Embedding the market during times of crisis: the European automobile cartel during a decade of crisis (1973–1985)

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ABSTRACT
The crisis of the long 1970s marked a structural transformation of the European automobile industry. It shifted from national oligopolies to supranational oligopoly coordinated by European institutions. This article presents this historical transition by looking at competition law as the key regulation for politically governing a European market of automobiles. In particular, it reconstructs the central role played by the European Commission in creating a legal exemption from the general rules of competition through a specific regulation (123/1985), which for a decade limited competition in automobile distribution between multinationals at the expense of distributors and consumers.

Introduction
The oil crisis of 1973 is often considered a turning point in the history of the European automobile industry. The increase in oil prices had a direct impact on the demand for automobiles and, as a consequence, on the continued development of these markets following the economic boom of the post-war golden age. As late as 1977, business historians and academics writing about the long history of the automotive industry still doubted that the change would be structural. Rather, it was perceived as just a temporary interruption to be quickly overcome by this oligopolistic industry, which was believed to have become a victim of its own success. Whatever the case, for these researchers, the future of the automobile industry could no longer be secured solely through the strategies of companies and the preferences of consumers. Instead, it increasingly required public policies, given the political centrality that the automotive branch had attained as an industrial sector, which affected the whole of the economy and society.

In March 1977, the same questions about the nature of the automobile crisis were discussed in the offices of the economic studies unit of Finmeccanica, a key public financial holding in charge of managing the interests in the metallurgy sector of the Italian Institute
for Industrial Reconstruction (IRI). These questions were of strategic importance, as IRI owned Alfa Romeo, one of the smallest players in the worldwide automotive industry, and a domestic rival of Fiat, one of the largest multinational companies in the industrial sector.\(^2\) Bringing together various economic predictions about the future of the world automotive industry (Business International Corporation, Euro Economics and Economist Intelligence Unit), this internal report was very clear that the on-going changes were structural with regard to both supply and demand. It was structural on the supply side because the crisis accentuated a previous decline in the profitability of the automotive industry, owing to the growing of labour costs for all of the larger companies, in particular European companies. On the demand side, the increase on raw material prices affected primarily the demand for popular and cheaper cars, whereas the more expensive vehicles and those for business purposes were less affected. The report pointed out a central feature of the first years of the crisis: although there had been an important reduction in sales volume (average of \(-12.2\%\) in 1976), this did not translate into a fall in turnover figures, which remained fairly stable \((-1.1\%)\). The reason for this mystery was explained by the oligopolistic structure of the sector, where price policies were organised by those firms playing the role of price setters and then followed by the price takers. The whole sector feared that a crisis of overproduction was coming, which would drive increasing concentration in the industry. At the time only 11 companies were responsible for 90\% of world production, consisting of the Big Three from the US (Ford, General Motors and Chrysler), six European automobile firms (Fiat, Renault, Peugeot-Citroën, British Leyland, Volkswagen, Daimler Benz) and two Japanese (Toyota and Nissan). The remaining companies (Volvo and Alfa Romeo in Europe, Honda and Suzuki in Japan and American Motors in the US) were small in size, and their capacity to survive depended on the commercial strategy of the large manufacturers.\(^3\)

The idea of forming an oligopoly of European automobile producers in the context of the crisis of the 1970s seems to be confirmed by the most recent research in this field. The European Golden Age dominated by Keynesian demand-led growth and the expansion of Fordism had shown signs of exhaustion before the first Oil Shock of 1973.\(^4\) With regard to demand, automobiles had progressively shifted from equipping households with their first car to being replacements of these old models, increasing the demand for diversity and the multiplication of segments for multi-brand producers.\(^5\) On the supply side, there had been, on the one hand, shop-floor contestation of Fordist methods, leading to a wave of strikes that resulted in increased wages and a reduction of profit margins.\(^6\) On the other hand, there was a proliferation across Europe of production models, which were suffering from a comparative disadvantage to alternative models developed in Japan.\(^7\) With lower production costs and more efficient organisation, the fuel-efficient compact Japanese models were aggressively exported all over the world, including in Europe.\(^8\) This endangered the delicate equilibrium in the European market and led to the creation of a European association of automobile multinationals, the Committee of Common Market Automobile Constructors (CCMC), in 1972. Its original aim was to forge common technical standards for safety and pollution and, later, to coordinate its members’ political activities in trying to block access to the Common Market for Japanese automobiles.\(^9\) By 1981, Japanese automobiles were achieving an average of 7\% of annual sales in the domestic markets of the major European manufacturing countries, which had agreed during the 1970s to bilateral voluntary export restrictions with Japan. In those European countries without domestic manufacturers average penetration had reached around 23\%, at which point an informal agreement was agreed
for a European Voluntary Export Restriction between the EEC and Japan. This in turn led to Japanese companies deciding to overcome the new obstacles through foreign direct investment in Britain, which was considered the most vulnerable of all the European markets.

Based on the private archives of various automobile manufacturers, this article provides a detailed analysis of the ways in which European competition policy was used in this oligopolistic sector during the long structural crisis of the 1970s. It was during this period that the European Communities’ practice of using competition rules to govern the existence of cartels for large sectors emerged as part of an incipient practice of industrial policy in various sectors. Such a practice has been thoroughly analysed in the case of the steel sector prior to this period but not in other industrial sectors like the automotive industry. This analysis of a whole industrial sector is of central importance because the competition laws that applied to steel were derived from the 1951 Treaty of Paris that created the European Coal and Steel Community (ECSC) and not the 1957 Treaty of Rome which set up the European Economic Community (EEC), and which applied to all other industrial sectors.

The articles related to competition in the Treaty of Rome for the first time provided the possibility of applying common competition rules to the major continental economies, some of which had not previously had legal regulations in this field, such as Italy or Belgium, or had recently created ones, as was the case for Germany, France and the Netherlands. The articles on competition were flexible enough to accommodate this variety of national situations but the aim of the signatories of the Treaty was to constitute a common market where public barriers would not be replaced with private collusion. The six EEC member states agreed to the governance of the system set out in Council Regulation (17/62), which delineated the role to be played by each institution while rejecting the idea of creating an independent authority. In this regulation, the European Commission would be the political and administrative institution monitoring and deciding exclusively about how to govern competition in the newly emerging common market. Its decisions would be monitored and subject to the legal authority of the European Court of Justice of the European Communities (ECJ). At a practical level, the Council regulation made compulsory notifications of existing and future cartels between undertakings. The consequence was that the European Commission was flooded with individual notifications, which were not all actually in force, and therefore, it obtained permission from the Council in 1965 to issue block exemptions for certain types of agreements (19/65), including vertical cartels like the distribution agreements relating to the automobile industry.

