areas, competition is fostered through large dealers and independent service chains due to a simplified access to car spare parts of different qualities and to the necessary technical information. In the market for new car sales, a restructuring of the dealer network together with a partial dealer consolidation has been observed. The Car Notice eased this development as it has been taken as an opportunity to negotiate new contracts with dealers. However, the survey also revealed that the implementation of the Car Notice has created a lot of uncertainty and ambiguities between the dealers and car importers. As a consequence, entry in these parts of the car market has become more complicated. In addition, some (derived) aims of the Car Notice were not (fully) reached such as, for example, an intensified use of multibranding, a separation of service and sales, a larger independence of the dealers from the car importers, higher parallel imports as well as a fostering of intrabrand competition in general.

With respect to policy recommendations, it was stressed that the COMCO should improve its information and communication policy to reduce uncertainty among market players and should continue its practice of harmonizing the Swiss car market rules with the European rules. Following the expiration of 2002 EU BER in May 2010, the European Commission has adopted a new BER No. 461/2010. According to this regulation, in the market for new car sales, the old rules remain valid until 31 May 2013. After this transition period, the car producers have to follow the rules specified under the general vertical restraints guidelines. In the service market and the market for car spare parts, however, the new rules have already come into force on 1 June 2010. The COMCO recently has responded to the new EU rules through several adjustments in its Explanations to the Car Notice. It has, however, not (yet) amended the 2002 Car Notice itself.

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