

TO: SECRETARY OF STATE FOR TRADE AND INDUSTRY

**FROM: JOHN VICKERS
CHAIRMAN**

May 2004

THE RESTRICTION ON AGREEMENTS (MANUFACTURERS AND IMPORTERS OF MOTOR CARS) ORDER 1982

ISSUE

1. Section 88(5) of the Fair Trading Act 1973 (FTA) requires the OFT to keep under review Orders given as a consequence of an MMC monopoly report and to advise you if we believe that changes are appropriate. This advice relates to *The Restriction on Agreements (Manufacturers and Importers of Motor Cars) Order 1982* ('the Order')¹ on exclusivity agreements relating to the wholesale of car parts in the UK.

RECOMMENDATION

2. That you revoke the Order.

TIMING

3. Routine.

BACKGROUND

4. In its 1982 report (HC 318), the MMC found that a complex monopoly situation existed among a number of manufacturers and importers of car parts.
5. Following the report, an Order was made making it unlawful, subject to exceptions, for car manufacturers and importers to make or carry out agreements with a franchisee to the extent that the agreement contains an exclusive buying provision relating to replacement car parts.
6. This Order was intended to facilitate competition between independent suppliers of car parts and car manufacturers.

ASSESSMENT

7. The OFT has reviewed the Order as a part of its programme of reviews of Orders and undertakings under section 88 of the FTA.

¹ SI 1982 No. 1146.

8. The Order has now been superseded by other legislation in that all the provisions in the Order are now covered in the 2002 EC motor vehicles block exemption regulation.²
9. Moreover, with EC Regulation 1/2003 now in force, the OFT will apply the relevant EC competition law provisions, which include the block exemption regulation, if the need arises.

CONCLUSION

10. The provisions of the Order are covered by the EC block exemption. Therefore, the Order is no longer required. Both the block exemption regulation and the EC Modernisation Programme represent a change in circumstances such that the Order can be revoked. We recommend that the Order be revoked. We will publish this advice once you have announced your decision.

² European Commission Regulation 1400/2002 (OJ L203 1/8/02).