The article illustrates this point by examining the case of the block exemption of selective distribution agreements between automobile multinationals and their dealers. The central argument explains the creation of a tolerated, implicit oligopoly that maintained price differences through limited competition between the cars of the same brand sold in different countries of the EEC (intra-brand competition). This ban on these parallel exports also resulted in a reduction of the level of inter-brand competition between models of the same type from different manufacturers. That such a limitation of parallel trade was occurring within the Common Market and clearly impacting upon consumers was acknowledged by various official enquiries at that time. The economic literature did not originally include vertical distribution cartels as one crucial institutional cause explaining the existence of a European oligopoly in this sector. Economists had explained strong price differentials between the same cars in various countries by emphasising cost differences, import quota
restraints with the Japanese, and most importantly for our argument, the strong national market power (in particular in Italy, the UK, France and Germany) of market leaders. Only from the 1990s onward was an oligopoly model of pricing behaviour applied to the European automobile industry. Its author concluded that there were serious incidences of collusion in the German and British markets, possibly explained by the distribution system.\textsuperscript{17}

This is the first article to document such implicit collusive behaviours in both markets using the internal papers of automotive manufacturers that also analyses the issue at the European level, instead of just focusing on the national level. It starts with the legal and economic context in which the European Commission took the first decision in 1974 on automobile distribution schemes. This decision was related to the request for an individual exemption concerning the private agreements for exclusive distribution agreements by the German luxury producer BMW, as well as how this company contested the decision in the European Court of Justice, thereby jeopardising the stability of its European distribution network. The ECJ ruling paved the way for specific exemption rules to be applied to automotive distribution in the EEC. The second part of the article takes up the economic and political reasons that compelled the European Commission in 1980 to elaborate a mechanism of general exemption of automotive distribution from the rules of vertical distribution agreements. Then, the third part explains the policy process that eventually culminated in the approval of regulation 123/1985, which fixed a block exemption for a period of ten years (1985-1995), not just for one company but for the whole industrial sector. It placed legal limits on market competition – specifically with regards to the relationship between carmakers and their dealers – within the EEC in an attempt to maintain the competitiveness of European companies. Finally, some provisional conclusions are offered regarding the actual impact of European competition policy in this particular industry.

The first decisions on car distribution: the BMW case in the context of the automobile crisis

The first time the Directorate General for Competition of the European Commission took up an individual case involving the automobile industry was in 1972; it examined the case of BMW Germany, which had notified the European Commission about its distribution scheme in 1963. In its decision of December 1974, the Commission authorised the distribution scheme of BMW Germany; however, it was only by the end of 1979 that the issue was fully resolved by the European Court of Justice (ECJ), paving the way for a standardised treatment of automobile firms.\textsuperscript{18}

Some preliminary explanation is required about how the automobile distribution at the European level was regulated during this early period. Like any other sector in which vertical cartels were operating, the European Commission issued a pioneering decision in September 1964 (the Costen and Grundig case), which dealt with vertical restraints preventing parallel trade between France and Germany. Such a decision rejected the legality of private agreements that would affect in any way the trade between member states regardless of the level of impact. The political element was clear for the European Commission: removing public barriers like tariffs in the common market did not imply the maintenance of private barriers such as automobile distribution contracts, which were in most cases selective (the manufacturer selected the dealer who would distribute its automobiles) and exclusive (the selected dealer would be the sole distributor of its automobiles in an exclusively restrained
geographical area). In its ruling on this case two years later in July 1966 (Cases 56 and 58/64, Consten and Grundig v. Commission), the ECJ upheld the decision of the European Commission, even though the Advocate General Karl Roemer had evoked the US Supreme Court decision related to automobile dealership (White Motor Co v. United States), which ruled that it was necessary to evaluate the effects of such vertical restraints (absolute territorial protection, preventing intra-brand competition) rather than prohibit them per se. The ECJ judges did not follow the economic argument that increasing inter-brand competition might compensate for such restraint of intra-brand competition. The European Communities took, therefore, a hard line regarding territorial restrictions imposed on independent dealers like those generally used by the European automobile industry and, in particular, on bans of parallel imports.19

After its Consten and Grundig decision, the European Commission requested a general power from the Council of Ministers of the EEC to issue block exemptions for such kinds of illegitimate agreements as allowed by article 86 (3) of the Treaty of Rome. However, by issuing the Council Regulation 19/65, the Commission was only given the capacity to exempt bilateral exclusive dealing. The Italian government contested whether such delegation of power to the Commission included vertical agreements like those of the automobile distribution sector. On the same day, 13 July 1966, the ECJ ruled against the Italian government (Case 32/65 Italy v Council and Commission) and on the appeal by Consten and Grundig: the European Commission was confirmed in its legal capacity to ban vertical cartels. The Commission followed up by issuing Commission Regulation 67/67 on 22 March 1967 that granted a general exemption for distribution agreements for a period of 15 years. This general regulation applied to automobile distribution agreements affecting automobile producers and their exclusive importers within the EEC member states. But nothing was mentioned in it about the contracts between these exclusive importers and the national dealership network within each member state on the basis that these were only marginally affecting trade between member states and were, therefore, outside of the scope of European law.

It was in this context that in 1974 the European Commission decided to change the position with the BMW case after concluding that, taken together, these national agreements were now clearly harming the free circulation of goods within the common market. According to Fiat lawyers, the Commission had rejected applying a general restrictive policy on vertical distribution agreements that would result in a confrontation with all sectors of the European economy. Instead, it had ‘demagogically’ chosen a sector in order to set as an example and to gain the support of European consumers, when in reality its decision resulted from the corporate pressures from European distributors and suppliers. Fiat legal advisers considered this decision was a mistake, because the European Commission ought to protect the automobile industry and stabilise it, given that it was confronted with the crisis and the rise of Japanese imports. Instead, it was applying additional pressure in order to create a standard form of automobile distribution, which Fiat’s lawyers identified as the German distribution system (based on the creation of large autonomous intermediaries - Grosshaendler), in national markets. Fiat’s chief lawyer considered such interference in the variety of distribution networks a ‘new form of colonialism’, especially considering that the European Commission did not possess the competence to regulate these distribution agreements. In his opinion, the Commission was clearly exceeding its restricted mandate of issuing a general block exemption for all vertical agreements.20
The European Commission had built its decision authorising an exemption from competition rules for BMW’s distribution agreements on four central principles. The most important was that the selective distribution system of automobiles was compatible with the common market, for it fulfilled two of the main conditions of the Treaty under which collusive behaviour was permitted: promoting technical progress and improving the distribution and production of automobiles. This decision was based on the belief that the automobile was a product with a limited life, high cost and complex technology that required constant innovation in product design and regular maintenance by specialised garages equipped with the latest technological knowledge. However, such an exception could not be used to exempt the existing distribution agreement, because it needed to comply with two other conditions that the BMW distribution schemes had not fulfilled since 1963, if not even earlier due to the existence of an explicit export ban that prevented German dealers from delivering BMW cars abroad. DG IV requested that the German firm modify its scheme because an export ban harmed consumers by eliminating intra-brand competition at the European level. Such a ban was not necessary to improve the distribution of BMW cars and was incompatible with the two conditions quoted by the Treaty for permitting an exemption from article 85: if it did not excessively harm consumers, and if it would include only the clauses necessary to attain those objectives. The Commission also rejected the package theory elaborated by the German company. BMW argued that the same safeguards utilised for the distribution of cars would also be used for spare parts, on the grounds that the automobile company provided not just a vehicle, but a package of services, which included guaranteed repairs, parts etc. For DG IV, such an interpretation would limit the ability of consumers to take their automobiles to the garage of their choice for repairs. Automobile producers would effectively hold consumers hostage, even after the guarantee had ended because they would be required to use original parts. The German carmaker was told to change this clause by allowing the sale of original parts to independent dealers, but only for repair purposes.

