

## **GENERAL GROUNDS<sup>1</sup> FOR THE BLOCK EXEMPTION COMMUNIQUÉ ON VERTICAL AGREEMENTS AND CONCERTED PRACTICES IN THE MOTOR VEHICLE SECTOR**

The distribution and repair of motor vehicles are crucial with regard to consumers. Particularly when it is taken into account that owning an automobile is the second largest expenditure of a large part of consumers, this importance is better understood. In Turkey, motor vehicles such as automobiles, light commercial vehicles, minibuses, buses, trucks and trailers, and their spare parts reach consumers through distribution networks created by authorized sellers of manufacturers and importers. And maintenance and repair services required for the safe and orderly operation of the motor vehicles in question, which are used for transport and carriage on highways are again offered to consumers by a network of authorized services set up by providers.

Providers' setting up this network of sales and servicing needed by him in order to be able to offer his products is not welcome due to reasons such as the highness of cost, the success of local undertakings in establishing a relation with consumers, and the sharing of stock expenses with the reseller in particular, and resorting to vertical integration is avoided. Therefore, manufacturers and importers set up their networks of sales and servicing mostly by authorized selling and authorized service agreements concluded by distributors and services with whom/which they do not have links of ownership.

Restrictions of competition which exist in these agreements that are very similar in nature although concluded by resellers of different providers set contrariness to article 4 of the Act on the Protection of Competition No. 4054. Whether horizontal or vertical, the legal consequence faced by all agreements contrary to the Competition Act is invalidity. However, it is doubtless that like many vertical agreements, the ones in the automotive sector also have effects of enhancing efficiency and quality, provided that they bear certain conditions. For this reason, it is

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<sup>1</sup> This Section as to the general grounds has not been published in the Official Gazette.

required to consider the agreements in question under the exemption provided for in article 5 of the Act.

Due to the fact that distribution agreements made in the motor vehicle sector are organized by the network of resale agreements involving similar restrictions, which may be identified as a category, the Block Exemption Communiqué on Motor Vehicle Distribution and Servicing Agreements No. 1998/3 entered into force by having being published in the Official Gazette of April 1, 1998, by the power provided in article 5 of the Act No. 4054. Amendments were envisaged in the notification periods for annulment in the Communiqué No. 1998/3, and the Communiqué concerning an Amendment to the Block Exemption Communiqué on Motor Vehicle Distribution and Servicing Agreements No. 2000/3 entered into force after having been published in the Official Gazette of October 4, 2000.

Despite the fact that the Communiqué No. 1998/3 was a regulation aimed at the motor vehicle sector, it covered certain types of agreements concluded in the sector. Due to the fact that the Communiqué covered only those agreements where distribution and servicing existed together, the other types of agreements in the automotive sector remained outside the scope and providers were not granted another alternative by which they can enjoy block exemption as to determining the distribution system. This situation led to the fact that the efforts for structuring the distribution system flexibly remained outside the scope of block exemption, and rendered the Communiqué a regulation which did not cover new techniques of distribution.

On the other hand, the Communiqué No. 1998/3 envisages a system consisted of the combination of selective and exclusive distribution systems for the distribution of motor vehicles and servicing services. With the provisions of the Communiqué, an automobile manufacturer is able to impose minimum standards on authorized sellers and services in issues such as the technical equipment of the workplace, training of personnel, advertising etc. In accordance with the selective nature of distribution, sales by authorized sellers to unauthorized resellers can be prohibited. And in accordance with the exclusive nature of distribution, authorized sellers can be prohibited from selling actively to outside the regions of the agreement

for purposes of ensuring that they concentrate in the regions of the agreement. Consequently, in the current system, the only competitive pressure faced by the authorized seller emerges as passive sales. This situation necessitated regulations which would increase intra-brand competition.

One of the most fundamental regulations introduced by the Communiqué No. 1998/3 are those regulations aimed at guaranteeing the economic independence of authorized sellers and services. As an example of the regulations in question, one may cite provisions such as preventing the reseller from intervening in the resale price, ensuring that the authorized seller is able to conclude subselling agreements within his own region in the existence of justifiable grounds, signing agreements for at least 5 years in the event of concluding them definitely, and the existence of at least two-year period for notifying an annulment in the event of concluding them indefinitely. And with a view to ensuring multi-branding, the existence of an authorized seller's right was rendered compulsory as to his ability to sell motor vehicles of another brand, provided that it was at separate places of sale, with a separate management and in the form of a separate legal entity. These obligations imposed on authorized sellers and services resulted in the fact that the multi-branding targeted by the Communiqué No. 1998/3 did not take place de facto. Therefore, both the promotion of multi-brand sales and the strengthening of minimum safeguard standards secured in favor of authorized sellers via contract were required.

