

and unless

a) the buyer has a total annual turnover not exceeding HUF 26 billion, or

b) the supplier is a manufacturer and a distributor of goods, while the buyer is a distributor not manufacturing goods competing with the contract goods, or

c) the supplier is a provider of services at several levels of trade, while the buyer does not provide competing services at the level of trade where it purchases the contract services.

General conditions

Article 2

3(1) (1) In addition to Sections (2)-(6), the exemption shall apply on condition that the supplier's market share on the relevant market on which it sells the new motor vehicles, spare parts for motor vehicles or repair and maintenance services does not exceed 30 %. The market share threshold for the application of the exemption shall be 40 % for agreements establishing quantitative selective distribution systems for the sale of new motor vehicles. Those thresholds shall not apply to agreements establishing qualitative selective distribution systems.

3(2) (2) In the case of vertical agreements containing exclusive supply obligations, the exemption shall apply on condition that the market share held by the buyer does not exceed 30 % of the relevant market on which it purchases the contract goods or services.

3(3) (3) The exemption shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that the supplier agrees to the transfer of the rights and obligations resulting from the vertical agreement to another distributor or repairer within the distribution system and chosen by the former distributor or repairer.

3(4) (4) The exemption shall apply on condition that the vertical agreement concluded with a distributor or repairer provides that a supplier who wishes to give notice of termination of an agreement must give such notice in writing and must include detailed, objective and transparent reasons for the termination, in order to prevent a supplier from ending a vertical agreement with a distributor or repairer because of practices which may not be restricted under this Regulation.

3(5) (5) The exemption shall apply on condition that the vertical agreement concluded by the supplier of new motor vehicles with a distributor or authorised repairer provides

a) that the agreement is concluded for a period of at least five years; in this case each party has to undertake to give the other party at least six months' prior notice of its intention not to renew the agreement; or

<p>3(6), first sentence</p>	<p>b) that the agreement is concluded for an indefinite period; in this case the period of notice for regular termination of the agreement has to be at least two years for both parties; this period is reduced to at least one year where</p> <p>ba) the supplier is obliged by law or by special agreement to pay appropriate compensation on termination of the agreement, or</p> <p>bb) the supplier terminates the agreement as it is necessary to re-organise the whole or a substantial part of its network.</p> <p>(6) The exemption shall apply on condition that the vertical agreement provides for each of the parties the right to refer disputes concerning the fulfilment of their contractual obligations to an independent expert or arbitrator. The parties may provide that, in addition to these methods of dispute settlement, each of the parties is free to submit the dispute to a court.</p>
	<p style="text-align: center;"><i>Hardcore restrictions</i></p> <p style="text-align: center;">Article 3</p>
<p>4(1), point a)</p>	<p>(1) The exemption shall not apply to vertical agreements which, where they relate to the sale of new motor vehicles, repair and maintenance services or spare parts, directly or indirectly, in isolation or in combination with other factors under the control of the parties, have as their object</p> <p>a) the restriction of the distributor's or repairer's ability to determine its sale price, without prejudice to the supplier's ability to impose a maximum sale price or to recommend a sale price, provided that this does not amount to a fixed or minimum sale price as a result of pressure from, or incentives offered by, any of the parties;</p>
<p>4(1), point b)</p>	<p>b) the restriction of the territory into which, or of the customers to whom, the distributor or repairer may sell the contract goods or services; however, the exemption shall apply to</p> <p>ba) the restriction of active sales into the exclusive territory or to an exclusive customer group preserved to the supplier or allocated by the supplier to another distributor or repairer, where such a restriction does not limit sales by the customers of the distributor or repairer,</p> <p>bb) the restriction of sales to end users by a distributor operating at the wholesale level of trade,</p> <p>bc) the restriction of sales of new motor vehicles and spare parts to unauthorised distributors by the members of a selective distribution system in markets where selective distribution is applied, subject to the provisions of point ba),</p>