This decision clearly demonstrates that, since the creation of the Common Market, the inactivity of DG IV in this sector permitted the survival of dealership agreements contrary to the rules of the Treaty as interpreted by the Commission. From this moment onwards, in theory, the rules were supposed to be clear for all automobile companies. But a few months later, the same German company ran afoul of the Commission, testing the Commission’s capacity to use competition policy to challenge powerful multinationals.

The inquiry began after two German parallel importers filed complaints against BMW Belgium and the Belgian BMW dealers’ advisory committee, which, under instructions and pressure from the BMW head-office, prevented BMW Belgium dealers from selling cars to these parallel importers. The European Commission began an investigation in November 1975, which revealed that BMW Belgium had banned exports within the EEC without informing the Commission in its previous notification of distribution agreements. This had been done in full collaboration with BMW Germany, and despite the fact that even BMW Germany dealers were buying BMW cars at a lower price directly from Belgian dealers.

The economic question at stake here was not just whether private parallel importers were acting as unauthorised dealers, as BMW argued, or as intermediary agents representing consumers, as the importers claimed in their written authorisations from German and Dutch customers. The fundamental question for the German manufacturer was that, due to the exceptional economic circumstances of the crisis, intra-brand European trade was increasingly profitable: an EEC member state, in this case Belgium, had maintained price controls
as an anti-inflationary measure for cars from 5 May to 1 November 1975, blocking any possibility for BMW Belgium to wipe out this price differential by increasing its retail prices. The solution, instead, became a reduction in the supply of BMW cars to ‘rebel’ BMW dealers who engaged in parallel trade. At least half of BMW’s Belgium network had increased its direct sales with little effort. The 42 BMW official distributors were threatened with a reduction of their supplies, which BMW Belgium justified on the grounds of a breach of the ‘absolute solidarity of the BMW network’, telling official dealers that selling parallel exports went against their ‘own financial interest’ by selling new cars without having to repair them or provide them with spare parts. Such a large financial incentive for parallel exports disappeared in November 1975, with the end of Belgian price controls and when the price differentials sank from 11-13% to just 4-5%.

The BMW case showed, however, that the survival of the exclusive distribution systems of European carmakers based on export bans was under serious threat as price differentials within a customs union in time of high inflation and divergent macro-economic policies could make intra-brand competition at the EEC level a lucrative business for customers and their agents. The need for a block exemption started to be felt also by automobile manufacturers eager to avoid the proliferation of similar cases. However, the European Commission had formally authorised only one exclusive distribution agreement across the whole automobile sector, making it unlikely that it had gained enough experience in this sector for applying the Council regulation 19/65 in practice. Moreover, it was necessary to wait until the European Court of Justice confirmed the decision of the Commission in July 1979, following an appeal made by BMW Belgium and the Belgian BMW dealers’ advisory committee against the Commission. The ECJ pointed out that the distribution agreement of BMW Belgium included an export ban to other member-states’ countries, something that the European Commission had already asked BMW Germany to remove from its original petition for individual exemption of its distribution scheme, but with which BMW Belgium had not complied, thereby invalidating the distribution agreement for an individual exemption from competition rules.21

After this decision the door was open for the European Commission to draft an exemption for this sector, but it was only in April 1982 that DG IV sent a preliminary draft regulation to interested parties and European institutions. Formally, the reason to go in this direction was to find ways to get rid of the backlog of cases after the BMW case had reached the Court of Justice and to analyse whether an exemption sector by sector could be more successful than the general block exemption 67/67, which was due to expire in 1983. Given the political context of the early 1980s, when the idea of a block exemption tailored for the automobile distribution started to circulate, it quickly became part of an increasingly political design for the birth of a complex automobile policy at the European level. If automobile dealers and parallel importers had already seized the opportunity to obtain some leeway from carmakers, the worrying general situation of the European automobile industry made the stabilisation of distribution schemes even more pressing.

The European automobile manufacturers were suffering as much as US firms during the process of restructuring that followed the fall in demand created by the two oil shocks of 1973 and 1979 and the increasing competition of Japanese corporations all over the world. European companies were threatened by Japanese exports, which in most European markets reached 20-30% of domestic sales in 1980, putting in danger the companies of the four major producing countries of Europe (Germany, France, Britain and Italy), which were also
the only ones protected by bilateral voluntary export restrictions. In some countries, at the request of their states, firms merged to confront this competition, such as when Peugeot took over the bankrupted Citroën (1974) and Talbot (1978), and Renault became a shareholder in Volvo (1980). In other cases, European companies reached agreements with Japanese or American multinationals, as in the joint-venture of Alfa-Romeo with Nissan (1980) or Ford’s failed attempt to take over Lancia, which was blocked by Fiat’s merger with the small Italian company (1969). But most of these mergers were defensive shifts, which did not tackle the three major handicaps of European corporations: a lack of international competitiveness, substantial overcapacity and low profitability.22

The structural situation of the automobile industry, therefore, featured strong intervention by the nation-states to support ailing companies. Of these, British Leyland was surely the most important case of an industrial decline prevented by massive public financial support with the state taking total ownership of its capital by 1978.23 This was also the case in Italy, where the state-owned company Alfa Romeo was in a very difficult situation, as was Renault and its branch of industrial automobiles SAVIEM. If we also consider that VW-Audi-NSU brands were controlled by the Governments of the Federal Republic of Germany and of Lower-Saxony, it was clear that the major EEC member states could not ignore the situation of the industry and concluded that measures were necessary to avoid worsening their precarious situation.

In the 1981 communication on industrial policy for the sector, the European Commission defined the structure of the automobile industry as a ‘balanced, competitive oligopoly’, in which effective competition was primarily maintained by the actual (and potential) effect of competitors from outside of the Common Market. 24 As far as automobile distribution was concerned, the Commission ‘recognised the manufacturers’ rights to set up networks based on the selection of dealers, acknowledging their ability to use their specialised sales networks as necessary to defend their market positions. For that exact reason, it recommended the ‘early adoption of a regulation giving a block exemption to distribution agreements applied, in circumstances which are equitable towards the various interests concerned, in the motor industry. Because of the importance of maintaining effective competition in the oligopolistic motor vehicles market’, the Commission wanted to ensure not just that the sales network remained independent, but also that ‘price competition in trade between member states is not eliminated’. The Commission raised the issue and publicly acknowledged the existence of the oligopoly, opening the possibility of using a block exemption as a tool to govern it.