Another goal among those of the Communiqué No. 1998/3 is to ensure competition in after-sales services. Within this framework, provisions have been introduced, aimed at ensuring that manufacturers of spare parts have access to authorized sellers. Authorized sellers and services were granted the right to be able to use spare parts of matching quality, and so were manufacturers of spare parts to be able to place in a visible manner their brands and logos upon their products sold by them to manufacturers of automobiles. Thanks to such provisions, it is ensured that consumers, authorized sellers and independent repairers can know who manufactured a part, and who may be in the position of a provider of a part besides a manufacturer of motor vehicles. Furthermore, for purposes of granting independent repairers the opportunity of competing with authorized services, the obligation has been introduced that manufacturers would provide independent repairers with the

technical information related to the maintenance and repair of motor vehicles. However, it is seen that a part of these regulations introduced by the Communiqué does not reflect on the practice. That independent repairers behave shyly in having access to the technical information, that manufacturers of spare parts have difficulty in reaching the service network of providers, and that sufficient competition cannot be ensured in after-sales services are in the lead of these situations.

Experiences obtained from the implementation of the Communiqué No. 1998/3 more than 5 years, have indicated, as is summed up above, that some regulations of the Communiqué fall short of attaining the objective for a competitive market, and some of them give rise to inconveniences as regards the practice. In the light of these establishments, it was concluded that a new regulation was needed, which

- allowed providers flexibility in setting up the distribution and servicing network,
- strengthened the position of authorized sellers and services vis-à-vis the provider,
- ensured that manufacturers of spare parts were involved in competition,
- cleared the way for independent repairers to constitute an alternative for consumers by means of facilitating their access to the technical information, equipment and diagnostic devices related to maintenance and repair services.

Taking into account the foregoing statements, the Competition Board decided on the issue of this Communiqué.

**Block Exemption Communiqué on Vertical Agreements and Concerted  
Practices in the Motor Vehicle Sector  
Communiqué No: 2005/4**

**Purpose**

**Article 1-** The purpose of this Communiqué is to determine the conditions of exempting as a block vertical agreements in the motor vehicle sector from the application of the provisions of article 4 of the Act on the Protection of Competition dated 7.12.1994 and numbered 4054.

**Scope**

**Article 2-** In case those vertical agreements which are about the purchase, sale or resale of new motor vehicles, their spare parts or repair and maintenance services contain vertical limitations have been exempted as a block, based on article 5 paragraph three of the Act, from the prohibition in article 4 of the Act, on condition that they comply with the conditions provided in this Communiqué.

Vertical agreements that involve provisions in relation to the transfer of intellectual rights to or use of them by the buyer, together with regulations with regard to the purchase, sale or resale of goods or services, also benefit from the block exemption provided for in this Communiqué, on condition that the intellectual rights in question directly concern the use, sale or resale, by the buyer or his customers, of the goods or services which form the substantial subject of the agreement and that the transfer or use of such intellectual rights does not constitute the essential purpose of the agreement. However, this exemption is applied concerning the goods or services which are the subject of the agreement on condition that provisions in respect of the rights in question do not involve competition limitations which have the same purposes or effects with those vertical agreements not exempted by this Communiqué.

Vertical agreements concluded between competing undertakings in the motor vehicle sector cannot benefit from the exemption granted by this Communiqué. However, exemption is also applied on agreements between competing undertakings, which do not have the condition of reciprocity, and on agreements where

a) the provider is the manufacturer and distributor of goods, whereas the buyer is not the manufacturer but the distributor of the goods competing with the goods which are the subject of the agreement, or

b) the provider operates at various stages of the maintenance and repair business, and the buyer does not provide competing services at the stage where he purchases the maintenance and repair services which are the subject of the agreement.