4(1), point c)	<p>bd) the restriction of the buyer's ability to sell components, supplied for the purposes of incorporation, to customers who would use them to manufacture the same type of goods as those produced by the supplier;</p> <p>c) the restriction of cross-supplies between distributors or repairers within a selective distribution system, including between distributors or repairers operating at different levels of trade;</p>
4(1), point d)	<p>d) the restriction of active or passive sales of new passenger cars or light commercial vehicles, spare parts for any motor vehicle or repair and maintenance services for any motor vehicle to end users by members of a selective distribution system operating at the retail level of trade in markets where selective distribution is used. The exemption shall apply to agreements containing a prohibition on a member of a selective distribution system from operating out of an unauthorised place of establishment unless the exemption of such agreements is excluded by point b) of Article 4(2);</p>
4(1), point e)	<p>e) the restriction of active or passive sales of new motor vehicles other than passenger cars or light commercial vehicles to end users by members of a selective distribution system operating at the retail level of trade in markets where selective distribution is used, without prejudice to the ability of the supplier to prohibit a member of that system from operating out of an unauthorised place of establishment.</p>
	<p>(2) The exemption shall not apply to vertical agreements which, where they relate to the sale of new motor vehicles, directly or indirectly, in isolation or in combination with other factors under the control of the parties, have as their object</p>
4(1), point f)	<p>a) the restriction of the distributor's ability to sell any new motor vehicle which corresponds to a model within its contract range;</p>
4(1), point g)	<p>b) the restriction of the distributor's ability to subcontract the provision of repair and maintenance services to authorised repairers, without prejudice to the ability of the supplier to require the distributor to give end users the name and address of the authorised repairer or repairers in question before the conclusion of a sales contract and, if any of these authorised repairers is not in the vicinity of the sales outlet, to also tell end users how far the repair shop or repair shops in question are from the sales outlet; however, such obligations may only be imposed provided that similar obligations are imposed on distributors whose repair shop is not on the same premises as their sales outlet;</p>
	<p>(3) The exemption shall not apply to vertical agreements which, where they relate to the sale of repair and maintenance services and of spare parts, directly or indirectly, in isolation or in combination with other factors under the control of the parties, have as their object</p>
4(1), point h)	<p>a) the restriction of the authorised repairer's ability to limit its activities to the provision of repair and maintenance services and the distribution of spare parts;</p>

4(1), point i)	b) the restriction of the sales of spare parts for motor vehicles by members of a selective distribution system to independent repairers which use these parts for the repair and maintenance of a motor vehicle;
4(1), point j)	c) the restriction agreed between a supplier of original spare parts or spare parts of matching quality, repair tools or diagnostic or other equipment and a manufacturer of motor vehicles, which limits the supplier's ability to sell these goods or services to authorised or independent distributors or to authorised or independent repairers or end users;
4(1), point k)	d) the restriction of a distributor's or authorised repairer's ability to obtain original spare parts or spare parts of matching quality from a third undertaking of its choice and to use them for the repair or maintenance of motor vehicles, without prejudice to the ability of a supplier of new motor vehicles to require the use of original spare parts supplied by it for repairs carried out under warranty, free servicing and vehicle recall work;
4(1), point l)	e) the restriction agreed between a manufacturer of motor vehicles which uses components for the initial assembly of motor vehicles and the supplier of such components which limits the latter's ability to place its trade mark or logo effectively and in an easily visible manner on the components supplied or on spare parts.
4(2), Subsec- tion 1	(4) The exemption shall not apply where the supplier of motor vehicles refuses to give independent operators access to any technical information, including any relevant software and training, diagnostic and other equipment, and tools required for the repair and maintenance of these 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 systems in accordance with the supplier's standard procedures, the repair and training instructions and the information required for the use of diagnostic and servicing tools and equipment. It is, however, legitimate and proper for the supplier of motor vehicles to withhold access to technical information which might allow a third party to bypass or disarm on-board anti-theft devices, to recalibrate electronic devices or to tamper with devices which for instance limit the speed of a motor vehicle, unless protection against theft, re-calibration or tampering can be attained by other less restrictive means. Access must be given to independent operators in a non-discriminatory, prompt and proportionate way, and the information must be provided in a usable form. If the relevant item is covered by an intellectual property right or constitutes know-how, access shall not be withheld in any abusive manner.
4(2), Subsec- tion 2	
(26), fifth sentence	
4(2), Subsec- tion 3	
4(2), Subsec- tion 4	(5) For the purposes of Section (4) „independent operator” shall mean undertakings which are directly or indirectly involved in the repair and maintenance of motor vehicles, in particular independent repairers, manufacturers of repair equipment or tools, independent distributors of spare parts, publishers of technical information, automobile clubs, roadside assistance operators, operators offering inspection and testing services and operators offering training for repairers.