**Regulation 123/85: a failed attempt to limit the market power of large European carmakers**

In addition to European multinationals, other supranational actors, like the European Parliament and the Commission, started taking a new interest in the European scene during the first year of the 1980s. From 1979 onward, for the first time, European citizens directly elected their European political representatives in a new directly-elected European Parliament and were no longer selected by national Members of Parliaments but by direct ballot. A new European Commission was also appointed at the end of 1980 under the direction of a liberal politician from Luxembourg, Gaston Thorn. And last, but not least, there was an increasingly powerful and pro-active consumer association at the European level, which was vocal on behalf of consumers’ interest. At that time, the EEC was fighting to exit from a decade of
Eurosclerosis and the strong re-nationalisation of economic and industrial policies. European industrial policies had been one of the major objectives pursued by the out-going Jenkins Commission under the leadership of the Industry Commissioner Etienne Davignon; however, the Commission was only able to gain the necessary support of member states when it came to industries on the verge of bankruptcy, such as the steel industry. European governments always preferred to pursue their own national policies in support of their respective national champions, making it very difficult to craft a supranational agreement for European industrial policies.

Already by October 1980, the objective of a global strategy of relaunching the European automobile sector was the aim of a report by the European Commission.25 Sent to the other institutions and to social partners, including trade unions, it opened public debate on how to regulate the fate of such an important oligopoly. This difficult situation was obviously a matter of great concern to all European institutions, starting with the newly elected European Parliament and its Commission for Economic and Monetary Affairs, headed by Jacques Delors. The Parliament quickly seized the opportunity to issue a resolution on 13 January 1981, asking the incoming Thorn Commission to draft a European strategy for the automobile industry in order to solve the crisis. The basis of this proposal was the strengthening of the common market, together with the use of the economic and political weight of the European Community to protect it from external pressures. Meanwhile the Economic and Social Committee decided to set up a working party on this issue, while the Council of Ministers started considering it within the on-going trade negotiations with Japan.

The origin of the attempt to make the block exemption one of the elements of a complex industrial policy at the European level resulted from the Commission’s statement of 21 May 1981 on the European automobile industry; a statement drafted and launched by DG Industry (DG III) and directed by Etienne Davignon and his team, which included Fernand Braun and Paolo Cecchini, respectively director and deputy director general for industrial affairs. Cecchini contacted all of the interested economic and social parties, including the two existing automobile lobbies, the Liaison Committee for Automobile Construction (CLCA) and the Committee of Common Market Automobile Constructors (CCMC). The first, created by the Treaty of Rome, brought together all the national chambers of automobile producers like the Italian ANFIA, the French CSCA, the Belgian Febiac, the British SMMT, and the German VDA, whose member Hans Glatz acted as Secretary General. The CCMC, created in the early 1970s, brought together only the large automobile companies from the EEC, excluding American and Japanese corporations, and assigned Marc Ouin (Renault) and the Briton David G. Bisell as its secretaries. Automobile producers thought that their major ally within the Commission was precisely this DG III team.26

It is for this reason that in their contribution to the report in March 1981, the automobile lobbies requested that DG III oppose any kind of regulation of selective distribution that might stimulate the competition from parallel importers with official dealers, as they allegedly operated against the interests of the ‘whole industry and its customers’. Their request was indeed heard, because in the Commission report of 1981, distribution networks were quoted as one of three tools to better protect the automobile industry from non-European competitors. Furthermore, DG III officials engaged in a kind of European economic patriotism by telling European consumers that they had a particular responsibility to choose more expensive European products — due to the higher standard of living in Europe — over ‘cheaper vehicles’ manufactured elsewhere. Otherwise, higher
indirect costs to the European Economic Community might result in an erosion of its industrial base.

European consumers did not, however, follow such patriotic advice. The European Consumers’ organisations (BEUC), instead, quickly responded in October 1981 with a report on car prices and private imports within the EEC countries, asking the Commission to consider more seriously the interest of consumers who faced the stable national oligopolies of the European automobile industry.\textsuperscript{28} BEUC heavily criticised the conclusion of the Commission report, which attributed the fragmentation of the single market exclusively to the lack of will of member states to harmonise their value added taxes on cars, instead of pointing to its real cause, that is, ‘the will of manufacturers to treat each country as a specific market and to follow a particular commercial policy’.

BEUC explicitly asked the European Commission to make the reduction of price differentials an important objective for the regulation to grant a block exemption for exclusive distribution that DG IV officials were developing. To that end, they invoked the Treaty itself, which included a condition that for any exemption consumers should obtain a fair share of the resulting benefits of any such violation of competition. It was for that purpose that the BEUC demonstrated the important differences between the net prices, pre-tax, of the same car models in different parts of the European Community. The astonishing results fully justified the economic benefit to consumers in choosing to buy a model in another country of the European Community instead of from the home market, putting in place an intra-model competition between different countries. The price differential was on average of some 45% cheaper in the cheapest country in the community, Denmark, than the most expensive country, Britain. The Benelux countries were close to Denmark’s prices, while the big continental markets such as France and Germany were just slightly more expensive than those of the Benelux market. The BEUC report clearly pointed out that the lowest net prices coincided exactly with those countries where Japanese cars had taken a substantial part of the market, as was the case in the Benelux countries and Denmark (25-30% in 1980), or where strict price controls existed, such as in Belgium.

The BEUC report took stock of the BMW case to conclude that it was extremely difficult to break the distribution system that BMW and other carmakers had used to designate parallel importers as unauthorised dealers. Since neither the Court nor the Commission had decided the exact position of parallel importers, the ambiguity worked against consumers, because carmakers or official importers could invent any number of reasons to delay deliveries to parallel importers, instead of providing a straightforward refusal, as BMW had done. The report quoted the example of General Motors, which in 1977 ended its distribution contract to GM’s main Belgian official dealer, S.A.Bruno, for having sold GM cars to parallel importers, despite having supplied nominal export declarations signed by the final customer proving that they were not unauthorised dealers but just intermediaries acting on behalf of individual customers. The practical consequence of this ambiguous system was that it was unlikely that official importers would dare violate the orders of carmakers, for fear of losing their exclusive dealerships.

The BEUC’s plea to place automobile prices at the heart of the block exemption of automobile distribution reached the new Christian Democrat Commissioner for Competition, Frans Andriessen, former Finance Minister of the Netherlands, and the Division ‘automobile and other transportation means’ of Directorate General IV, headed by the German Klaus Stöver, and in charge of elaborating the preliminary draft. They were not alone in this
The question of parallel imports was quickly politicised when a group of British Conservative MEPs invited the European Commission to take the necessary measures to protect the Common Market against the supplementary barriers devised by the four carmakers to maintain artificially high profit margins in Britain by blocking parallel imports of the same models sold on the Continent. They accused these firms of requesting supplementary prices, practicing abnormally long delays, having higher sale prices than in Continental markets, and forbidding the import of right-hand drive (RHD) cars.\(^{29}\) Andriessen, who had already made it his objective to use competition policy as an instrument for achieving the Common Market, also enjoyed the support of organised consumer associations as well as that of many directly elected MEPs, a number of whom personally wrote to the Commission about this question.

