European Automobile Distribution: Globalization and incomplete liberalization[1]

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Introduction

The issue of globalisation has a certain immediacy for actors in industries such as pharmaceuticals or defence where it has had an impact on both strategic and operational issues. Generally, however, industrial actors are caught up in changes which observers or analysts attribute to an expansion of space whilst they themselves –be they the regulators or the regulated– instead perceive this change occurring at the different levels at which mediation and problem solving actually take place. Indeed, even when the economic and strategic questions posed are globalized, or in the process of so being, such processes are hard to grasp using the category of globalisation. *A fortiori*, an examination of industries which spontaneously manifest resistance to the application of the concept, without being exempt from its forces, allows us to better understand how the dialectics of globalisation take shape. The fact that globalization is not experienced directly in such industries reveals the existence of mediations between meta-tendencies and the realities of each industry's dynamics. Consequently, we hypothesize here that particularly within such industries, globalization is a political enterprise that generates competitive reactions.

It is from this perspective that we propose to examine the overall group of activities classified as automobile distribution. While it is intrinsically linked to an industry often considered emblematic of globalisation –car manufacturing-, the retailing and servicing of automobiles constitutes a separate, albeit fragmented, industry. Its structure may initially appear quite similar from one country to another but further examination reveals significant differences. However, in Europe in particular, the pressure for integration and harmonisation has become very strong and is closely linked to the European Union's (EU) (1) political project to globalize this industry, a project within which the 'legislative intention' has primarily been to both

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achieve a single market for goods and services and remove barriers to entry for non-EU competitors. From the perspective of a single market for services, the associated objective is to encourage the development of international operators in an industry that has been dominated by small artisanal firms. In short, the objective here has been to encourage the emergence of larger firms which would be in a position to rationalise and modernise the sector by developing a unified strategy for the whole market of automobile distribution.

In order to analyze the emergence, adoption and implementation of this political project, this chapter applies the *Politics of Industry* approach to identify how the interaction of the four Instituted Relationships (IRs) structures production and competition in the European car distribution industry. Based upon several years of empirical research, firstly this application of our framework will be used to show how an initial Institutional Order (IO) was built then reinforced around the concessions the EU won from various national actors (1). Subsequently, we will see how, for endogenous reasons, the industry has been restructured since the middle of the 1990s. In particular, we attempt to unpack the recent political enterprise led by agents of DG Competition to 'liberalize' this industry and its impact on the industry's dynamics (2). Finally, we will use these analyses to develop more general conclusions concerning the mechanisms that underpin such dynamics and the consequences structural characteristics of the EU has had upon the way in which globalisation manifests itself in the case of car distribution in Europe (3).

1. The automobile retail and service industry: institutionalisation by its actors legitimized by European authorities

Before examining recent attempts to change it, the structure of the industry (1.1) and the role played by EU rules (1.2) will be analysed. In so doing, our framework will be used to illustrate how an exemption regime for the car industry as a whole made the Purchase IR the cornerstone of this industry and to present the political tools it spawned for the regulation of automobile markets.

1.1. Domination in the Institutional Order

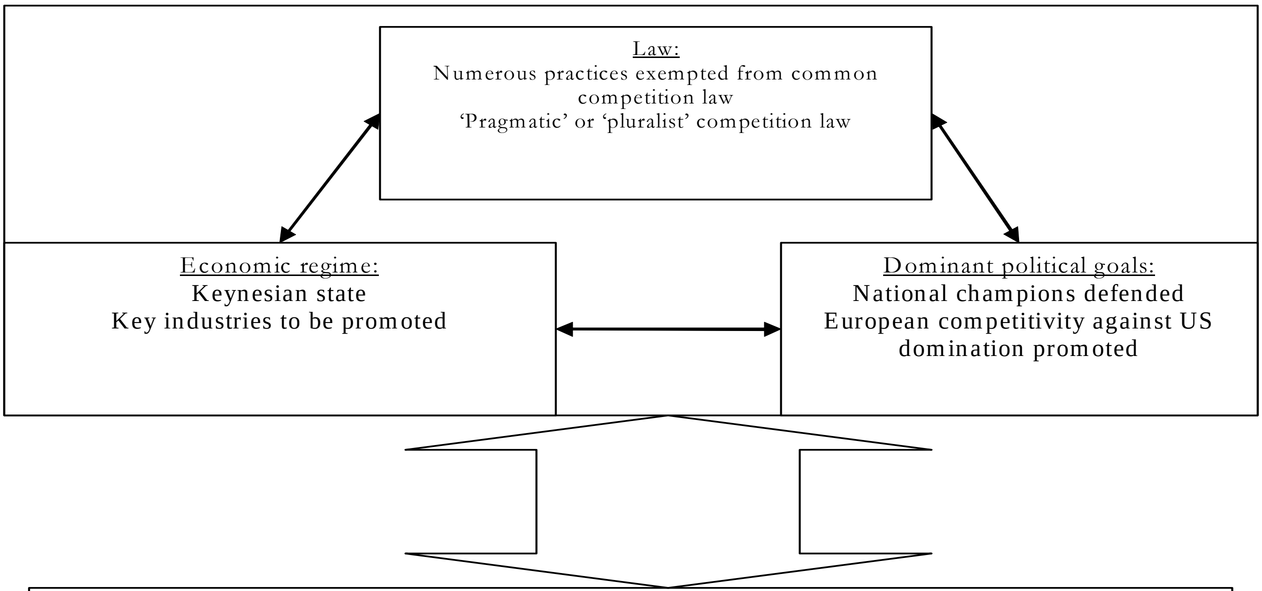
In order to apply our framework, we first conceptualize car retailing and servicing as an industry. Within it, manufacturers' retail networks co-exist with a large number of professionals who either operate independently or are part of specialised networks involved in the business of automobile servicing, repair and the sale of second-hand cars. These two sub-sectors are inter-linked and the industry is defined in such a way as to include both. Secondly, we consider that the most pertinent point of entry for any discussion concerning automobile distribution is the very specific Purchase IR which regulates links between a multiplicity of distributors and repair specialists to a relatively small set of automobile manufacturers. Here there is clearly a situation of very strong asymmetry in favour of the manufacturers and a closer look at the characteristics of the traditional structure of this sector highlights some of the problems this has tended to cause (Jullien, 2003).

Different regions of the world have each developed their own specific pieces of legislation that allow manufacturers to control the distribution landscape, as well as its day-to-day operations and the profitability of its members, without needing to invest heavily. In reality, this asymmetry has allowed manufacturers to delegate a great deal to their distributors. This in fact has entailed a compromise in which the requirement that dealership networks submit to the whims of manufacturers in relation to the sale of new vehicles was partially counterbalanced by the relative lack of interest of manufacturers in used car sales and after sales service, activities which were left to the dealers (Jullien, 2001). The Purchase IR was also of key importance for independent operators because of the intellectual property rights relating to the 'original spare parts' they were obliged to buy from the manufacturers' networks at high prices. This guaranteed that manufacturers would continue to profit from a significant proportion of the price charged by independent operators to clients who had, in fact, either chosen to abandon or who had never been clients of the manufacturers' networks (Jullien, 2002, 2004). This situation thus clearly constituted an instituted supply relationship for distribution actors in relation to automobile services purchased upstream in the value chain. The duality of this relationship has had two striking effects.

i) The relationship firstly established actors upstream of distribution and servicing, including of course automobile manufacturers, as dominant over the multiple small firms that made up the majority of the industry.

ii) Consequently a ‘conception of control’ (Fligstein, 2001) emerged and a distribution of roles according to which those actors closest to those who dominated – in this case, the networks of automobile manufacturers – were positioned above those whose ‘independence’ moved them to the margins of the system. Network members carried out all automobile distribution and repair tasks and, for each, were supported in technical and marketing terms by their manufacturers. The independent operators, on the other hand, concentrated upon automobile repair, used car sales or the distribution of spare parts. To do so, however, they were never entirely free of all links to the manufacturers and their networks.

