ANNEX 2

Public support measures for the automotive industry/sector

On 26 November 2008, the Commission adopted the European **Economic Recovery Plan** which encompasses measures aimed at boosting demand, saving jobs and restoring confidence in the short-term while focusing on the 'smart investment' which will make the European economy competitive in the long–term. This plan has led to the adoption of the **Temporary Framework for State Aid**[1] which aims at reducing the negative impact of the crises in the real economy by providing Member States with additional possibilities to grant State aid and which is also applicable to companies in the car sector. This Framework is complemented by the **Communications on State aid measures to support the banking sector**[2] in the context of the global financial crisis adopted earlier by the Commission through which the Member States can support financial institutions specialized in car finance.

1. Public support to the car industry which does not entail State Aid

There are many ways in which Member States can support the car industry which, in principle, do not raise competition policy concerns:

First, there are measures aiming to encourage demand for certain products. They consist generally of a financial support granted to consumers for scrapping their old cars and buying more environmentally friendly cars. If such supports are granted without discrimination with regard to the origin of the product, they do not constitute State aid.

Second, there are the general policy measures which, if open to all companies on their territories, do not constitute State aid. For instance, Member States can alleviate financing problems of the companies in the short and medium term, by general tax measures or by extending payment deadlines for social security and similar charges. If such measures are applicable to all undertakings, in all sectors, in principle, they do not constitute State aid.

Third, under the **De minimis Regulation** Member States are free to grant aid of up to EUR 200,000 per company over any period of three fiscal years (or State guarantee amounting to EUR 1.5 million) and this aid is not deemed to amount to State aid[3].

Fourth, under the **Reference Rates Communication** and **Communication on Guarantees**[4] Member States may grant loans or guarantees to the car industry which will not constitute State aid provided they are given on market conditions.

Finally, Member States can apply for co-financing of active social protection measures from the **European Adjustment Globalisation Fund** in order to support the workers made redundant as a result of major structural changes in the world trade.[5]

[1] Official Journal C 16, 22.01.2009, page 1
[2] Official Journal C 270, 25.10.2008, page 8 and Official Journal C 10, 15.1.2009, page 2
[3] Official Journal L 379 of 28.12.2006, page 5
[4] Official Journal C 14, 19.1.2008, p.6 and Official Journal C 155 of 20.06.2008, page 10,
[5] Official Journal L 406, 20.12.2008, page 1

2. State Aid that can be granted to the car industry without prior authorization

Member States can support the car industry though measures with constitute State aid but which can be granted without prior notification through measures provided for in the **General Block Exemption Regulation** of 2008[6].

This Regulation can be used to support the car sector, including car producers and their suppliers and distributors, by numerous types of aid: favouring research, development and innovation, regional development, training of employees, aid to SMEs, risk capital, environmental protection, aid measures promoting entrepreneurship, newly created companies in assisted regions and female entrepreneurship. These categories of aid can be granted without prior notification and the subsequent Commission's authorization. The Member States only have to inform the Commission afterwards, using a simple information sheet, that such aid was granted. If a Member State wishes to grant State aid measures not included in the GBER, it might still do so subject to notification to the Commission. The Commission will examine such notifications on the basis of the existing legal rules (see section 3).

3. Support authorised under other State Aid legislation

In order to enhance the long-term competitiveness of the car industry, Member States can grant car sector various forms of State aid. This aid has to be notified to the Commission for its approval. In particular, the car industry can benefit from the following categories of State aid:

Environmental aid

The **Guidelines on State aid for environmental protection of 2008**[7] enable the Member States to grant, among others, the following types of aid to the car sector:

- Aid to companies which improve the environmental performance in their production process
- Aid for environmental studies
- Aid for the acquisition of new green transport vehicle under certain conditions
- Aid for energy saving
- Aid for sustainable biofuels (which indirectly benefits car manufacturers developing motors using biofuels)

Aid for Research & Development & Innovation (R&D&I)

The **Framework for State aid for Research and Development and Innovation**[8] enables the Member States to grant to the car sector:

[6] Official Journal L 214, 9.8.2008, page 3
[7] Official Journal C 82 of 01.04.2008, page 1
[8] Official Journal C 323 of 30.12.2006, page 1

- Aid for research and development projects for cars, including for the development of green technology

- Aid for the loan of highly qualified personnel (can be used to improve the automotive value chain)

- Aid for technical feasibility studies

- Aid for process and organisational innovation in services

- Aid for innovation clusters which can help car manufacturers to invest in open research and testing Infrastructures

Regional aid

Allowed by the **Guidelines for national regional aid 2007-2013**[9], national regional investment aid promotes the economic, social and territorial cohesion of the EU by addressing the handicaps of the disadvantaged regions through supporting investments and job creation linked to such investments. In disadvantaged regions, Member States can grant car sector investment aid for setting up a new establishment, extending an existing establishment, diversifying the establishment's output into new products or introducing fundamental change in the overall production process.

Aid in the form of risk capital

The risk capital constitutes an important instrument for the financing of SMEs, though closing an equity gap on the market. In the car sector, the **Guidelines on state aid to promote risk capital investments in SMEs**[10] enable the Member States to grant high-growth-prospect companies aid in the following forms:

- Aid to risk capital investors or venture capital funds for their risk capital investments

- Fiscal incentives to investment funds and/or their managers or investors

- Constitution of investment funds ("venture capital funds")

Rescue and restructuring aid

For companies in difficulties, a forward-looking instrument aiming to their restructuration is an appropriate response; this is the aim of the **Guidelines on state aid for Rescuing and Restructuring firms in difficulty of 2004**[11]. A company in difficulty can receive state aid in order to restructure its operations if it can prove that such aid will help it to be viable in the long-term. If any urgent assistance is necessary, Member State can, before preparing a comprehensive restructuring plan, grant to a car sector company either a loan or a state guarantee

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[9] Official Journal C 54 of 04.03.2006, page 13
[10] Official Journal C 194, 18.08.2006, page 2
[11] Official Journal C 244 of 01.10.2004, page 2

on commercial loan for duration of six months. By granting such aid, Member States gain time which allows the company to prepare a restructuring plan or, if the difficulties were overcame, to repay the aid or stop using the state guarantee.