The automobile producers became extremely concerned about the likely impact of the BEUC report on the new regulation. The CLCA president, A. Fraser, wrote to Andriessen arguing that the price differentials were not due to a lack of competition but rather to the non-existence of the Common Market, a situation which depended on Member States and not on carmakers. The CLCA set out five main reasons that it claimed accounted for these differentials: monetary instability, tax disparities, controlled prices, national technical standards and, finally, costs of production and distribution, which also depended on the general economic policies of the States. It argued that it was false to assert that Japanese imports encouraged lower prices, because it was in reality a tactic to reduce the profitability of European firms to such an extent as to place the survival of the whole industry in danger.

The CLCA warned the Commission against using competition policy to administer prices, instead of leaving the ‘natural equilibrium of competition,’ because it would endanger thousands of jobs. Lastly, to the BEUC proposal of encouraging parallel imports to bring European prices down, the CLCA replied that this was not in the interest of the consumer because automobile producers would have no other solution than to increase the lowest net prices. In a nutshell, the CLCA warned the European Commission against using competition policy as a substitute for the lack of political will of governments to build a truly European Common Market.\(^{30}\)

**From the preliminary draft of the regulation to the first block exemption in the automobile sector: 1982–1985**

On 5 March 1982, DGIV made public for consultation the preliminary draft regulation on the block exemption of motor vehicle distribution agreements. The basic line of the preliminary draft was extremely ambitious, having at its core a 12% price differential clause (article 5). The clause was intended automatically to take away the benefit of the block exemption from any car manufacturer’s distribution network in cases where its recommended prices would differ by more than 12% between two member states. Such a figure resulted from Stöver’s calculations about the average transaction costs (transportation, intermediaries, administrative costs, etc.), which made worthwhile parallel imports.\(^{31}\) The underlying interpretation was that the distribution agreements had served to impose prices on dealers, damaging consumers, and going against intra-brand competition, which needed to be preserved in the new regulation. The second fundamental element, directly derived from complaints made by the EP, was the obligation of a full line availability clause (article 3(5)). This clause would oblige carmakers to supply dealers with all versions of the same models sold by the
carmaker in any other dealer of the Common Market, even when these goods had certain particularities resulting from different technical or driving conditions.32

The rumours that the Commission aimed to publish the preliminary version without major modifications as the official draft before the end of 1982 put the CLCA in red alert. The most active member to oppose such a quick move was none other than the German VDA, which put pressure on its government to request the removal of the price differential clause, considered the most dangerous for carmakers. All CLCA members put similar pressure on their own governments to stop the Commission from taking this dangerous step, which they believed would be more or less impossible to remove at a later point in time due to the pressure of public opinion. The CLCA was adamant about the need to remove the two most controversial clauses: the 12% price differential and full line availability.33 It had to push its plans forward, because the preliminary draft had already begun circulating in the three European institutions which had to be consulted about any Council regulation regarding competition matters: the European Parliament, the Economic and Social Council, and the Advisory Committee on Restrictive Practices and Dominant Positions, a body consisting of national competition policy advisors.

Some weeks later, however, DG IV had its fears confirmed when the BEUC demanded the initiation of proceedings against the four car manufacturers. The association of German Ford dealers and British citizens issued further complaints and called upon the European Commission to carry out a detailed investigation of Ford Germany. The American multinational was accused of having decided in May to stop supplying its German dealers with right-hand drive (RHD) cars produced in the Ford factories in Cologne, Saarlouis (FRG) and Genk (Belgium). The official dealers’ anger was understandable as the sales of RHD Ford models were lucrative given the extremely high level of domestic prices in Britain, where Ford was the ‘market leader’ with a 30% market share.34

Ford Europe acknowledged that its objective in discontinuing sales in Germany of RHD vehicles was to ‘keep up price levels of the new Ford vehicles in the United Kingdom’.35 The American firm candidly stated that unrestricted parallel imports would bring heavy revenue losses to Ford Britain due to unsold cars as the ‘inter-group prices to Ford Britain were higher than the prices to German dealers’. Like the CLCA, Ford also treated the Commission very rudely, stating that if it dared to take an interim measure to force the company to supply RHD models in Germany again, it ‘could be forced on economic grounds to raise the prices for RHD vehicles in Germany so as to discourage parallel exports to the United Kingdom’.

The irritation of the Commission was obvious when it described Ford’s action as ‘intolerable for the public interest in the Community. It puts the whole system of competition in the Community in jeopardy in an unacceptable fashion, and cannot be countenanced’. Thus, on 18 August, Andriessen imposed an urgent interim measure to ensure that Ford’s action did not have the long-term effect of blocking the parallel imports, at least until the Commission had adopted a final detailed decision about exempting or not exempting the exclusive distribution system of Ford Germany, which DG IV had been considering since the notification to the European Commission in May 1976.36

If the Ford case confirmed the necessity of a full line availability clause in the future draft of the block exemption, an internal study made by the DG III confirmed that wide price differentials were not just due to the lack of harmonisation of the Common Market, but resulted from the clearly oligopolistic behaviour car manufacturers. Focussing on the case of price differentials between Belgium and Britain, the report built on research comparing
car prices in both countries made by the Institute for Fiscal Studies at Oxford University. This study confirmed the previous BEUC report of June 1982 that British cars were much more expensive than Belgian cars. Turning to the origin of the price differentials, the DG III rejected one by one each section of the CLCA’s case denying its members’ responsibility for high prices. If Sterling had appreciated, the logical result would have been higher British car prices abroad, and not at home. The currency exchange rate played a minimal role in determining car price differentials, because all of the car dealers from many different automotive companies, not only British firms, had very similar prices in the British market. Japanese competition did not play an important role in the high prices because they sold cars at the lowest prices in Europe.

The real explanation for the British prices was that all of the automobile producers, including the major British manufacturer Ford UK, had adopted a price strategy that consisted of adjusting their prices to those of the State-owned British Leyland, the least competitive of all EEC producers. The American multinational profited the most from this tactic, which had increased its share of the British market at the expense of BL through the 1970s and obtained higher pre-tax operating profits: in 1981, these were sufficiently large to compensate for the losses incurred elsewhere in Europe and in its home market in the USA. Ford’s arguments against parallel imports were straightforward for the DG III. According to their hypothesis, if parallel imports were freely made, British prices would reach the Belgium level, and therefore the fall in turnover figures for automobile corporations would reach £1,302 m. Of that total figure, £590 m. corresponded to Ford alone: £329 m. due to a decrease in its automobiles manufactured in the UK and a £261 m. decrease in models imported from the Continent.