Figure 2.1: **The Purchase IR in the traditional configuration of the automobile distribution industry**



Relationships between 6Cs	Stakeholders	Competitors
Conflict - Coordination	Car Dealers vs Carmakers Independent repairers vs Carmakers	Dealers / Subdealers / Independent Repairers
Compromise – Convention	Selectivity and exclusivity for retailing of new cars admitted Retail networks highly controlled but relatively autonomous for used vehicles and after-sales questions Value and risk sharing very unequal	Limited competition Respective roles of competitors hierarchized and well defined Independent repairers dependent upon car dealers Spare parts markets controlled by dealers Consumers segmented by the age of the vehicles owned
Cooperation - Coercion	Carmakers dominate	Car Dealers dominate Independent repairers

As Figure 2.2 shows, the other three IRs aligned themselves with the overriding logic of the Purchase relationship. Thus the Commercial IR was instituted as a relationship between households who bought automobiles and networks of dealers, in the sense that it was envisaged and presented in this way although this was only part of the market reality. In fact, the Commercial IR linked suppliers not only with clients who sought to buy a new vehicle (NV) but also encompassed those in need of repair services and second-hand vehicles. NV purchasers who keep their cars for a number of years were in the market for servicing and repairs and these markets were even more important to purchasers of second-hand cars. However, this major segment of industrial activity and its commercial significance were economically and politically marginalised. In practice, the activities involved have remained small-scale and far removed from the managerial norms and marketing techniques that have been adopted in other service activities. In this context, many clients were aware that the dealership networks were targeted mainly – if not entirely – at NV purchasers. Consumers who were not NV buyers did not use these networks and those who did initially frequent them as purchasers, tended to stop doing so as their cars aged and they themselves become transformed from purchasers into users (Jullien, 2003). In addition, policy-makers considered that the particular nature of the automobile requires that its retailers be obliged to deliver 'associated services' (Telser, 1960) covering product information, servicing, repair and the guarantee of spare parts.

The small scale of firms involved in the industry outside of the manufacturers' dealership networks has had clear implications for both management practices and workforce relationships, thereby further enhancing the manufacturer-dominant Institutional order and 'conception of control' within the competitive landscape. The latter was made up of a myriad of small firms, among whom the 'least small' were those dealers who represented makes of car and sold their respective vehicles. These firms were dominated contractually and effectively by the manufacturers (IR n°2). They, in turn, dominated the other group of representatives of makes made up of agents. Agents were contractually linked to dealers and were responsible for selling a certain number of vehicles for them and for the service and repair of vehicles of their make within the dealer's territory. Dealers also dominated independent repair outlets who needed to source spare parts from them. The landscape was thus clearly structured with a functional and symbolic distribution of roles. Within this economic and social structure, vehicles moved from one category of operators to another as they aged and moved down the social pyramid via the used car market.

Figure 2.2 outlines in more detail the dual nature of each of the other IRs and allows us to refine analysis of the industry's traditional conception of control. It specifies the institutional complementarities (Amable, 2003) and highlights the institutional coherence of the differentiated forms of access to resources. We thus can identify the 'dominant values' of the industry which were associated with an ideal version of the good professional who has succeeded in the sector. At the other extreme of the social hierarchy, among those actors who were dominated, we can also see the counter example that typifies the rejection of a set of values which serve to underline its inferiority. In essence, the system was based on the Purchase IR because it was structured around the interests of manufacturers who – both individually and collectively – sought to coordinate their downstream value chains. In this respect, it is worth noting that the sector was always presented as that of 'vehicle' distribution, that this structured the dominant conception of control and then influenced the other IRs. Access to key resources, for example, was easier to obtain for operators who were close to manufacturers and less favorable for those who did not sell NVs or spare parts. In the same way, the most highly regarded professional path was one whereby an apprentice qualified as a craftsman and then went on to set up their own business and become a franchised agent of a dealership.

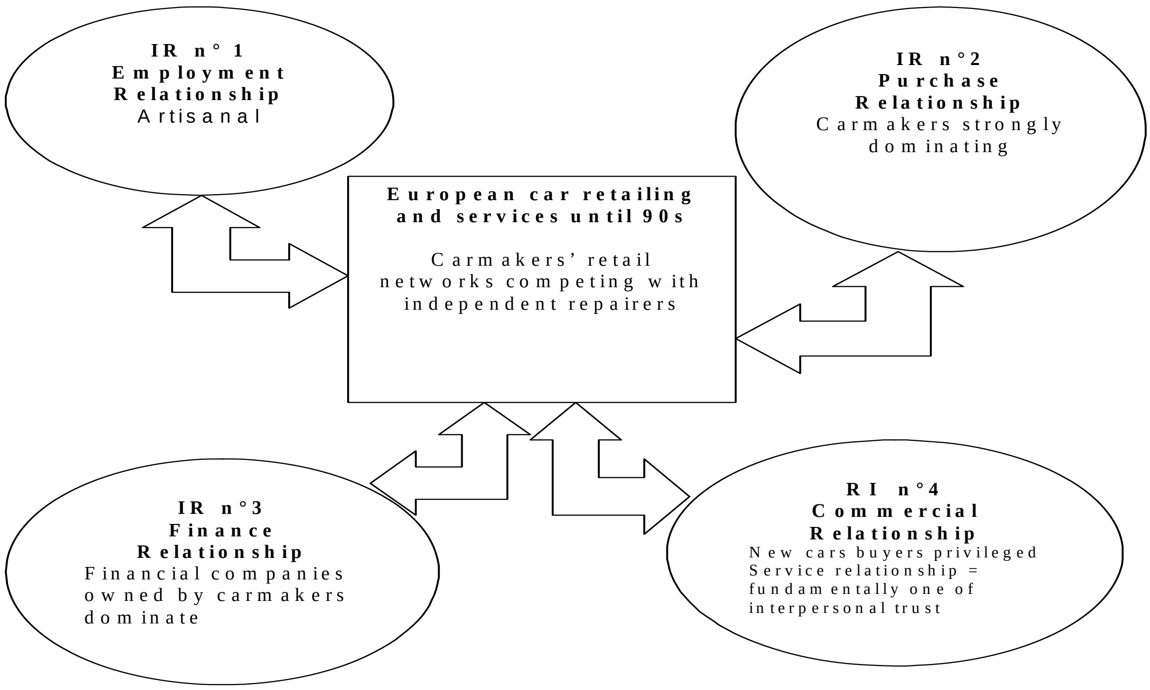
Figure 2.2: Dominated IRs in the traditional configuration of the automobile services sector

IR1 Employment IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Small business owners v. sales force, managers and qualified workers	Struggle to employ and keep the best sales people and mechanics
Compromise-Convention	Qualification, know-how, product-based co-ordination	Top down hierarchy: manufacture-owned outlets, dealerships, agents, garages
Co-operation-Coercition	Legitimate domination of the small business owner Desire to open own business	Labour protection – collective bargaining agreements v. delegation and advancement from independence
IR3 Finance-control IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Families and banks who are captives of the manufacturers v. small business owners	Access to finance = access to retail locations
Compromise-Convention	Cash Goodwill of manufacturers, suppliers and sales force	Successful businesses v. those in difficulty Reputation, external signs
Cooperation-Coercion	Manipulation of margins, open book v. independence	Hierarchy based on inventory and the capacity to offer credit
IR4 Commercial IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Automobile sellers v. buyers Repair specialists v. users	Those who sell and others Those who are honest and/or long established and the others
Compromise-Convention	Representing the make Service relationship, information asymmetries, trust (or mistrust)	Makes, products Reputation, brand recognition, length of market presence Competence, honesty
Co-operation - Coercion	Client as purchaser in the symbolic system v. client as user in the everyday system	Hierarchy based on the level of proximity and/or distance from the NV sale

As an agent, he or she might succeed in achieving a high enough level of sales to be given the opportunity to open their own dealership. Their name was thus associated with a given automobile make in their locality. At the other extreme, of course, losing a dealership was seen as synonymous with professional decline. Success in the world of car distribution was thus long defined by the level of 'servitude' of each member to the interests of the dominant group made up of manufacturers. Above all, becoming the exclusive representative of a make for a particular territory was the way to generate wealth throughout the long years of the growth of automobile ownership. This status also afforded a certain amount of power over the attributed territory to the head of a network of agents with the exclusive right to supply spare parts to all repair operators.

Participants in this system who were most removed from the heart of the dominant logic and who had little chance of improving their relative position created a form of 'counter culture' (Jullien, 2007). Together they developed a symbolic representation of car dealers that highlighted the exorbitant prices they charged to support the 'useless luxury of their show rooms' and the 'fat salaries' of their sales forces. Implicitly they made reference to the period of black markets during and after the last war and the images that persisted of profiteering from 'the misery of poor, honest people' (Loubet, 1995). Those excluded from the system, both professionals and clients, recognised this representation as pertinent. Clients saw the alternative proposed as an opportunity to possess a car and have it serviced without having to frequent 'that world'. For professionals working in servicing, what was attractive was the idea of keeping contact with the manufacturers' networks to a minimum and spending more time concentrating on their clients' vehicles than on the outward appearance of their garages and the illusion of a quality of service.