### **Definitions**

**Article 3-** In terms of the implementation of this Communiqué;

a) Competing undertakings are providers who operate or have the potential to operate in the same product market. The product market covers the goods or services which are the subject of the agreement, and those goods or services considered, in respect of the buyer, to be interchangeable with or substitutable for them as regards the products' characteristics, prices and intended use.

b) Non-compete obligation is any direct or indirect obligation that prevents the buyer from manufacturing, purchasing, selling or reselling goods or services competing with the goods or services which are the subject of the agreement. Furthermore, taking as the basis the purchases of the buyer in the preceding calendar year, any obligation imposed on the buyer directly or indirectly, aimed at purchasing, from the provider or another undertaking to be designated by the provider, more than 30% of the goods or services in the relevant market, which are the subject of the agreement, or of those goods or services which substitute for them, is also considered as a non-compete obligation. As long as the cost of the brand-specific sales staff the distributor employs is not covered by the provider, imposing on the distributor an obligation to employ different sales staff for vehicles of different brands mean, under this Communiqué, a non-compete obligation. An obligation imposed on the distributor for selling the motor vehicles of other providers in different sections of the display area in order to avoid confusion between brands does not mean a non-compete obligation under this Communiqué.

c) Vertical agreements are agreements where two or more undertakings that operate at different levels of the manufacturing or distribution chain are the parties for the purposes of the agreement.

d) Vertical limitations are competition limitations which are included in a vertical agreement and which fall under the scope of Article 4 of the Act.

e) Obligation for exclusive provision is a direct or indirect obligation, aimed at the provider's selling the goods or services which are the subject of the agreement, to only one buyer for use or resale by him.

f) Selective distribution system means a distribution system where the provider undertakes to sell the goods or services which are the subject of the agreement only to the distributors or authorized services directly, and where these distributors or authorized services undertake not to sell the said goods and services to unauthorized distributors and services. However, reserved in this system are the

- right of the authorized services to sell spare parts to independent undertakings,

- obligation of the provider to meet the requests of the independent undertakings to access the technical information, diagnostic devices and other equipments, required software or education which are necessary for the maintenance and repair of motor vehicles.

g) Quantitative selective distribution system is a selective distribution system where the provider, when selecting its distributors or authorized services, uses criteria that directly limit the number of these distributors or authorized services.

h) Qualitative selective distribution system is a system where the provider uses criteria for the distributors or authorized services, which are only qualitative, are required by the nature of the goods or services that are the subject of the agreement, are established and put forward so as to be the same for all candidate undertakings that apply for participation in the distribution system, are not applied in a discriminatory manner, and which do not directly limit the number of the distributors or authorized services.

i) Intellectual rights express all intellectual and industrial rights including the rights of the owner of the work of art and neighboring rights.

j) Buyer is the undertaking in the position of distributor or authorized service, such that the undertaking that sells goods or services on behalf of another undertaking is included.

k) Authorized service is an undertaking which provides maintenance and repair services for motor vehicles within a distribution system established by the provider.

l) Special service is an undertaking which provides maintenance and repair services for motor vehicles without participating in the distribution system established by the provider.

m) Motor vehicle is the one with three or more wheels, intended for use on highways.

n) Automobile is a motor vehicle used for carrying at most eight passengers excluding the driver.

o) Light commercial vehicle is a motor vehicle whose maximum loaded weight does not exceed 3.5 tons and which is used for carrying goods or passengers. In the event that a certain light commercial vehicle has a model sold above 3.5 tons, all models of the said vehicle are also considered to be light commercial vehicles.

p) Spare parts are goods which may be installed upon or in a vehicle in order to replace components of that vehicle, including lubricants required for the use of the motor vehicle, with the exception of fuel.

r) Original spare parts means spare parts which are of the same quality with the components used in the manufacturing or assembly of the said motor vehicle and which are manufactured according to the specifications and standards set by the provider for the parts used in the manufacturing or assembly or for spare parts. Spare parts manufactured on the same manufacturing line with the components of the vehicle are also within this scope. In case it is certified by the manufacturer of the parts that these parts are of the same quality with the components used in the assembly of the said vehicle and are manufactured according to the specifications and manufacturing standards of the manufacturer of the vehicle, they are deemed original spare parts, until the otherwise is proven.

s) Spare parts of matching quality are parts which must be certified by their manufacturer to be of matching quality with the components used in the assembly of a motor vehicle and to be compliant with the obligatory standards required by the legislation, if any.

t) Undertakings within the distribution system are undertakings which are authorized directly by the manufacturer or by another undertaking authorized by the manufacturer for the distribution, maintenance or repair of the goods which are the subject of the agreement, including the manufacturer.

u) Ultimate user is a natural or legal person who purchases the new motor vehicle for own use, including financial leasing companies, unless the agreement

includes a provision for transfer of ownership or an option for purchase of the vehicle by<sup>2</sup> the expiry of the agreement term.

v) Independent undertaking means the undertakings, special services, repair device and equipment manufacturers, independent spare part manufacturers and distributors, technical information publishers, automobile clubs, undertakings that provide road assistance, undertakings that provide testing services and undertakings that provide training, which are engaged, directly or indirectly, in the maintenance and repair of vehicles.

y) Site of unauthorized facility is an address or area where a selective distribution system member establishes a place of sales, warehouse or delivery point in addition to the facility it operates from, without the authorization of the provider.