The DG III report concluded that the issue with Ford was in reality the tip of the iceberg of the structural conflict between the European automobile industry and the European Commission. But as guardian of the interests of industry, Cecchini’s team did not follow DG IV in its preliminary draft. DG III adopted an extremely critical stance towards Stöver’s 12% clause in particular, which they described as ‘bureaucratic’. They considered this figure as economically unjustified and useless given that the gap between the lowest price in the European market, the Danish, and the highest, the British, was about 69%. They trusted that prices would ‘freely find their equilibria due partly to the price policies of carmakers, partly to the arbitrage of consumers’, with the Commission intervening only in the case of market failure.

The struggle over regulating automobile distribution reached its political climax in February 1983 at a meeting between the Commissioners in charge of DG IV (Andriessen) and DG III (Davignon) and the presidents of the 12 European carmakers represented within the CCMC. Headed by Renault’s president, Bernard Hanon, they repeated their hostility towards the 12% price differential and the full availability clauses, both of which they considered potentially catastrophic. The European business leaders argued that it was not only the consumer that needed to be protected but also the general competitiveness of European industry. Andriessen replied that industry wanted the ‘advantages of the Common Market without the readiness to accept also its consequences’. In his view, the Common Market was incompatible with such wide price differentials and, if the Commission wanted to respect the competition rules of the Treaty and other interests, he could not withdraw either clause. However, in order to accommodate some of the pressure of carmakers, Andriessen asked Stöver for some slight revisions of the two controversial clauses.
Stöver carried out these modifications and presented the final draft at a symposium organised by the competition lawyers advising carmakers at the International Institute for Commercial Competition. According to Agence Europe, the DG IV official, again, justified the two major controversial points. On the full availability clause, the draft left producers free to choose the models and types to sell in a territory, with some possibility for intra-brand competition. The clause did not require dealers to stock every model; instead, it allowed them to order those models with specifications from other EEC countries when requested by consumers from other EEC countries. A refusal on the part of the carmaker to supply such models to its authorised dealers would go against the block exemption. The first concession to carmakers was that the draft allowed for clauses forbidding sales of new cars or new parts to unauthorised dealers. Such protection against independent traders would be removed if the producer delayed supplying the authorised dealer with the requested model for more than six months.

Regarding the 12% clause, the draft confirmed that the exemption would be cancelled when the retail price recommended for the same model in a country with high prices remained 12% higher for more than six months in relation to the price of the least expensive country. The concession on this second point consisted of the exclusion of countries with anomalously high taxes (i.e., Denmark) from the price comparison, or in instances of a provisional price-freeze, as had been the case in Belgium.

In his speech, Stöver reinforced the validity of the price clause on the basis of the difficulties that consumers and authorised dealers had in encouraging intra-brand trade. As these two concessions had been made at the expense of consumers and authorised dealers, Stöver took care to provide some new provisions on their behalf. Apart from maintaining the full range clause, the draft guaranteed consumers two new elements: a guarantee for repairs valid across the whole territory of the Common Market, as well as access to non-original parts of equal quality in the distribution networks of carmakers. For authorised dealers, the draft attempted to break the dependency link that made them dependent on automobile manufacturers. To this end, the draft did not grant the benefit of exemption to exclusive purchase contracts clauses, leaving open the possibility of intra-brand trade between dealers in different European countries. It also added the possibility of dealers acquiring non-original parts of equal or superior quality to those of carmakers and their suppliers, and, more importantly, authorised exclusive distribution in a given territory throughout the duration of the bilateral contract.

The President of the International Institute and lawyer in the BMW Belgium case, Michel Waelbroek, accused DG IV of imposing a particular kind of agreement on carmakers and dealers. In his view, the real aim was to make use of the block exemption to oblige carmakers to harmonise their prices, instead of using it as an instrument for technical and economic progress. He asked for the withdrawal of the 12% clause and putting an end to its automatic character because they violated the principle of legal security in a context of fluctuating currencies. But the legal adviser of the CLCA, Mario Siragusa, was even more aggressive in arguing that the draft went beyond the limits of regulation 19/65, which did not authorise the Commission to draft block exemptions by sector, but only to general categories of distribution agreements. The only body authorised to choose a sector for a block distribution was the Council, and not the Commission, which, he claimed, was discriminating against the automobile industry. This was a veiled threat to lift the problem from the individual sector to a more general and political level, threatening the Commission’s exclusive competence.
The European offices of British Leyland and Peugeot, the two major European firms in Britain, held a desperate last-minute meeting with Cecchini to try to block the draft. They argued that the economic consequences of the 12% clause would be disastrous and contrary to the incipient industrial policy of the European Commission, which was designed to encourage the international competitiveness of European car manufacturers. Maintaining the 12% clause would result in the uncertainty of future prices and a trend towards downwards equalisation – a consequence of which might be that carmakers chose to abandon the lowest price markets to non-EEC manufacturers, who would take advantage of this mechanism to undermine the existing import restraint agreements.44

Given the high level of political pressure from large multinationals, support from consumers and independent dealers does not completely explain the Commission's approval of the disputed draft. The deeper reasons behind their determination to keep the disputed clauses were clearly exposed by Cecchini to BL and Peugeot: the clauses were beneficial both for European integration and for the general competitiveness of the European automobile industry. On the former point, the existence of currency oscillations harmful to the financial stability of the British automobile industry might force the British government to enter the European Monetary System. Regarding the latter, Cecchini suggested that any industry ‘casualties’ could be seen as ‘minor’ in the context of EEC auto-industrial restructuring given that it was necessary to put an end to the endless competition between ‘national financial support’ programmes for ailing manufacturers. In any event, the representatives of DG III and DG IV (Paolo Cecchini, Ernesto Previdi, Gerhard Lohan and Klaus Stöver), knew what they were doing with the price clause: they were putting pressure on national governments, particularly on Britain, to converge their European monetary and industrial policies.45

As Stöver summarised it: competition policy could become the ‘locomotive of European integration’ in times of economic uncertainty and turmoil.

The Commission's proposal for the block regulation was published on 24 June 1983, and was presented — as was required — to the Economic and Monetary Committee of the European Parliament, to the Economic and Social Committee of the EEC, and to the representatives of the Member States in the Advisory Committee on Restrictive Practices and Dominant Positions. These were simply consultative steps, as the Commission did not require their formal authorisation to approve a decision upon which it held exclusive competence, other than the possibility of appeal to the ECJ. Carmakers and their lawyers launched an aggressive public campaign during these hearings against the draft after the CCMC and the CLCA issued a communiqué with a long memorandum asking for the removal of the two clauses.