Figure 2.3. The European automobile distribution and services industry in the early 1990s



This counter culture was not entirely absent amongst agents (also known as the secondary network) and it could also be found to some degree in the workshops of dealers and among dealers themselves. It was mobilised to complain about marketing and the requirements of manufacturers and their 'lack of economic and commercial realism'. To an extent, the porosity of the two worlds guaranteed that the established order would persist with its clear allocation of roles and values. It reflected the differentiation of access to the automobile that existed but neither clients nor professionals were so far removed from other groups that they were not aware of each other. Fordist income distributions and their dynamics (Lipietz, 1995) meant that households could imagine one day becoming a new vehicle purchaser. The expansion of the automobile market, and the arrival of foreign manufacturers linked to the Common Market in the 1960s and 1970s, meant that professionals had a range of possibilities to become agents or dealers within a manufacturer's network. In the early 1990s, the industry was thus structured as outlined in Figure 2.3.

1.2 'Exemption' as legal validation of the domination of manufacturers through the Purchase IR

The structure of the industry as it was presented in the preceding section can be explained in part by the legal framework that applied to it. On the other hand, it could be argued that the specific laws for this industry served both to legally endorse the dominant position of manufacturers and to protect the weaker parties from potential abuse. In reality, from the perspective of economic law, the manner in which the distribution of new cars and spare parts was organised corresponded to what are known as 'vertical restraints'. This means that the manufacturer operated a form of quasi-integration of downstream activities within which it was possible to restrict access to downstream activities to operators of its choosing without needing to make the investments that would normally be necessary. For operators who were not chosen by the manufacturer, this meant that the manufacturer could refuse to sell to them for the purposes of resale and that this practice was not considered illegal. For this to be legally possible in the EU, the manufacturer needed to insert its distribution into a franchising regime that was covered by a specific Community regulation. In the case of automobile distribution, however, the whole car sector was granted a specific 'block exemption'.

It is worth considering how and why such a specific block exemption was adopted and considered legitimate in the EU until the end of the 1990s. There is an interesting contrast between the attitude of the EEC in the 1960s when the block exemption was granted and that which prevailed at the beginning of the 1990s when the question was re-examined. From the perspective of DG Competition, the special treatment afforded to the sector of automobile distribution with regard to EU competition law was initially seen as legitimate, and almost normal. It gradually became a problem for both the sector itself as well as for the automobile industry overall and its access to global competition. Before explaining this development as part of the overall evolution of the industry, we will first examine how competition policy was initially problematized and how this intervened in the industry's operations. This will allow us to understand how the block exemption subsequently came to cause tensions that were linked to this interaction between legislation and industry, and to wider political and ideological developments that were taking place during the same time period.

Until the end of the 1990s, car manufacturers obtained permission from the Commission to organise the distribution of their vehicles and spare parts in a unique way. This meant they could continue to benefit from 'vertically restrictive practices' by obtaining a specific derogation from competition policy as defined in article 81 of the Treaty of Rome. More precisely the entire industry was accorded a 'block exemption' that applied to all producers and distributors and that was, in fact, both selective and exclusive.

It was mainly 'selectivity' that interested manufacturers as it allowed them:

- to refuse to sell to any distributor that they had not chosen;
- to ensure that their sales outlets conformed to a certain number of norms considered essential to represent the make and, above all, to oblige their dealers to sell their entire range, to maintain guaranteed levels of inventory for spare parts and to offer service and repair activities.

Meanwhile, however, 'exclusivity' also allowed manufacturers to require dealers to dedicate their outlets to their make and, in return, manufacturers offered a 'territory' over which the dealer had a monopoly, perhaps in association with a certain number of agents, who were contractually tied to the dealer. Competition between brands was thus limited and, in theory, this ensured that market prices did not diverge from 'catalogue prices'. The aim was to protect the specific investments made by dealers to meet the requirements of their manufacturers.

These principles of selective and, to a lesser degree, exclusive distribution emerged initially in the 1910s in the United States and were transferred to other markets in a fairly homogenous way. In the post war years, Europe experienced the rapid market expansion of a smaller number of makes of car and, in turn, adopted these principles. European competition policy in this area was thus essentially one of accepting the status quo. To justify doing so within an acceptable doctrine, reference was made to an abundant economic literature from America that had been attempting to show that restrictive vertical practices in car distribution systems were coherent with principles of efficiency and thus to legitimize the institutionalization of the Purchase IR described above in Figure 1 (Jullien, 2005). As Ramirez has shown, however, European debate on this question between 1962 and 1990 was not purely concerned with competition policy. Rather the automobile sector, along with many others, was dealt with in Europe in a way that served the development of an industrial policy that promoted the strategic interests of 'national champions' (Ramirez, 2006). From this point of view, certain structural traits of the European IO allow one to understand why 'vertical restraints' were seen as more vital for European manufacturers than for those from elsewhere. They also enable one to grasp how this question was linked to that of the common market (and subsequently the single market), on the one hand, and to the rising power of Japanese manufacturers in Europe on the other.

In the 1960s, there were significant structural differences between the American market with its three manufacturers and the European market, in which over twelve manufacturers were present. In the latter situation, each of the manufacturers and their dealers were in a more fragile situation. In addition, in the 1960 and 70s, European manufacturers sought to expand beyond the policy of single models to become generalist suppliers as General Motors had done in the United States in the 1920s. Both these factors enhanced the perceived need of manufacturers to benefit from selective and exclusive distribution. One important advantage of this form of distribution was that the sector was spared the negative consequences of a price war. Another was the support it afforded manufacturers in the management of their product policy. As manufacturers increasingly added to their ranges and renewed them more frequently, they were faced with higher levels of uncertainty with regard to the future revenues with which they would have to meet the heavy investment levels necessary to design and manufacture new models. Selective and exclusive distribution allowed manufacturers to impose or 'push' their products onto the network, even when sufficient levels of demand had not yet been expressed by the final consumer. European manufacturers saw the adoption of this economic model as vital (2). The economics of diversification and innovation in the automobile industry were such that an exclusive and selective distribution network was considered to be required and this network must not be in a position to refuse to sell models in the range that were poor performers. This, of course, was no guarantee for manufacturers against poor market performance for certain models, but it reduced uncertainty and allowed them to even out the peaks and troughs of their performance cycle. From the perspective of dealers, it was mostly true that their status as 'shock absorbers' for variations in demand was not advantageous. However, in Europe the level of sales for each dealer was relatively low so they preferred to have exclusivity for their territory. Anxious to ensure that firms such as Fiat, Renault, Volkwagen, Volvo or BLMC managed to become generalist suppliers, and to avoid handing the European market over to American manufacturers, the European Commission's Competition DG accepted these arguments for the block exemption.

While this was the overriding thrust of the decision, there were other contextual elements in Europe in the 1960s that made automobile distribution a particularly noteworthy industry. Having signed the Treaty of Rome, attention in Europe focused on the potentially devastating effects of opening borders and allowing inter-make competition in each of the markets within which national champions dominated. The period during which the opening of markets was being prepared was one in which intense negotiations in relation to the automobile industry, and the strategic and operational activities of manufacturers, simultaneously contributed to defining the political and economic conditions for the emergence of the common market. In this context, the question of selective and exclusive distribution was seen as slowing down market liberalisation because a key element to gaining access to new markets was the difficult and costly development of an exclusive network. This afforded pre-EEC markets a certain inertia and was, in fact, reassuring to both manufacturers and dealers. In addition, traditional forms of distribution structure meant that price wars were avoided and manufacturers and dealers continued to enjoy good margins. From this point of view, manufacturers were very anxious not to have to harmonise prices between one national context to another. Being in a position in which they could oblige dealers of their make of car to buy only directly from them was a guarantee that dealers would not be in a position to re-import vehicles from other parts of Europe where prices were lower. T. Pardi has shown that this element of negotiations was particular significant in the British case where consensus to defend this model remained in place only as long as there was a national champion whose interests were being defended (Pardi, 2006).

In 1985 and, to a lesser degree, in 1995, concerns were raised about protecting the European automobile industry against the growing power of Japanese manufacturers that had already made a significant impact in the United States. More precisely, a combination of import quotas and the necessity to have a selective and exclusive dealer network served to restrict the penetration of European markets by Toyota, Nissan, Honda and Mazda. It was clearly difficult for these companies to attract distributors and to impose conditions on their activities when they knew they would not be able to achieve a market share of more than one or two percent. As there were no cars from these makes already in circulation, potential dealers would also have very limited after sales service. The profile of dealers who did take up this challenge thus tended to be that of independent multi-make repair shops that also happened to sell some Japanese cars. The only other solution would have been to allow the dealers for established makes to become multi-make. Dealers for manufacturers such as Volkswagen, Peugeot or Fiat could thus have been persuaded to add a new, relatively marginal activity to their business by distributing Japanese makes in addition to their main make. The 1985 EU regulation, however, limited this possibility by requiring dealers to dedicate themselves to a single car manufacturer. Thus, the situation in Europe was unlike that of the United States where there were no quotas and where dealers of American makes were also able to represent Japanese makes at the same time. In Europe, the dealer network for Japanese manufacturers therefore grew slowly and, even after the disappearance of quotas, remained relatively limited in its penetration until 2000 (Jullien, 2007).