	<p style="text-align: center;"><i>Specific conditions</i></p> <p style="text-align: center;">Article 4</p> <p>5(1) (1) As regards the sale of new motor vehicles, repair and maintenance services or spare parts, the exemption shall not apply to any of the following obligations contained in vertical agreements:</p> <p style="padding-left: 40px;">a) any direct or indirect non-compete obligation;</p> <p style="padding-left: 40px;">b) any direct or indirect obligation limiting the ability of an authorised repairer to provide repair and maintenance services for vehicles from competing suppliers;</p> <p style="padding-left: 40px;">c) any direct or indirect obligation causing the members of a distribution system not to sell motor vehicles or spare parts of particular competing suppliers or not to provide repair and maintenance services for motor vehicles of particular competing suppliers;</p> <p style="padding-left: 40px;">d) any direct or indirect obligation causing the distributor or authorised repairer, after termination of the agreement, not to manufacture, purchase, sell or resell motor vehicles or not to provide repair or maintenance services.</p> <p>5(2) (2) As regards the sale of new motor vehicles, the exemption shall not apply to any of the following obligations contained in vertical agreements:</p> <p style="padding-left: 40px;">a) any direct or indirect obligation causing the retailer not to sell leasing services relating to contract goods or corresponding goods;</p> <p style="padding-left: 40px;">b) any direct or indirect obligation on any distributor of passenger cars or light commercial vehicles within a selective distribution system, which limits its ability to establish additional sales or delivery outlets at other locations where selective distribution is applied. The supplier may require additional sales or delivery outlets for passenger cars and light commercial vehicles (or additional repair shops) to comply with the relevant qualitative criteria applicable for similar outlets located in the same geographic area.</p> <p>(29), last sentence</p> <p>5(3) (3) As regards repair and maintenance services or the sale of spare parts, the exemption shall not apply to any direct or indirect obligation as to the place of establishment of an authorised repairer where selective distribution is applied.</p> <p style="text-align: center;"><i>Market share calculation</i></p> <p style="text-align: center;">Article 5</p> <p>8(1), Subsec-</p> <p>(1) The market shares provided for in this Regulation shall be calculated</p>
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<p>tion 1</p>	<p>a) for the distribution of new motor vehicles on the basis of the volume of the contract goods and corresponding goods sold by the supplier, together with any other goods sold by the supplier which are regarded as interchangeable or substitutable by the buyer, by reason of the products' characteristics, prices and intended use;</p> <p>b) for the distribution of spare parts on the basis of the value of the contract goods and other goods sold by the supplier, together with any other goods sold by the supplier which are regarded as interchangeable or substitutable by the buyer, by reason of the products' characteristics, prices and intended use;</p> <p>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 supplier's distribution network together with any other services sold by these members which are regarded as interchangeable or substitutable by the buyer, by reason of their characteristics, prices and intended use.</p>
<p>8(1), Subsec- tion 2</p>	<p>(2) If the volume data required for those calculations are not available, value data may be used or vice versa. If such information is not available, estimates based on other reliable market information may be used. For the purposes of Article 2(2), the market purchase volume or the market purchase value respectively, or estimates thereof shall be used to calculate the market share.</p> <p>(3) For the purposes of applying the market share thresholds of 30 % and 40 % provided for in this Regulation the following rules shall apply:</p>
<p>8(2), point a)</p>	<p>a) the market share shall be calculated on the basis of data relating to the preceding calendar year;</p>
<p>8(2), point b)</p>	<p>b) the market share shall include any goods or services supplied to integrated distributors for the purposes of sale;</p> <p>c) where the market share exceeds, after the agreement entered into force, the level determined in Article 2(1), the provisions of Article 1 shall continue to apply to the agreement until 30 June of the subsequent calendar year.</p>
<p>9</p>	<p style="text-align: center;"><i>Turnover calculation</i></p> <p style="text-align: center;">Article 6</p> <p>(1) For the purposes of calculating total annual turnover figures referred to in point a) of Article 1(2) and in point a) of Article 1(3) respectively, the turnover achieved during the previous year by the relevant party to the vertical agreement and the turnover achieved by its connected undertakings in respect of all goods and services, excluding all taxes and other duties, shall be added together. For this purpose, no account shall be taken of dealings between the party to the vertical agreement and its connected undertakings or between its connected undertakings.</p>