In the end, the pressure was indeed too strong to resist, especially after the recommendation of its rejection by the Economic and Social Committee, where Pierre Eelsen and Edoardo Bagliano respectively represented Renault and Fiat. No doubt lobbying by the automobile firms directed at the representatives of their members states in the Advisory Committee on Restrictive Practices and Dominant Positions put additional pressure on the Commission. For instance, there is evidence that Italian firms met Mr. Basile, the civil servant from the Italian Ministry for Industry representing his country in this Committee. Mr. Basile made clear, however, in his conversations with Fiat’s lobbyists, that ‘the exclusive competence in competition matters makes the consultative views of the Committee have very limited weight’. He was ready to go as far as possible in his opposition to the Commission when a regulation was ‘vital for a concrete sector (like the regulation on selective distribution of
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automobiles. The representatives of France, Belgium and the United Kingdom acted likewise.\textsuperscript{46}

In a June 1984 version of the regulation, the 12\% clause had completely disappeared from the draft in favour of a definitive general clause about monitoring price differentials. The Commission was in this way empowered to analyse in each case whether a price supplement could be considered to be a systematic hindrance to exports; however, it had given up the automatic fixing of prices, which ultimately made exclusive distribution subservient to price convergence. On the full availability clause, it kept open intra-brand competition between authorised car dealers of any kind throughout the European Common Market, provided that they were marketed in substantial quantities in countries of origin and destination. Both concessions could be considered clear defeats for the Commission, the European Parliament and the consumer associations who brought forward the issue of parallel imports as an instrument to break the oligopoly of carmakers, as they maintained the marginal position of independent parallel importers in the system.

The European Commission took a final decision on the regulation on 12 December 1984. It confirmed that competition policy had failed to become the engine for European economic integration that the high civil servants in DG IV and DG III had envisioned. In a conference held in London in mid-1985, Stöver defended his record of having reinforced the Commission’s power to adopt regulations concerning particular industries. He acknowledged that the new regulation now protected selected dealers against the competition of unauthorised dealers. He also accepted the argument that the former were free-riding, because they profited from distribution without assuming any responsibility for the maintenance of the car, which rested on the shoulders of selected dealers. For this reason the new regulation did not authorise parallel importers to stock cars for selling, but rather to stock just a few cars to encourage consumer mobility and to put some pressure on high-price countries. The Commission had also given up on the question of price differentials. Stöver acknowledged that price divergences were a naturally stable feature of the automobile market due to the limits of the member-states to build a truly common market, thereby removing any responsibility from the carmakers themselves. He reminded his audience, however, that the Commission had succeeded in maintaining the possibility of opening investigations when the long-term differential exceeded 12\%, with a view to withdraw the block exemption, even if the countries with the highest prices were excluded from computing the difference.\textsuperscript{47} The result was, however, positive in one central point: all European manufacturers adapted their dealership agreements to the new regulation, allowing the Commission to close most of its enquiries on cases relating to the automobile industry. In this way, it relieved itself of the administrative burden of taking ad hoc individual decisions as had happened prior to the regulation. But if the Commission was happy, what did the other interested actors think about the regulation?

The extent of the defeat was expressed by the BEUC, which complained about the complete exclusion of after-sales services from the regulation. On the central question of the control of prices, the Commission had given up on this ambitious objection on the basis that price monitoring was not part of the ‘spirit’ of competition policy. This was only attenuated by the fact that availability clauses now entitled the consumer or the intermediary to order the car corresponding to the specification of their home country. But this could not hide the capitulation of the Commission on the issue of the ‘mandated intermediaries’, which were necessary for competition. The Commission had refused to define clearly their rights
and obligations, leaving to national laws the question of defining the rights of individuals to act through intermediaries. The European dealers association represented by its Italian President, Massimo Campilli, confirmed that the regulation was a disappointment for the 70,000 small companies that it represented.

But it was a more neutral voice, the General Advocate in the ECJ, Giuseppe Tesauro, who was the staunchest critic of the Commission’s work. The Italian lawyer concluded that the compromise had disappointed all interested parties given the criticism coming from very different interests. In his view, the problem of the regulation was that it had developed through a sectoral approach under the pressure of organised groups, which opened up the possibility for other sectors to replicate the scheme, while the rule for block exemption was clearly intended for agreements and not for sectors. The door was now open for other powerful lobbies to threaten the Commission by requesting that the Council confirm its authority to exempt agreements by sector in order to obtain what they wanted from the regulations. The heart of the matter for Tesauro was that the creation of a new category of intermediaries with individual orders was a bad remedy. It did not enhance intra-brand competition because the parallel importers remained dependent on the carmakers, not forgetting that now the regulation allowed sales to non-authorised dealers to be forbidden. In a nutshell, ‘the regulation had served to legitimate the obstacles to intra community trade in this sector without having effectively protected the consumer’. 48

Conclusions

This article has demonstrated that the automobile oligopoly successfully fought to curtail the formal powers and subvert the original goals of the European Commission in the development of competition rules affecting exclusive distribution agreements for automobiles as tools for governing the whole sector. The long march of the Directorate General for competition to obtain the power to issue block exemptions affecting entire sectors ultimately failed to crack the absolute power of large companies over their dealer networks. Competition policy was in this way subordinated to other economic policy objectives such as the competitiveness of the industry. The paper started by revealing the significant difficulties experienced by the European Commission in creating a strategy to govern this key industrial sector in the European economy during the 1960s. The sector was dominated by national oligopolies, and the distribution cartels were exempted from European competition policy until the 1970s. The structural crisis of that decade opened up the possibility of tackling the automobile issue directly by means of individual cases such as demonstrated by the BMW case. This brought into focus the European dimension of the cartel that affected the most important market in the EEC, Germany.

Only after 1981 did the Commission make decisive progress in its strategy of granting a block exemption for this entire strategic sector. However, automobile lobbies and industrial policy objectives defined elsewhere within the European Commission hampered the ambitious strategy to govern the sector by means of competition objectives on behalf of the consumers. The structural transformations of the industry were accentuated by the crisis of the 1970s, strongly affecting the market architecture of the sector as formulated by the multinationals. The increasing penetration by Japanese imports ultimately brought about a first attempt to crack this European oligopoly through a
European sectoral regulation. The price to pay for national oligopolies was to accept the first serious attempt to transform the national oligopolies into an effective European government of the industry or ‘European automobile system’— something which transformed European integration into a lever, and not just a constraint, to assist them in passing from crisis to profitability from the mid-1980s onwards. If the automobile industry had reason to fear the application of EEC competition policy to an increasingly European oligopoly, this fear was derived directly from the broader institutional political changes transforming the EEC into a supranational political system aiming to govern the economy.49 In the early 1980s, the European Commission was under pressure from a directly elected European Parliament and European consumer associations, from which emanated new demands and expectations for the European Common Market to work more effectively. This was something that the Commission was unable to do alone. The general political agreement was elaborated by multinational corporations with the support of member states.50 They imposed the preservation of balanced national oligopolies, which were preserved by the block exemption in automobile distribution, renewed several times until its final removal in 2013.51