Overall, research on the evolution of the block exemption over time shows that the construction of the common market in the automobile sector was partly facilitated by efforts made to permit a cartel to dominate supply and to assert collective control over prices. This was the political and economic landscape in which the block exemption was allowed to persist. In addition, up until the 1990s, the very 'pragmatic' approach adopted to competition policy in general reflected a European standpoint, demanded with some success by numerous institutional and industrial actors, in which a European industrial policy played a structural role (Ramirez, 2006). In this context, the car manufacturers managed to avoid problematization of the issue of car distribution taking place: this industry did not become visible on its own and its law was fundamentally defined only in reference to industrial questions which were framed in such a way as to consider that cars were a major productive industry for the EU's member states (and for the largest of these in particular who, it should be added, all happened to be countries where manufacturing of cars took place). Small wonder then that the issue of car distribution and services at this time was never politicized. Instead, it was framed as a technical annex of the problem of industrial policy.

The system of legitimization on which the rules dictated by the EC were based around the Purchase IR shows how the overall regulatory, fiscal and administrative edifice consecrated or enhanced the power of manufacturers through an industry-specific process of co-defined public action. It is as if it had been decided that automobile manufacturers were best positioned to define themselves a framework in order to ensure their own development along with those of their clients. Thus, when one examines the economic and contractual relationships linking manufacturers to their distributors in the framework that dominated until the 2000s, it is clear that they were profoundly asymmetrical and that they ensured that the distributors were given a submissive role. The Purchase IR was a reflection of the ways in which the manufacturers managed to have their commercial work done by the group of legally independent firms who made up their distribution network. Legal support for this position was thus a form of upstream recognition of the omnipresence and omnipotence of manufacturers that became even more evident downstream. The law and the position it afforded to exclusivity and the requirements that manufacturers could impose on their representatives completed the tool kit of economic pressure available to manufacturers. In addition, by recognising the existence of a 'natural link' between sales and after-sales service, the law positioned the contractual framework designed by the manufacturer in the name of the general interest (road safety etc.) and made it appear as the only viable alternative. Subsequently, as long as the relationship lasted, it generated a 'convention of effort' (Salais, 1994) between firms that regulated the subordination of distributors. However, for reasons related both to the evolution of the automobile distribution industry and the institutional, political and general economic context, the manner in which the supply relationship was treated changed quite radically after 1995. In Europe, this led to a questioning of the legal situation that supported the order we have just described, as well as challenges to the Institutional Order itself, i.e. the very economic and political organisation of the industry.

2. The European Union and automobile distribution: industry reforms perceived as arms against globalization

Challenges to this industry's Institutional Order began with market disruption during the 1990s. Difficulties faced by car manufacturers increasingly undermined the foundations of this order and generated the strategic prevarications of different actors that typifies the phenomenon of de-institutionalization. Described more fully elsewhere (Jullien, 2002, 2006), this process is briefly presented in part 2.1 to explain the context within which the European Union has chosen, over the past fifteen years, to revise its regulatory approach to the industry. Over this period, issues have been reproblematized and a very different political treatment of the industry to what had previously been the case has emerged (part

2.2).

2.1. De-institutionalization of the traditional order

What is notable about change as regards the traditional order is the relative marginalisation of the manufacturers and their networks within the industry. Indeed, the major strategic innovations occurred outside their sphere of influence because they were unleashed by newcomers in search of market share. In this context, the innovations subsequently introduced by the manufacturers were essentially counter-offensive moves.

To understand what went on, it is important to grasp that the order explained above involved a general phenomenon of 'cross subsidization' of vehicle sales by after-sales services. This conformed to the manufacturers' desire to 'push metal' and was a fundamental feature of dealerships which were heavily dependent on after-sales service and sales of spare parts to guarantee their survival. This provided the framework within which the evolutions of the last twenty years need to be placed. In essence, it was this 'deformation' of the structure of prices that created the market opportunity for new entrants. New 'fast fitters' appeared offering alternatives to automobile users who had been badly treated by the dealership networks of manufacturers. Instead, these newcomers offered competitive pricing that avoided the need to sell NVs. From the point of view of manufacturers and their networks, growing proportion of household spending on automobiles and a growing number of households thus exited the market. They generally acquired older used cars and went to independent operators, specialists and auto centres for after sales services, thus escaping from the practices whereby NV buyers were being subsidised by other users.

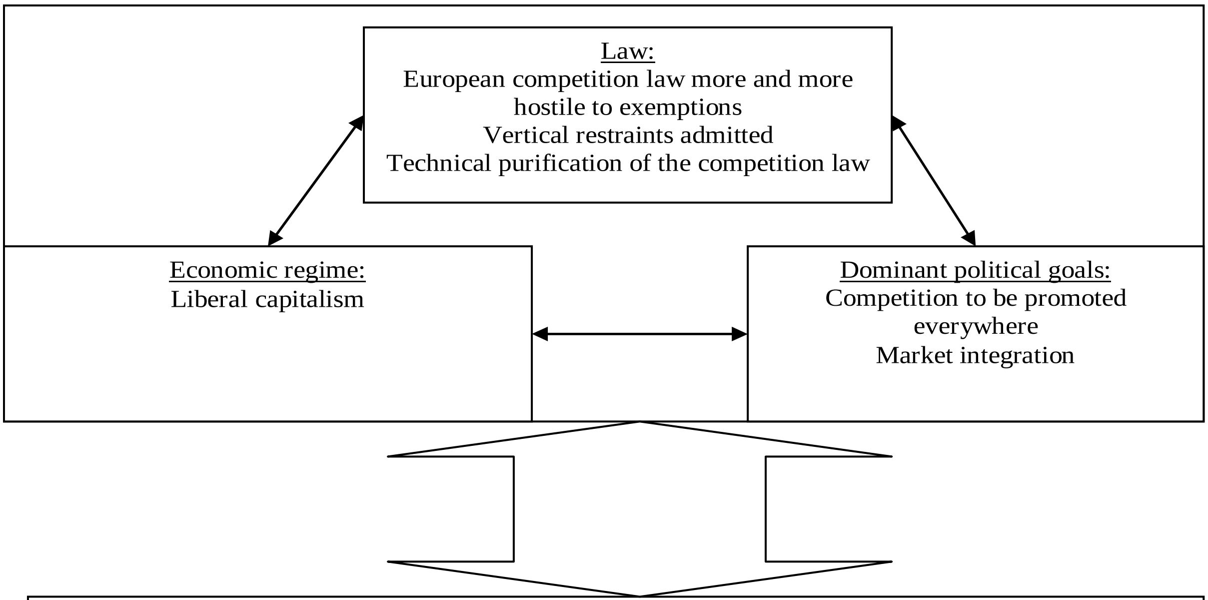
Although it is difficult to evaluate the full extent of this phenomenon, it is possible to say that the tendency became more marked for a number of reasons.

- The relative prices of NVs tended to increase more as exacerbated levels of competition led to a race for differentiation and diversification which could not have been achieved at constant costs;
- Income inequalities have tended to increase, further limiting access to NVs to a shrinking number of households;

- The choice of used cars on offer has grown and their quality has improved as NV buyers sell their vehicles more quickly and as the vehicles themselves increase in reliability and are heavily guaranteed;
- The alternatives to what was on offer from manufacturers in terms of spare parts and after sales services, as well as credit and guarantees, have become structured and more professional.

In short, this has been the general trend underlying the major initiatives for change. Overall, the increasing difficulty that manufacturers have faced to sell NVs has led to a more complex range of products in terms of the variety on offer and the speed of introduction of new models. In addition, the shrinking of the 'business to consumers' (B2C) client base and the growing importance of the 'business to business' (B2B) sales has put pressure on profit margins and led to price cuts and promotions at all levels of the network. As a result, after-sales service and spare parts have become increasingly important to save the dealer networks and to generate opportunities for profits for manufacturers' groups themselves.