In terms of the implementation of this Communiqué, undertaking, provider, buyer, distributor and authorized service concepts also include their affiliated undertakings. In the determination of an affiliated undertaking, the relevant provisions of the Communiqué on Mergers and Acquisitions Calling For the Authorization of The Competition Board No. 1997/1 are taken as the basis.

### **General Conditions of Exemption**

**Article 4-** The provisions of the exemption are implemented if the vertical agreement meets the following conditions, and in case the market share of the provider in the relevant market where it provides motor vehicles or spare parts or maintenance and repair services does not exceed 30%, or 40 % for agreements where quantitative selective distribution is preferred for the distribution of motor vehicles. There are no market share thresholds for agreements that create a qualitative distribution system.

For vertical agreements which include an obligation for exclusive provision, the exemption is implemented in case the market share of the buyer in the relevant market where it purchases the goods and services which are the subject of the agreement does not exceed 30%.

Exemption shall apply on condition,

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<sup>2</sup> İlgili metin yazılırken referans alınan orijinal dokümanda “by” ibaresi yerine “prior” ibaresinin geçmesine karşın, ilgili metinde “anlaşma süresinin sonunda” ifadesi yer aldığından, çevirisi buna uygun olarak gerçekleştirilmiştir.

a) that the agreement concluded between the provider and distributor or the authorized service provides that the provider agrees to the transfer of the rights and obligations arising from the vertical agreement to another distributor or authorized service within the distribution system and chosen by the distributor or the authorized service.

b) that the agreement concluded between the provider and distributor or the authorized service obliges that, in order to prevent the provider from terminating the agreement via a notification for annulment because the other party commits behavior which may not be limited under this Communiqué, the provider must give such notification in writing and include detailed and objective reasons for the annulment,

c) that the agreement between the provider and the distributor or the authorized service,

1) is concluded for a minimum of five years and both parties accept to make the notification six months before the due date of the agreement, regarding their request for no renewal, which will be contained in the agreement, or,

2) that the notification period for termination is at least two years for both parties, in case it is concluded for an indefinite period of time; however, this period is reduced to at least one year where the provider is obliged by law or by special agreement to pay appropriate compensation on terminating the agreement or where the provider ends the agreement because it is necessary to re-organize the whole or a substantial part of the network.

However this situation does not affect the Parties' right to terminate the agreement in case the other party does not fulfill one of its main obligations.

The exemption shall apply on condition that the agreement provides for each of the parties the right to refer disputes concerning the fulfillment of their obligations stemming from the agreement to an independent expert or arbitrator, without prejudice to the parties' right to resort to the court. Disputes relating to the matters below can be given as examples for this:

- a) obligation to provide goods and services,
- b) setting or attainment of sales targets,
- c) whether the obligation of stock carriage is fulfilled,
- d) whether the obligation to provide or use demonstration vehicles is fulfilled,

- e) the conditions put forward by the provider as regards the sale of different brands,
- f) whether the prevention to operate within a site of unauthorized facility limits the ability of the distributor of motor vehicles other than automobiles or light commercial vehicles to expand its business,
- g) whether the reasons indicated in the notification for the annulment of an agreement justifies the annulment of the agreement.

### **Limitations Which Exclude Agreements from the Scope of Group Exemption**

**Article 5-** The exemption provided for within the framework of this Communiqué shall not apply to vertical agreements which, in combination or in isolation with other factors under the control of the parties, directly or indirectly, have as their objective:

- a) the restriction of the distributor's or authorized service's ability to determine its sale price. However the provider is able to impose a maximum or recommended sale price, provided that this does not amount to a minimum or fixed price as a result of pressure from or incentive offered by any of the parties,
- b) introduction of the restriction on the territory into which, or of the customers to whom, the distributor or authorized seller may sell goods or services that are subject of the agreement, apart from the below cases;
  - 1) the restriction of the active sales by the provider into an exclusive territory or an exclusive customer group allocated to itself or to another distributor, provided that it does not cover the sales to be made by the customers of the distributor or the authorized service,
  - 2) the restriction of sales to end users by a distributor operating at the wholesaler level,
  - 3) the restriction of sales of new motor vehicles and spare parts to unauthorized distributors by the members of a selective distribution system in markets where selective distribution system is applied, provided that it does not cover the sales to be made by the customers of the distributor or the authorized service,

- 4) the restriction of the buyer's ability to sell components, provided for the purposes of assembling, to customers who aim to use them to manufacture the same type of goods as those manufactured by the provider,
- c) the prevention of exchange among the system members themselves in the selective distribution system,
- d) the restriction of active or passive sales of new automobiles or light commercial vehicles, spare parts for any motor vehicle or maintenance and repair services to end users by members of a selective distribution system operating at the retailer level in markets where selective distribution is used. The exemption shall also apply to agreements containing a prohibition on a member of a selective distribution system from operating within a site of unauthorized facility. However, the application of the exemption to such a prohibition is subject to Article 6, Paragraph 2, Subparagraph (b);
- e) the restriction of active or passive sales of motor vehicles other than automobiles or light commercial vehicles to end users by members of a selective distribution system operating at the retailer level in markets where selective distribution is used. However, the right of the provider to prohibit a member of the selective distribution system from operating within a site of unauthorized facility is reserved.
- f) the restriction of the distributor's right to subcontract its obligations related to maintenance and repair services to authorized services. However the provider may oblige the distributor to give end users the name and address of the authorized service or services in question before the conclusion of a sales agreement, in addition, if any of these authorized services is not in the vicinity of the sales outlet, to also tell end users how far it is. Such an obligation may only be imposed provided that similar conditions are imposed on distributors whose maintenance and repair shops are not on the same premises as their sales outlets;
- g) the restriction of the authorized service's ability to limit its activities to the provision of maintenance and repair services and the distribution of spare parts;
- h) the restriction of the sales of spare parts for motor vehicles by members of a selective distribution system to special services which are to use these parts for the maintenance and repair of motor vehicles;

i) introduction of a restriction, through the agreement concluded between a provider of original spare parts or spare parts of matching quality, repair equipment or diagnostic devices or other type of equipment and a manufacturer of motor vehicles, on the provider's ability to sell these goods or services to any authorized or independent distributor, independent undertaking or end user;

j) prevention of a distributor's or authorized service's ability to purchase original spare parts or spare parts of matching quality from a third undertaking of its choice and to use them for the maintenance and repair of motor vehicles. However, a motor vehicle provider may oblige the use of original components provided by it for repairs carried out under warranty, free maintenance and vehicle recall work.

k) introduction of restrictions such as those preventing the ability of the provider of spare parts to place its trade mark or logo effectively and in an easily visible manner on the components supplied, through the agreement concluded between a motor vehicle manufacturer and the provider of spare parts which it uses in the manufacturing of motor vehicles,

The exemption provided for by this Communiqué shall not apply where the manufacturer of motor vehicles prevents the access of independent undertakings to any technical information, diagnostic devices and other type of equipment, necessary software, or training required for the maintenance and repair of motor vehicles or for the implementation of environmental protection measures.

Such access must include in particular the unrestricted use of the electronic control and diagnostic systems of a motor vehicle, the programming of these devices in accordance with the provider's standard procedures, the repair and maintenance instructions and the information required for the use of diagnostic devices and servicing tools and equipment.

Access for independent undertakings should be given precisely and appropriately without any discrimination and information should be provided in a usable form. If the relevant item is within the scope of an intellectual property right or constitutes know-how, access should not be withheld in any abusive manner.

## **Specific Conditions**

**Article 6-** With regard to the sale, maintenance and repair services or spare parts of new motor vehicles, exemption shall not apply to the following provisions included in vertical agreements:

- a) Any direct or indirect non-compete obligation,
- b) Any direct or indirect obligation preventing members of a distribution system from selling motor vehicles or their spare parts provided by competing providers or from providing maintenance and repair services to those motor vehicles,
- c) Any direct or indirect obligation, which causes the distributor or authorized repairer not to manufacture, buy, sell, resell motor vehicles or not to provide repair and maintenance services, after the agreement is terminated.