4. State Aid authorized under the Temporary rules: Temporary Framework and Communications to support the banking sector

4.1. The Temporary Framework

On 17 December 2008, the Commission adopted a **Temporary framework for State aid measures to facilitate access to finance in the current financial and economic crisis**.[12] Some technical adjustments to this Framework have been introduced on 25 February 2009. The Framework provides Member States with possibilities in the State aid area (in addition to "traditional" instruments mentioned in sections 2 and 3) to tackle the effects of the credit squeeze in the real economy. These temporary measures are based on the Article 87(3)(b) of the EC Treaty which allows the Commission to declare as compatible with the common market aid "to remedy a serious disturbance in the economy of a Member State".

The measures apply to all companies, including companies in difficulties which were not in difficulty on 1 July 2008 but only entered into difficulty thereafter due to the global financial and economic crises. For car manufacturers which were already in difficulty before this date or for those whose difficulties are mainly due to structural problems rather than the crisis, the Guidelines on state aid for Rescuing and Restructuring firms in difficulty of 2004 (see section 3) are the appropriate instrument to ensure long-term viability. Member States have to notify the schemes containing these measures, and once the scheme is approved, they can grant individual aid immediately without further notification.

The aim of the Temporary Framework is to facilitate the access to credit. It can therefore be beneficial for the car manufactures as well as car parts suppliers. Likewise, it encourages the car sector companies to invest into a sustainable future, including development of green products.

The following measures under the Temporary Framework can be applied until 31 December 2010:

"Small amounts" of aid

- Aid up to EUR 500,000 per company for the next two years, to relieve them from current difficulties

This aid can be only granted under aid schemes. If a car sector company has already received de minimis aid prior to the entry into force of the Temporary Framework or will so during the validity of the Temporary Framework, the sum of the aid received under the Temporary Framework and de minimis aid received under the De Minimis Regulation must not exceed EUR 500,000 between 1 January 2008 and 31 December 2010.

[12] Official Journal C 16, 22.01.2009, page 1

State guarantees

- State guarantees for loans in the form of a reduction of the premium to be paid

The Commission will (i) authorise a two years reduction of up to 15% of the annual premium to be paid for new guarantees for large car sector companies and up to 25% for SMEs operating in the car sector and (ii) will allow these companies to apply a premium fixed in the communication for other eight years. The maximum loan amount must not exceed the total annual wage bill of the beneficiary. The state guarantee may not exceed 90% of the loan but may cover both investment and working capital loans.

Subsidised loans

- State Aid in the form of subsidised interest rates applicable to all types of loans

In order to help bridging the current difficulties of car companies to access financing, the Commission accepts that a reduced interest rate is applied for interest payments until the end of 2012 for public or private loans. The reduced interest rate will be calculated on the basis of the central bank overnight rate[13], instead of one-year inter-bank offered rate (which is the reference under the Commission Communication on the method for setting the reference and discount rate of 2008[14]).

Subsidised loans for green products

- State aid in the form of subsidized loans for the production of green products

This measure is, in particular, applicable to the car sector. In order to encourage the production of green products, the Temporary Framework allows the Member States to grant subsidised loans for products involving the early adaptation to or going beyond future Community product standards which have been adopted but did not yet enter into force.

Large undertakings and SMEs can benefit from an extra rebate of 25% and 50% respectively from the subsidised interest rate described in the previous subsection. The subsidised interest rate for green products is applicable during a period of maximum 2 years following the granting of loan.

Improving access of the risk capital for SMEs

Under the Temporary Framework a Member State can grant increase of the tranche of finance from EUR 1.5 million per SME to EUR 2.5 million per SME. At the same time, the level of private participation is lowered from 50% to 30% (equally in and outside assisted areas).

Simplification of the requirements of the short–term export credit

[13] This rate must be at least equal to the central bank overnight rate plus a premium equal to the difference between the average one year interbank rate and the average of the central bank overnight rate over the period 1 January 2007 to 30 June 2008, plus the credit risk premium corresponding to the risk profile of the recipient.

[14] OJ C 14, 19.1.2008, page 6.

The Commission accepts that certain non-marketable risks are taken on the account of public insurers if a Member State can demonstrate that such a cover in not available on the market. The Temporary Framework introduced a procedural simplification of the Members State burden of proof.

4.2. The Communications to support the banking sector

The **Communication on measures taken in relation to financial institutions in the context of the current global financial crisis**[15] and the **Communication on recapitalisation of financial institutions in the current financial crisis**[16] permit Member States to devise support schemes for financial institutions, such as guarantees or recapitalisation schemes. These schemes are approved by the Commission if they are well-targeted, proportionate to the objective of stabilising financial markets and contain certain safeguards against unnecessary negative effects on competition.

The Commission has already approved several schemes notified by Member States. Institutions specialized in car finance are among those eligible for aid under the Communications and the schemes approved by the Commission. Car manufacturers usually have such a branch and according to the information available, financial branches of car makers have indeed already benefitted from these rules.

[15] Official Journal C 270, 25.10.2008, page 8
[16] Official Journal C 10, 15.1.2009, page 2