Figure 2.4 : The new Purchase IR



Relationships between 6Cs	Stakeholders	Competitors
Conflict - Coordination	Car Dealers vs Carmakers Independent repairers vs Carmakers Car Dealers vs suppliers other than carmakers Independent repairers vs suppliers other than carmakers	Independent Repair Groups/Dealers/Used Vehicle groups/Renting cars companies
Compromise – Convention	Selectivity but no exclusivity for new car retailing Specialised contracts for different activities Dealer networks increasingly controlled (standards defined for each activity) Emerging behaviour from dealers groups promoting trade-offs Risk and value sharing still unequal	Car dealers in competition for each activity Prevailing hierarchies challenged Decreasing dependence of independent repairers Spare parts markets liberalized
Cooperation - Coercion	Carmakers still dominate Bigger dealers groups able to exit Independent repairers affiliated to groups	Parity between dealers, independent repairers & new comers Multiplicity of business models Porosity between models

During the same time period, the manufacturers' dealership networks have tended to lose market share to new entrants in market segments for profitable automobile parts that had to be replaced regularly with relatively simple operations. In reaction, the manufacturers sought to develop competitive offers by creating their own ‘rapid service’ centres and a second range of spare parts for older models of their vehicles. They also took steps to ‘consolidate’ their networks to control them better and attempt to take advantage of economies of scale. They developed labels for used car sales and tried to develop packages that included new car sales and servicing, extended guarantees, a guaranteed repurchase price, financing and often insurance. Clearly, from the point of view of the manufacturer, these moves were an attempt to avoid becoming marginalised and to maintain access for themselves and their networks to a significant part of consumer spending on automobiles.

Analyzing this change through the *Politics of Industry* framework highlights significant transformations in the fundamental instituted relationship: the Purchase IR (Figure 2.4). In effect, the manufacturers' reign over the entire industry has been undermined by the growth of alternative suppliers. Through their presence alone, as well as through these innovations they offered, the growing list of alternative suppliers reinforced all suppliers of services that were competitive to those offered by the dealership networks of manufacturers. Manufacturers reacted by strongly reinforcing their control over their networks and by expanding this control to cover all their activities. The areas of used car sales and after-sales service, for example, had tended to be relatively broadly delegated downstream and these activities gradually became regulated by labels, standards and norms. As a result, it became very difficult for dealership networks to take advantage of the opportunities that were now available from the new alternative suppliers. At the same time, 'independent suppliers' became less independent as they became members of franchised networks that offered clients and professionals alternatives to the solutions on offer from manufacturers.

This de-institutionalization of the industry's fundamental IR led to a gradual questioning of the manner in which the other IRs were defined (Figure 2.5). In addition, some of these relationships were also undergoing their own evolutions. The increasing amount of electronics in new vehicles, for example, had an impact on the structure of qualifications for labour involved in after-sales servicing. It also altered the types of break-down and the nature of demand for after-sales service. Nonetheless, it is primarily the interplay of the offensive moves of new entrants and the counter-offensive reactions of the manufacturers which explains the de-institutionalization-re-institutionalisation dynamics in the Purchase IR that have had an impact on the three other IRs.

The Employment relationship in many distribution firms was altered, for example, through the introduction of a the classical workforce model, adopted by franchise operations such as Midas and Speedy and other car centres, in contrast to the craft-industry model that had previously dominated the industry. Such companies also limited the autonomy of their personnel at all levels by creating profit centres for each site in which standardized norms were to be applied and by requiring all workers to respect standard processes and times for all work undertaken. They engaged in significant training both in reaction to the new types of vehicles and in order to ensure a level of discipline in the workplace that would guarantee homogeneity from one site to another. These new practices were the origin of the first move to destabilize the traditional IO during the 1980s and were gradually adopted by the manufacturers' dealership networks who applied them to a much broader array of services. The outcome was a vast Taylorisation movement characterised by a centralisation of the definition of work content. Given the complex nature of the activity and, in particular, the multiple sites to be integrated by each operator, it is not hard to understand why these moves were not entirely successful. They did, however, manage to undermine the traditional relationship with the workforce as it became both less probable and less desirable to envisage becoming one's own boss (one of the major pillars of the craft-industry model). With salaries, hours and career paths not keeping up with practices in other sectors, the industry’s attractiveness suffered and a significant gap emerged between the number of employees trained in these skills and the overall number of employees in the workforce. Employees tended to leave the industry when opportunities arose elsewhere and, therefore, competent personnel became scarce leading to a significant turnover rate.

The Financial IR has also significantly changed, in particular in more recent times. The business relationship that had been traditionally paternalistic and linked to family capitalism became one of investors who were less interested in the longevity of a garage or a dealership than in the relative profitability of each activity in each outlet. The normalisation of reporting processes introduced by specialised franchises and adopted by dealerships facilitated this management logic. The technical changes required relatively heavy investments for independent operators and bankers became cautious and began to apply norms and scoring techniques that implemented the same type of logic. Finally, and above all else, automobile manufacturers promoted a huge consolidation movement in the 1990s that led to a fundamental change in the nature of their network participants.

From this period on, more and more distribution groups have become multi-make and have specifically focused on the profitability of their businesses and those they wish to acquire. Nonetheless, at this time, the profitability in question was relatively low and was generally determined by the manufacturer's good will and willingness to manipulate profit margins. Modifying the balance of power would involve these groups exercising their power to renounce a contract they did not consider sufficiently profitable. Whilst this potential threat has continued to exist, it has rarely been carried out. The balance of power thus still remains largely in the hands of manufacturers who are in a position to finance investments and acquisitions via their in-house financing arms and who still determine profitability – or its lack– in the distribution business.

Finally, the Commercial IR has been considerably altered because new entrants have defined themselves in terms of the service or repair operation to be carried out independent of the vehicle in question, the manner in which it was acquired (new or used) and of the other repair work that needed to be done. The market had been one in which the purchase and servicing of a vehicle was a package, dominated by the purchase and, subsequently, by the seller. The new operators entered the industry with the promise of 'unbundling' these activities. This allowed them to present the services on which they intended to build their activity as a product and not as a service as they are traditionally treated. In effect, this attributed to the user a level of importance equal to that of the buyer in the industry's quality conventions (Eymard-Duvernay, 1989) and, more importantly, equal to that of the buyer of a new vehicle. This development eventually led manufacturers to take the satisfaction levels of their after-sales service clients into consideration within the management of their distributorship networks.

Given the breadth of markets and the variety of services associated with the sale and use of vehicles, the dynamics unleashed by all these changes led to an intensification of the division of labour within and outside the network of dealerships of makes and a growing level of professionalism exhibited by each supplier across a large range of service offerings. It became difficult for clients to position the different players given the large number of competitors specialising in certain operations but also covering systematically a part of what was on offer from another specialist. For the segment of clients that was primarily interested in a simple and rapid service package – rather than the lowest prices – it was seen as worthwhile to 're-simplify' what was on offer by creating packages of different services. Manufacturers were the first to position their packages in this way as they could take advantage of the polyvalence of their network and hopefully stop clients abandoning them for competitive networks. They expanded their guarantees in a costly manner and went on to offer a guaranteed repurchase price and, finally, proposed clients that they only pay the cost of usage, depreciation and servicing.

Manufacturers were not the only ones to develop such packages and, as the company car became a growing element of remuneration, they also began to feel the pressure of competition from leasing firms and fleet management companies who offered to choose on behalf of businesses among the very complex range of service suppliers that had emerged from the intensification of the division of labour. At the same time, air traffic growth and the growing number of urban dwellers who were choosing not to own a vehicle was leading to an increase in car rentals. Manufacturers found themselves selling ever greater proportions of their vehicles to these types of firms. Their networks were thus not only losing a significant volume of new vehicles sales, but also their associated markets for servicing and repair as these purchasers played competitors off against one another to obtain the best prices for changing tyres, windscreens and other such common purchases. In relation to this attack on the new vehicle business, the manufacturers did their utmost to develop credible alternatives. To do so, both manufacturers and their networks developed significantly different pricing policies for the same vehicles. In so doing, they added to the overall confusion in the market place as they gave out numerous, different and partly contradictory messages.