(2) The exemption shall remain applicable where, for any period of two consecutive financial years, the total annual turnover threshold is exceeded by no more than 10 %.

Definitions ****

Article 7

(1) For the purposes of the present Regulation:

1(1),
point t)

a) „original spare parts” means spare parts which are of the same quality as the components used for the assembly of a motor vehicle and which are manufactured according to the specifications and production standards provided by the vehicle manufacturer for the production of components or spare parts for the motor vehicle in question. This includes spare parts which are manufactured on the same production line as these components. It is presumed, unless the contrary is proven, that parts constitute original spare parts if the part manufacturer certifies that the parts match the quality of the components used for the assembly of the vehicle in question and have been manufactured according to the specifications and production standards of the vehicle manufacturer;

1(1),
point v)

b) „undertakings within the distribution system” means the manufacturer and undertakings which are entrusted by the manufacturer or with the manufacturer’s consent with the distribution or repair or maintenance of contract goods or corresponding goods;

1(1),
point m)

c) „independent repairer” means a provider of repair and maintenance services for motor vehicles not operating within the distribution system set up by the supplier of the motor vehicles for which it provides repair or maintenance. An authorised repairer within the distribution system of a given supplier shall be deemed to be an independent repairer for the purposes of this Regulation to the extent that he provides repair or maintenance services for motor vehicles in respect of which he is not a member of the respective supplier’s distribution system;

1(1),
point n)

d) „motor vehicle” means a self propelled vehicle intended for use on public roads and having three or more road wheels;

e) „connected undertakings” means undertakings connected with the parties to the agreement pursuant to Article 26 (3) of the PURA;

1(1),
point e)

f) „exclusive supply obligation” means any direct or indirect obligation causing the supplier to sell the contract goods or services only to one buyer in the territory defined in the agreement for the purposes of a specific use or for resale;
g) „know-how” means knowledge and experience as provided for by Article 86 (4) of Act IV of 1959 on the Civil Code of the Republic of Hungary;

1(1), point p)	h) „light commercial vehicle” means a motor vehicle intended for the transport of goods or passengers with a maximum mass not exceeding 3,5 tonnes; if a certain light commercial vehicle is also sold in a version with a maximum mass above 3,5 tonnes, all versions of that vehicle are considered to be light commercial vehicles;
1(1), point g)	i) „quantitative selective distribution system” means a selective distribution system where the supplier uses criteria for the selection of distributors or repairers which directly limit their number;
1(1), point h)	j) „qualitative selective distribution system” means a selective distribution system where the supplier uses criteria for the selection of distributors or repairers which are only qualitative in nature, are required by the nature of the contract goods or services, are laid down uniformly for all distributors or repairers applying to join the distribution system, are not applied in a discriminatory manner, and do not directly limit the number of distributors or repairers;
1(1), point s)	k) „spare parts” means goods which are to be installed in or upon a motor vehicle so as to replace components of that vehicle, including goods such as lubricants which are necessary for the use of a motor vehicle, with the exception of fuel;
1(1), point f)	l) „selective distribution system” means a distribution system where the supplier undertakes to sell the contract goods or services, either directly or indirectly, only to distributors or repairers selected on the basis of specified criteria and where these distributors or repairers undertake not to sell such goods or services to unauthorised distributors or independent repairers, without prejudice to the ability to sell spare parts to independent repairers or the obligation to provide independent operators with all technical information, diagnostic equipment, tools and training required for the repair and maintenance of motor vehicles or for the implementation of environmental protection measures;
1(1), point o)	m) „passenger car” means a motor vehicle intended for the carriage of passengers and comprising no more than eight seats in addition to the driver’s seat;
1(1), point q)	n) the „contract range” means all the different models of motor vehicles available for purchase by the distributor from the supplier;
1(1), point r)	o) a „motor vehicle which corresponds to a model within the contract range” means a vehicle which is the subject of a distribution agreement with another undertaking within the distribution system set up by the manufacturer or with his consent and which is identical as to body style, drive-line, chassis, and type of motor to a vehicle within the contract range and which is manufactured or assembled in volume by the manufacturer;
1(1), point l)	p) „authorised repairer” means a provider of repair and maintenance services for motor vehicles operating within the distribution system set up by a supplier of