Notes

1. Bardou et al., La Révolution Automobile, 346–348. Patrick Fridenson, a young business historian at the time, was the author of this interpretation.
2. On the IRI and Finmeccanica, see Amatori, ed., Storia dell’IRI. For Fiat during the crisis see Volpato, Il caso Fiat and Greggio, Fiat. Une crise automobile.
3. Finmeccanica, Ufficio Studi, Alcune considerazioni su struttura e dinamica dell’industria automobilistica, May 1977, Archivio Storico IRI, Serie Nera (SN), SP/1527, Archivio Centrale dello Stato (ACS), Rome.
4. Williams et al., Cars, Analysis, History, Cases, Chap. 8; Catalán Vidal, “The Stagflation” 4–16.
5. About Fiat's strategies and problems to adapt to the European common market and the crisis see Maielli, “Tariff removal,” 143–152 and Maielli, “Path-dependent Product,” 11–15.
6. For the example of Germany see Fetzer, “Reversing”.
7. Freyssenet et al., Quel modèle productif?; Boyer and Freyssenet, Le Monde.
8. Pardi, “La révolution”.
9. Ramírez Pérez, “Transnational Business,” 74–78.
10. Pardi, “Industrial,” 78–79.
11. Walker, “Voluntary”.
12. Witschke, “The Evolution,” 317–332; Barthel, “The 1966,” 333–351.
13. Patel and Schweitzer, eds., The Historical Foundations.
14. Ramírez Pérez and van de Scheur, “The Evolution,” 22–31.
15. Monopolies and Merger Commission, Car parts; Idem, New Motor cars.
16. An exception was Silva, Grillo and Prati, Il mercato italiano, 161–174, but the authors did not have formal evidences of collusion agreements between manufacturers.
17. Verboven, “International,” 240–241.
18. Official Journal of the European Communities (OJEC), L 046 17/02/1978 P. 0033, 78/155/EEC: Commission Decision of 23 December 1977 relating to a proceeding under Article 85 of the EEC Treaty (IV/29.146 - BMW Belgium NV and Belgian BMW dealers) – 0044; European Court reports 1979, Page 02435, Judgment of the Court of 12 July 1979. - BMW Belgium SA and others versus Commission of the European Communities. - Export ban.
19. Leucht and Marquis, “American,” 147–150.
20. A. Scognamiglio, Observation upon the draft of the regulation “Selective distribution of the automobile sector,” 4 March 1982, Archivio Storico Fiat (ASF): Capogruppo (CG) 89, busta (b.) 547 (1).
21. OJEC, C 199, 8.8.1979, p. 8–9 Judgment of the Court of 12 July 1979 in Joined Cases 32/78 and 36 to 82/78. See also European Court Reports 1979 -02435, Judgment of the Court of 12 July 1979, BMW Belgium SA and others v Commission of the European Communities. Export ban. Joined cases 32/78, 36/78 to 82/78.
22. Jones, “Motors cars”.
23. Wilks, *Industrial policy*.
24. Commission of the European Communities, “Structure”.
25. Commission of the European Communities, The European Automobile Industry, SEC 80 (1981), 30 September 1980, ASF: CG 90, b.397.
26. Comité des Constructeurs du Marché Commun (CCMC), Relations avec la Commission, 27 March 1981, ASF, CG 89, b.534.
27. CCMC-CLCA, Letter to M. Fernand Braun, 04 June 1981. p. 2 of the reply to Braun’s letter of 23 February 1981, ASF, CG 89, b.534.
28. BEUC, Rapport sur les prix des voitures et sur les importations privés de voitures dans les pays de la CEE, 1971–81, October 1981, ASF, CG90, b.64.
29. European Parliament, Session documents 1981–1982, Proposal for resolution presented by MEP’s Cottrell, Hard, Purvis, Newton Dunn, De Courcy Ling, Tuckman, Fergusson, Jackson e De Ferranti, 17 February 1982.
30. Letter from CLCA President Fraser to Andriessen, and joint report “Les prix des voitures dans les pays de la communauté européenne », 08 February 1982, ASF, CG90. b.64.
31. European Committee for Motor Trades and Repair (CECRA), *EEC Block exemption regulation for motor vehicle distribution agreements*, “statements of Dr. Klaus Stöver,” Brussels, 1994, 136.
32. CLCA, Selective distribution of Motor vehicles, symposium of the *Institut International de Concurrence Commerciale*, 20 May 1983, ASF, CG 89, b.534.
33. CLCA, Telex from Glatz to CLCA members, 15 November 1982, ASF, Fondi Precedenti (FP), R.Mailander, b.21652.
34. OJCE, L256, 02-09-1982, pp. 20–28, Commission decision of 18 August 1982 relating to a proceeding under article 85 of the Treaty (Distribution system of Ford Werke AG-interim measure).
35. Idem. p. 23.
36. European Commission, *XIVth Report*, 71–72.
37. Institute for Fiscal Studies, *Differential*.
38. DG III/A/1, Aspects économiques des différences des prix des voitures au sein du Marché Commun, 07 December 1982, ASF, FP, R.Mailander, b.21652.
39. CCMC, telex to the members of the administration committee, Presidents meetings with Mr. Andriessen and Mr. Davignon, both on 2 February 1983, 11 February 1983, ASF, FP, R.Mailander, b.21652.
40. CCMC, telex to the members of the administration committee, Decisions of the AC meetings of March 18, 1983, 29 March 1983, ASF, FP, R.Mailander, b.21652.
41. Agence Europe, Bulletin nº3618, « Industrie automobile : dans un colloque sur la distribution sélective des véhicules automobiles, l’Institut International de Concurrence Commerciale appuie largement les critiques de l’industrie au projet de règlement de la Commission CEE », 1 June 1983, pp. 11–12.
42. European Commission, Note d’information, “La Commission entend exempter les contrats de distribution des véhicules automobiles des règles de la concurrence du traité CEE » June 1983, ASF, FP, R.Mailander, b.21652.
43. CLCA, Draft Commission regulation on selective distribution of motor vehicle products, 27 May 1983
44. CCMC, Selective distribution-economic consequences, 31 May 1983, ASF, FP, R.Mailander, b.21652.
45. CCMC, telex to the members of the administration committee, Selective distribution- draft summary of the main points arising from CCMC delegation meeting with Commission Officials on 07 June 1980, 17 June 1983, ASF, FP, R.Mailander, b.21652.
46. Note by Torchiani, Fiat Delegation in Europe, to Dr. E. Bagliano, Meeting in the Minister of Industry with Dr. Basile of 28.10.1982, 03 November 1982, ASF, CG90, b.64
47. Klaus Stöver, “How,” 44–52.
48. Averani and De Caterini, eds., Libera circolazione.
49. Warlouzet, Governing Europe.
50. For a parallel case see in this issue, Arthe van Laer, “The European Lilliputians”
51. Fridenson, “Les stratégies”; for the subsequent block exemptions see Marco Colino, Vertical Agreements, 111–114.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Funding

This work was supported by the Danish Agency for Science, Technology and Innovation under the project Grant “Towards a New History of EU Public Law” (FKK-University of Copenhagen).

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