Figure 2.5: De-institutionalisation of the IRs

New IR1 or Vectors for change in IR1 Employment IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Boss of distribution groups or manager of franchises v. salaried workers	Struggle to employ or keep the best employees
Compromise-Convention	Dequalification – requalification Codifying of sales (scoring multiples, procedures): triangulation of the work relationship	Employment market very active and competitive with employees evaluating alternatives Turnover – labour shortage
Co-operation-Coercion	Reduced hope of owning own business Growing gap with rest of the world of work	Crisis in the two pre-existing employment models
New IR3 or Vectors for change in IR3 Financial IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Families, banks, manufacturer's credit arm v. heads of groups and franchises	Race for consolidation and to recruit franchisees
Compromise-Convention	Improved control of margins Increased financing requirements (inventory, adherence to norms, property costs) Problem with financing M&A activities Cost of equipment and cautiousness of bankers	Weak profitability as both a stimulus for regrouping and a strategic problem Financial hierarchy of makes and franchises Arbitrage behaviour
Co-operation-Coercion	Manipulation of margins and maintenance at the limits of survival v. faculty to exit	Threat of expulsion v. hope of gains
New IR4 or Vectors for change in IR4 Commercial IR		
	Between stakeholders	Between competitors
Conflict-Coordination	Multiple professionals with different levels of polyvalence v. buyers and users with increasingly different behaviours	Bundlers – Unbundlers Constructeurs – Indépendants Contestation du monopole de l'interface clients en B to B (Loueurs) et en B to C (VO)
Compromise-Convention	Rebalancing of the figures of the buyer and the user 'Marketization' of after-sales service Growth in power of B2B Segmentation and development of product ranges	Marques, products Reputation, brand recognition, length of market presence Competence, honesty
Co-operation-Coercion	Clients of different types more capable of choosing and differentiating their usage system	On-going challenges of manufacturers and their makes v. reaffirmed centralisation

2.2 Recent renegotiations of the EU's 'block exemption'

The EU, and the European Commission's DG Competition in particular, initially began to change its approach to automobile distribution with the adoption of the regulation 1475/1995. Over the past ten years, however, there has been an even more clearly pronounced change in direction in relation to the previous compromise in which it had been seen as politically and economically justified to structure this industry, both in fact and in law, in a way that served the interests of European manufacturers. A certain number of 'liberalisation' measures were introduced in 1995 that revealed the doubts that were emerging in relation to the appropriateness of the derogation afforded to the activities of car distribution and after-sales service and repair. These measures consisted of:

i) Reinforcing the ability of certain operators (brokers) to take advantage of the differences that persisted in pre-tax prices of automobiles from one European country to another in order to offer lower prices to consumers;

ii) Favouring the development of multi-make dealerships by limiting the ability of manufacturers to block them;

iii) Allowing repair outlets to purchase spare parts from suppliers other than manufacturers.

With the same intention in mind, the block exemption was not renewed for ten years, but only for seven, sending a clear signal to manufacturers that their behaviour was being watched and could lead DG Competition to revise its position. Given the context of a single market and a common currency, the on-going significant price differences, exceeding 30 percent in certain cases, between member states in relation to the same version of the same model, led to the establishment of a permanent observation system which noted the persistence of these price discrepancies.

The then Commissioner for Competition, Matio Monti, led the renegotiation between 1999 and 2001 and it was his DG that defined the regulation 1400/2002 that has taken effect since October 2003. In this section, we will begin by recalling how he evaluated the regulation 1475/1995 and its effects and how this led to the evolution of the regulatory framework for automobile distribution (2.2.1). This analysis is based on the 'Monti Report' of 2000, the current regulation and the arguments and explicative notes that appeared following its adoption. We then set out the positioning of the different actors in the industry prior to and subsequent to the publication of the new regulation (2.2.2). Finally, we consider how its impact has recently been evaluated and how this may evolve in relation both to future regulation and to current practices in the industry (2.2.3).

2.2.1 From the Monti report to Regulation 1400/2002

Between 1999 and 2000, DG Competition sought to evaluate the effects of the regulation then in place and to verify that the conditions under which the sector proposed its products and services could be considered to be 'in the overall interest of the consumer'. A certain number of reports were commissioned and several phases of discussion were organised between industry actors and states. On the basis of these measures, the Monti report was produced and it was followed by another round of discussion that gave rise to the 1400/2002 regulation.

Commissioner Monti was initially quite narrowly focused on the issue of the price of new cars which were supposed to converge given the free movement of goods and the single currency. Even with directly comparable prices, however, price differences persisted from one member state to another. The manufacturers insisted that they maintained such differences to compensate for differences in taxation which precluded price homogeneity. They found it more difficult to admit that they had implicitly or explicitly decided to avoid additional competition between countries for the same make of car to add to the already-high levels of competition between makes in each country. In essence, price differences were the result of relatively classic practices of price discrimination whereby manufacturers do not charge the same price for their products in a market where their brands are preferred by consumers as they do in markets where it is their competitors' products that are preferred. Even if this allowed some actors – brokers – to develop a lucrative business and to increase pressure for convergence, this effect remained relatively marginal. The level of the price difference between markets did not appear large enough to create enough cross-border traffic to provide the incentive for automobile manufacturers to homogenise their pricing practices. However, the consumers who suffered the most from these practices were the British who suffered from a dual disadvantage of their geographical position as an island and the fact that cars on British roads had to be altered for driving on the left. Hence, the ideological push to end the block exemption between 2000 and 2002 was heavily supported by the British government.

Commissioner Monti concluded that the EU should not just facilitate the work of brokers but permit distributors to position themselves as more independent of manufacturers so that the internationalisation of vehicle distribution could also be accomplished by car dealer networks. The Commission thus adopted the notion of a 'multi-make dealership group with an international presence' as a form of efficiency to be promoted. It was also concluded that the regulation 1475/1995 had defined a specific status of distributor without which no manufacturer could legally assure the sale and after sales service of its vehicles. According to M. Monti, this limited the potential for innovation of manufacturers, be they European or not, and of other current or future distribution actors. As the analysis of the reports commissioned progressed, M. Monti became more attentive to the arguments of the independent repair sector and of certain suppliers who were worried about the restrictions on competition in the area of after sales service. They were particularly worried that the significant technical developments of the automobile product, such as those linked to electronics, were leading to an increase in these restrictions. Similarly, a report commissioned from an English consultancy firm, Autopolis, submitted to the Commission in 2000 was centred upon what had traditionally been called the 'natural link' between new car sales and after-sales service. It clearly highlighted the existence of cross-subsidies which meant that after-sales service activities in the dealer networks of manufacturers were subsidising the sale of NVs. As they were thus benefiting from a form of rent, manufacturers had not offered and were not going to offer to their networks the same advantageous conditions that existed for vehicle sales (Jullien, 2002).

These elements were used by legislators to develop the major innovations introduced in the regulation 1400/2002. In comparison to that of 1475/1995, three significant developments were introduced.

i) Selectivity and exclusivity were no longer both possible and manufacturers had to decide to choose either one or the other. Given the relative importance of both options in the manufacturers' priorities, this was the equivalent of doing away with territorial exclusivity.

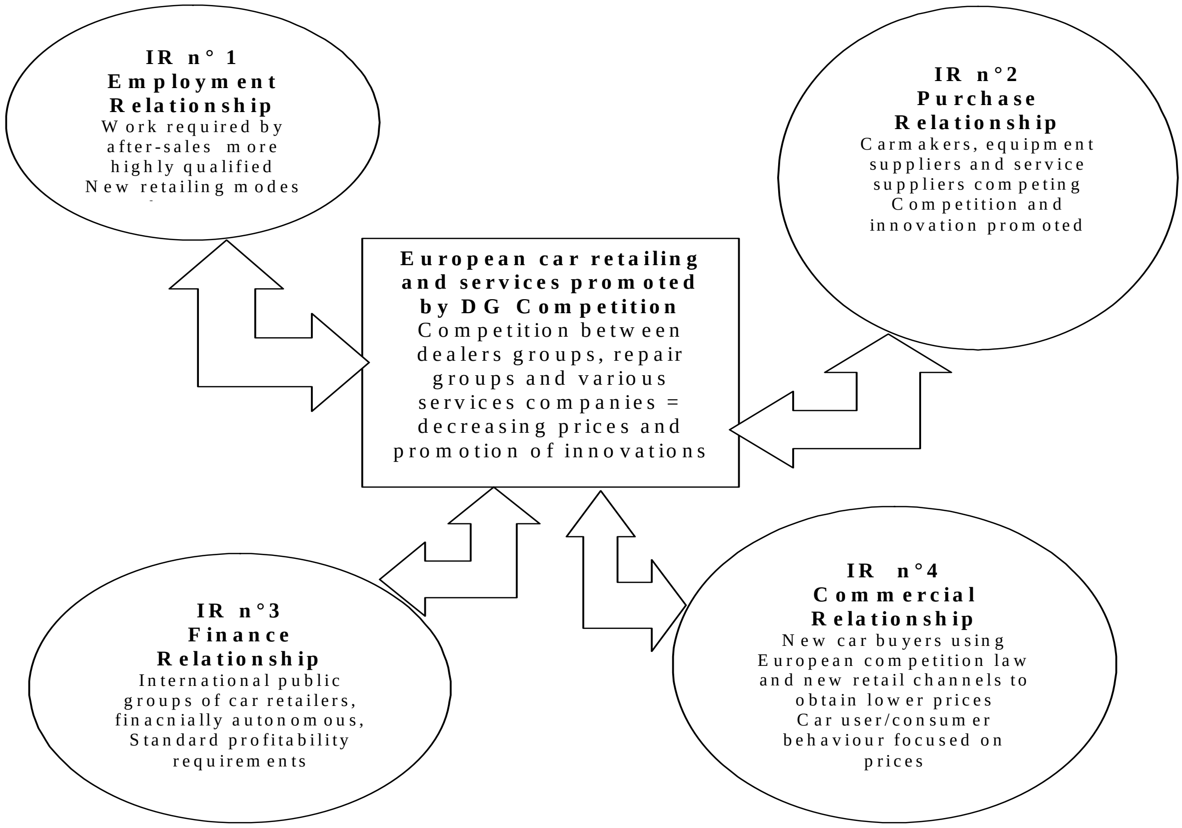
ii) The 'localisation clause' that permitted dealership contracts to refer to one or several explicitly designated distribution sites were abolished. Thus, all operators who were given the right to distribute the vehicles of a make could, in theory, decide to open or close sites as desired, even at a distance from the initial site.