	motor vehicles;
1(1), point u)	q) „spare parts of matching quality” means exclusively spare parts made by any undertaking which can certify at any moment that the parts in question match the quality of the components which are or were used for the assembly of the motor vehicles in question;
1(1), point w)	r) „end user” includes leasing companies unless the leasing contracts used provide for a transfer of ownership or an option to purchase the vehicle prior to the expiry of the contract;
1(1), point a)	s) „competing undertakings” means actual or potential suppliers on the same product market; the product market includes goods or services which are regarded by the buyer as interchangeable with or substitutable for the contract goods or services, by reason of the products’ characteristics, their prices and their intended use;
1(1), point b)	t) „non-compete obligation” means any direct or indirect obligation causing the buyer not to manufacture, purchase, sell or resell goods or services which compete with the contract goods or services, or any direct or indirect obligation on the buyer to purchase from the supplier or from another undertaking designated by the supplier more than 30 % of the buyer’s total purchases of the contract goods and services and their substitutes on the relevant market, calculated on the basis of the value of its purchases in the preceding calendar year. An obligation that the distributor sell motor vehicles from other suppliers in separate areas of the showroom in order to avoid confusion between the makes does not constitute a non-compete obligation for the purposes of this Regulation. An obligation that the distributor have brand-specific sales personnel for different brands of motor vehicles constitutes a noncompete obligation for the purposes of this Regulation, unless the distributor decides to have brand-specific sales personnel and the supplier pays all the additional costs involved;
1(1), point d)	u) „vertical restraints” means restrictions of competition falling within the scope of Article 11 of the PURA, when such restrictions are contained in a vertical agreement;
1(1), point c)	v) „vertical agreements” means agreements or concerted practices entered into by two or more undertakings, each of which operates, for the purposes of the agreement, at a different level of the production or distribution chain;
1(1), point k)	w) „buyer” means a distributor or repairer including an undertaking which sells goods or services on behalf of another undertaking.
1(2), Subsection 1	(2) For the purposes of the present Regulation the terms „undertaking”, „supplier”, „buyer”, „distributor”, „integrated distributor” and ‘repairer’ shall include their respective connected undertakings.

12(2)	<p><i>Withdrawal of the benefit of the exemption</i></p> <p>Article 8</p> <p>In respect of particular agreements which are exempted under this Regulation, the Gazdasági Versenyhivatal may establish pursuant to Article 16/A. of the PURA that the benefit of the group exemption does not apply to such an agreement.</p> <p><i>Closing provisions</i></p> <p>Article 9</p> <p>(1) This Regulation shall enter into force on 1 May 2004, its provisions shall be applied to agreements concluded after that date. Point b) of Article 4(2) shall apply from 1 October 2005.</p> <p>(2) Agreements concluded before the date of entry into force of this Regulation which are exempted under Regulation 247/1997. (XII. 20.) Korm. but which do not satisfy the provisions of this Regulation shall be exempted until 31 October 2004 from the prohibition of agreements restricting economic competition (laid down in Article 11 of the PURA).</p> <p>(3) With the entry into force of this Regulation Regulation 247/1997. (XII. 20.) Korm. on the exemption from the prohibition on restriction of competition of certain groups of motor vehicle distribution and servicing agreements and Article 1(5) of Regulation 246/2000. (XII. 24.) Korm. on the amendment of certain Government Regulations adopted for the implementation of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices are repealed.</p>
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