As regards the sale of new motor vehicles, the exemption shall not apply to the following obligations included in vertical agreements:

- a) Direct or indirect obligation causing the retailer not to provide leasing services relating to contract goods
- b) Any direct or indirect obligation on any distributor of light commercial vehicles or automobiles within a selective distribution system, which prevents opening sales or delivery outlets at other regions where selective distribution is applied.

With regard to maintenance and repair services or the sale of spare parts, the exemption shall not apply to any direct or indirect obligation related to the place of establishment of an authorized repairer where selected distribution is practiced.

## **Withdrawal of the Exemption**

**Article 7-** The Competition Board might withdraw the exemption pursuant to Article 13 of the Act, where it finds that any agreement provided an exemption with this Communiqué is established to have effects incompatible with the conditions regulated in Article 5 of the Act. In this circumstance, the Competition Board shall request the parties' opinion in written and/or oral form before giving the final decision.

In cases where parallel networks formed by similar vertical restrictions enclose an important part of the related market, the Competition Board, through issuing a communiqué, might exclude agreements that include restrictions in the related

market from this Communiqué. Such Communiqué shall be in effect within one year beginning from the date of issue at the earliest.

### **Calculating the Market Share**

**Article 8-** Market share in this Communiqué shall be calculated on

- a) For the distribution of new motor vehicles on the basis of the volume of contract goods sold by the provider together with any other goods sold by the provider which are regarded as substitutable by the buyer in terms of the products' characteristics, prices and intended use.
- b) For the distribution of spare parts on the basis of the value of contract goods together with any other goods sold by the provider which are regarded as substitutable by the buyer in terms of the products' characteristics, prices and intended use.
- c) For the provision of repair and maintenance services on the basis of the value of the contract services sold by the members of the provider's distribution together with any other services sold by these members which are regarded as substitutable by the buyer in terms of their characteristics, prices and intended use.

If the number data required for those calculations are not available, value data may be used or vice versa. If such information is not available, estimations based on reliable market data may be used. With regard to the implementation of paragraph two of Article 4, the market purchase volume or the market purchase value respectively, if they are not available, reliable estimations might be used for the calculation of market share.

For the implementation of market share thresholds of 40% and 50% which exist in this Communiqué, the following rules shall apply:

- a) The market share shall be calculated on the basis of the data for the preceding year.
- b) The market share shall include goods and services provided to integrated sellers for the purpose of sale.
- c) If the market share is initially not more than 30% and 40% respectively but subsequently rises above that level without exceeding 35% and 45% respectively, the exemption shall continue

to apply for two consecutive years following the year in which the market share threshold was first exceeded.

- d) If the market share is initially not more than 30% and 40% respectively but subsequently rises above 35% or 45% respectively, the exemption shall continue to apply one year following the year in which the market share threshold was first exceeded.
- e) The rights provided by sub-paragraphs (c) and (d) shall not be combined so as to exceed two years.

### **Implementation of the Communiqué to Concerted Practices**

**Article 9-** This Communiqué shall apply to concerted practices between undertakings that fall under Article 2.

### **Legislation Abolished**

**Article 10-** The Communiqué No. 2000/3 and the Communiqué No.1998/3 on Block Exemption Regarding Distribution and Servicing Agreements in Relation to Motor Vehicles shall be abolished as soon as this Communiqué enters into force.

**Temporary Article 1-** In order for agreements which benefit from block exemption secured by the Communiqué No. 1998/3 but which do not bear the conditions provided for in this Communiqué for benefiting from block exemption on the date of entry into force of this Communiqué to be able to benefit from exemption granted by this Communiqué, they should be amended such that they meet the conditions provided for by this Communiqué within one year following the date of entry into force of this Communiqué. The prohibition provided for in article 4 of the Act No. 4054 shall not apply to the agreements referred to within this period of time.

**Temporary Article 2-** Agreements concluded before the effective date of this Communiqué which are still in effect and which bear the conditions regulated in this Communiqué fall under this Communiqué.

**Temporary Article 3-** Agreements within the scope of the Communiqué No. 2002/2 instead of the Communiqué No. 1998/3 in spite of being vertical agreements on distribution, repair and maintenance and spare part sale of automobiles, shall be evaluated within the scope of Article 2 of this Communiqué. Compatibility of such agreements shall be realized in accordance with the abovementioned Temporary Article 1.

**Entry into Force**

**Article 11-** This Communiqué shall enter into force on January 1, 2006.

**Execution**

**Article 12-** This Communiqué shall be executed by the President of the Competition Authority.