iii) It broke the 'natural link' between sales and after sales service and considered that the right to distribute the vehicles of a make and that of being an 'authorised repairer' with the right to carry out operations under guarantee should be negotiated and contractualised separately. It thus became possible to be a sales outlet without being involved in repair activities and vice versa.

The common aim here was, at least in theory, to introduce some freedom into a system that was considered sewn up by the manufacturers and closed to a degree that the routines in place had become part and parcel of previous regulations. Concretely, under the new regime it became possible for Internet businesses and mass retailers to consider moving into the area of new car sales. Without having to become involved in after sales services and without having a contractual obligation to a territory it is now, at least on paper, feasible for groups such as Carrefour, Corte Inglese or e-Bay, having signed at least one dealership contract with each branded manufacturer, to be present in the market without having to ask anything else of manufacturers beyond the delivery of their vehicles. This should, in the eyes of the legislators, encourage innovation and the principal result should be greater competition between brands, easier international penetration and price homogenisation with greater efficiency overall to the benefit of the consumer. Mario Monti is quoted as saying in relation to the regulatory innovations that they had placed the consumer 'in the driver's seat' of the European car distribution system.

From a different perspective, in relation to spare parts and after-sales service, the new regulation tried to ensure that the consumer would benefit from continued and, if possible, enhanced competition which the technological evolutions of car products was threatening to reduce.

Figure 2.6: European car retailing and services promoted by DG Competition



i) In relation to spare parts, the Commission considered that the monopoly of manufacturers on 'original spare parts' was no longer justified. To a very large degree, these spare parts were not only manufactured but also designed by original equipment manufacturers (OEMs). A significant gap thus existed between the market shares of 'manufacturers channels' for spare parts in comparison to their role in the manufacturing of the parts for the original vehicle. On the other hand, OEMs of the majority of spare parts for the original sale of vehicles had only relatively small shares in the market for spare parts. The monopoly in question was imperfect as a large part of the market for manufacturers' spare parts was in competition with 'matching quality' parts. Nonetheless, it led to a structural tendency with regard to prices for spare parts that was upward moving and that was visible in the healthy margins that they offered both manufacturers and their dealer networks. By permitting OEMs to develop their own distribution channels for 'original spare parts' and by encouraging dealer networks to distance themselves from the manufacturers' dominance in this market, the Commission wished to increase competition and make prices fall.

ii) In relation to servicing and repair of vehicles, the Commission was open to the arguments of actors from the independent distribution networks. They insisted that electronics had grown to represent an important part of work upon recent generations of vehicles and that manufacturers were voluntarily marking it impossible or difficult to access the entire range of technical information necessary to ensure that all these electronic elements were correctly managed when a car was being repaired. While it was not possible to standardise them or to demand that they be made available for free, the regulation 1400/2002 required manufacturers to offer access to all necessary technical information and codes needed 'at a reasonable price' to independent repairers in order to allow them to compete with the manufacturers' networks.

The strategic intention of all of these measures was clear. In the vocabulary of *The Politics of Industry* approach, they were intended to 'deinstitutionalize' the Purchase IR in order to encourage all firms operating in the industry to build their automobile product and service ranges using a more varied set of sources. For the dealership network of the car-makes, the objective was clearly to encourage larger dealerships to become more strategically autonomous because:

- they would no longer be tied to one manufacturer but to several;
- they could source spare parts, used cars and credit from alternative sources;
- they could choose to opt for certain contracts and not others in their dealings with manufacturers.

For 'independents', what was being sought was a broadening of their opportunities by restraining those that had been previously been restricted to manufacturers. In relation to independent repair specialists, the objective was not only to ensure their survival but to encourage their development so that consumers could continue to have a choice and that the manufacturers' networks would be encouraged to improve the quality-price relationship of their service offering. If successful, this regulation was destined to create a more fragmented power base of actors dedicated to reducing prices and increasing the quality of the overall range of automobile services, and this to replace the existing IO that had been built around the interests of manufacturers and their need to push new cars towards consumers who no longer tended to buy them in sufficient quantities.

2.2.2 The behaviour of manufacturers before and after this legislation

Throughout the process of renegotiation of the block exemption, as well as after the decision, the attitude of manufacturers has been ambiguous. This has largely been because the majority of these actors had themselves become involved in a fundamental restructuring of their own distribution networks since the middle of the 1990s (Jullien, 2004, 2006). We will come back to some of the reasons that led to this restructuring but, at this point, we simply outline the main reasons that led to their decision to rationalise their distribution channels during this period.

i) the desire to adapt their commercial practices to a product range that was increasingly varied and more frequently renewed (Behr, 2004; Ballot, Segrestin, Weil, 2006);

ii) the quest for reduced costs;

iii) the need to homogenize and control more closely the quality of the service levels of their dealers as they carried out the entire range of activities required by the manufacturers.

This rationalisation consisted of a 'consolidation' of distribution channels which involved:

- a reduction in the number of sales outlets and an increase in the number of vehicles sold per contract,
- a reduction in the number of operators and an increase in the number of contracts per operator.

This process mostly involved the creation of regional platforms made up of several sales outlets for the same make or for makes of the same group and who shared a certain number of functions. It also involved the manufacturers taking back in hand all of those functions that the network carried out and that were to be subject to the imposition of more and precise and demanding standards to ensure the quality level of service delivery and outcome (Jullien, 2000).

Such moves on their part appear to indicate that the manufacturers themselves were unsure of the efficiency of an industry which they were if not responsible for organising, at least allowed to organise as the preferred. They themselves were, in fact, pushing for the development of distribution groups of a larger size. They were also introducing growing levels of conflict into the relationship with their networks as many existing distributors were destined to disappear and those who remained were going to have to accept greater levels of control.

This means that the Commission's intentions to reform the sector appeared in a context where the actors themselves had already begun a process of strategic reflexion for unrelated reasons. Hence, the information asymmetry between the regulator and the principal industry actors was particularly strong. This also explains why, both before and after the regulation, the manufacturers appear to have negated, whether consciously or not, all potential threats posed to them by DG Competition. This can be seen by recalling the major innovations of regulation 1400/2002.

i) The fact that distribution was no longer exclusive but only selective has mainly served the interests of manufacturers. They have been able to use this change to threaten their dealers with loss of market share if they do not improve their performance in comparison to neighbouring dealers. As they continued to remunerate dealers based on their performance as measured by the potential of a catchment area, the overall effect was only marginal. The manufacturers knew this and their predictions have become reality. In addition, when the manufacturers wished to oust a dealer to transfer the zone to another dealer, they were able to do so without ending the contract. The difficulties that the dealer experienced when in competition with a more effective dealer were sufficient to give rise to the desired effect.

ii) For related reasons, the suppression of the localisation clause has had no effect as there was virtually no dealer that used this clause. This is because margins on new car sales are very low and dealers often forego them in order to make sales with discounts. Dealers avoid losses through the bonuses they receive based on reaching the objectives that the manufacturer has set. In such a system, no rational distributor would open an outlet in a zone where it would be impossible to access these bonuses.

iii) Similarly, given the structure of profitability of a car dealership, no dealer could cover all fixed charges without after-sales service and spare parts. Manufacturers have consciously reinforced this phenomenon since 2000 by limiting margins on new car sales to discourage non-sought after new entrants. Thus, in 2003, when they were obliged to rewrite their contracts in order to propose three options instead of only one, no dealer chose an alternative to the original contract covering the three major activities. In addition, the manufacturers used the opportunity that arose to rewrite the contracts to make their standards more exacting, thus piggybacking on the regulation to promote their own strategies of consolidation.

Clearly, both in advance of and since the regulation, the manufacturers appear to have benefited from the means necessary to maintain and renew their central role vis-à-vis their distribution networks. From this perspective, Mr. Monti and his DG neglected taking into consideration the crucial fact that the manufacturers had tight control over margins of dealerships through remuneration systems which have not evolved and which have neutralised the effect of the major regulatory moves introduced.

In relation to spare parts and after sales service, the same conclusion is also valid.

i) The question of spare parts is similar to that of new car sales. Car distributors are also distributors of spare parts because, in their respective territories, they are responsible for the supply of spare parts to both authorised and other repairers to repair vehicles of their make-owner. Manufacturers set them revenue objectives that give them access to bonuses. Using or distributing competitive parts in this context is only feasible if dealers can at least earn as much profit by selling the alternative spare parts. If the dealer has accepted a spare parts contract with the manufacturer, this will not be the case. If the spare parts contract is not accepted, the dealer has little chance of being offered the others and it would subsequently be difficult to find a partner who would be in a position to offer them a high enough service level to meet the expectations that repairers have for the representative of a make-owner. The distributors of makes have an important advantage over multi-make wholesalers because they cover the entire range. As they realised this, manufacturers were anxious to remain the most important partner to independents. To do so, they restructured their product policy and their logistics. They also managed to convince OEMs – for whom they were relatively powerful negotiators given the size of their purchases for car manufacturing – that it would be advantageous if the majority of the spare parts activity continued to pass through their networks.

ii) As regards the sharing of technical information, the principles are less important than the real-world conditions under which the legislation is applied. From this point of view, the majority of manufacturers obeyed the law and developed systems that theoretically allowed repairers access to the technical information they needed at a reasonable price. These prices however become relatively high for an independent repair specialist who must purchase them for each make owner. However, they are

> relatively low for independent repair outlets that have numerous outlets or for training institutions and organisations that edit technical documents or supply the diagnostic equipment. Prices are defined for independent repairers and stipulate that this price is only for private enterprises that use the information and do not diffuse it. A first level of ambiguity lies here. Automobile professionals know from experience that such information is only useful if it can be translated into solutions to real problems. This gives rise to a more nuanced difficulty. It is not enough to have access to technical information. Instead, it is necessary to ensure that the manufacturers provide information of an operational type.

In summary, the whole range of the legislator's intentions were problematized around a vision of the automobile industry that was a poor representation of reality and that thus had little chance of changing it as intended. The manufacturers' capacity to organise themselves around, rather than submit to the changes in the industry's regulatory framework, do not appear to have been taken into account sufficiently. Indeed, in its scenario of the industry's future, the Commission makes reference to actors such as mass retailers, large multi-make dealerships and OEMs wishing to confront car manufacturers head-on, but whose existence is entirely fictitious. The real actors in the marketplace have not, in fact, sought to take advantage of the opportunities that the Commission was seeking to offer them. In its representation of the industry, the Commission presents the manufacturers as the dominant actors in a marketplace in which the law has allowed them to engage in rent seeking behaviour. In doing so, it appears to have actually encouraged them to develop this role even further. Already, before this legislation was decided and introduced, and particularly since then, the manufacturers had begun a fundamental restructuring of their dealership networks that has renewed their dominant role over the entire range of trades involved in automobile distribution and servicing (Jullien, 2006).

2.2.3 Evaluation of the regulation's impact and future scenario

The regulation 1400/2002 was, like its predecessor, adopted for seven years. The process of evaluating its impact and new negotiations over the shape of future legislation began in the summer of 2006 with the publication of a report commissioned from the English consultancy firm, London Economics (2006). The report and the subsequent commentary by the new Competition Commissioner, Nelly Kroes, offer insights into the way in which actors from the

Commission interact with industrial dynamics (Jullien, 2006), and on the possible outcomes that may emerge for the industry in which we are interested (Jullien, 2007).

The report from London Economics could only bear witness to the elements outlined in the previous section. Automobile manufacturers had indeed strengthened their positions in relation to each of the areas that had been exempted: the sale of new vehicles, the sale of spare parts and after sale service activities.

i) In relation to the sale of new cars, none of the initiatives had been genuinely implemented. The landscape had not changed. Vehicles continued to be distributed in Europe by single-make sites that, as in the past, proposed the range of possible automobile trades accorded to the dealership network. Nevertheless, the point was made that there are now more large dealership groups than hitherto and that a growing number are multi-make. The Commission takes credit for this development and highlights the fact that this has facilitated the penetration of European markets by dealers representing Japanese and Korean manufacturers - thus increasing competition.

ii) In relation to the second and third areas, the units of measurement adopted by London Economics indicate that the market shares of manufacturers for spare parts has risen significantly and that the dealership networks continue to source the overwhelming majority of their spare parts from manufacturers. The report does underline the emergence, in Germany and France in particular, of alternative distribution networks to those of the manufacturers who appear more capable than before of supplying repairers with the necessary spare parts and services to deal with technological change. Nonetheless, the report accepts that these emerging alternative suppliers have not stopped manufacturers reversing the trend noted in the 1980s and 1990s when they were losing market share in spare parts.

In addition to these points, the report also shows, as does our own research, how this single EU regulation has been readily adapted to the very strong structural and organisational differences that persist in the industry from one national configuration to another.

However, in both the report submitted by London Economics and the commentary of the Commission on the report, it is quite striking that the obvious contradiction between what was desired and what actually happened has not given rise to a negative evaluation of regulation 1400/2002. On the contrary, by changing the arguments used, DG Competition prides itself in the on-going developments for which it takes credit. The argument from this perspective is as follows: previously, the manufacturers and their dealer networks dominated the sector for the wrong reason and, henceforth, now that the regulatory barriers to entry have been removed, this dominance exists for the right reasons. The Competition Commissioner has explained explicitly that the role of DG Competition is neither to offer artificial life support to firms that are technologically and economically unviable, nor is it to guarantee an equitable power balance in the contractual relationships between the different industry actors. In essence, the Commission accepts that the strongest actor is such by virtue of its 'competence' and 'efficiency'. Consequently, the fact that it uses this position to eliminate some actors from the market and impose on others contracts that deprive them of all strategic autonomy is seen as the functioning of the normal 'market' mechanism in a modern economy. From a theoretical perspective, this corresponds to a classic opposition in Industrial Organization between two points of view. One is a structuralist viewpoint that considers competition can only exist when there are competitors; the other is the Chicago school that says that if no competitors exist when nothing is stopping them from being there, this is because there should not be any. Today's Commission thus appears to accuse its predecessor of having developed the first approach when the second is more appropriate. For Nelly Kroes, the Commission is not supposed to have preferences with regard to this industry – nor in others - and its role is simply to ensure that what should be actually is.

What this reveals above all is the development of a doctrine in relation to competition that is less and less 'pragmatic' and thus less likely to integrate different types of requirements and priorities (Ramirez, 2006; 2007a; 2007b). Adopting this approach in this case has given rise to the paradox we have outlined whereby the politico-legal domination of the manufacturers has been reinforced. The politically fragile DG Competition has subsequently turned out to be concerned primarily with protecting itself from attacks on its own legitimacy and from a reduction in its powers and sphere of influence. Moreover, this weakness renders it structurally incapable of self-criticism. The evaluations of its own actions are thus systematically self-congratulatory. A final revelation from this case study is that the regulator is incapable of developing sufficient expertise on the industries concerned by its decisions to avoid becoming overwhelmed by them. The new doctrine that appears to be emerging within the Commission can thus be interpreted as a form of rationalisation of - or even a certain level of pride in – its own powerlessness.

In 2007, this unequal struggle between the manufacturers and the Commission led to a form of consensus concerning the idea that the law is not, in fact, very important. Thus, unlike what had been seen in regulations 1475/1995 and 1400/2002, the manufacturers are no longer necessarily convinced that they need to benefit from a block exemption in order to continue to carry out their role as organisational architects of the automobile service sector. The franchising solution that they may be required to apply no longer poses any significant problems for them. A clause-by-clause comparison of the types of contract they currently have (block exemption rules) and those they may be obliged to offer (franchising rules) highlight two main elements:

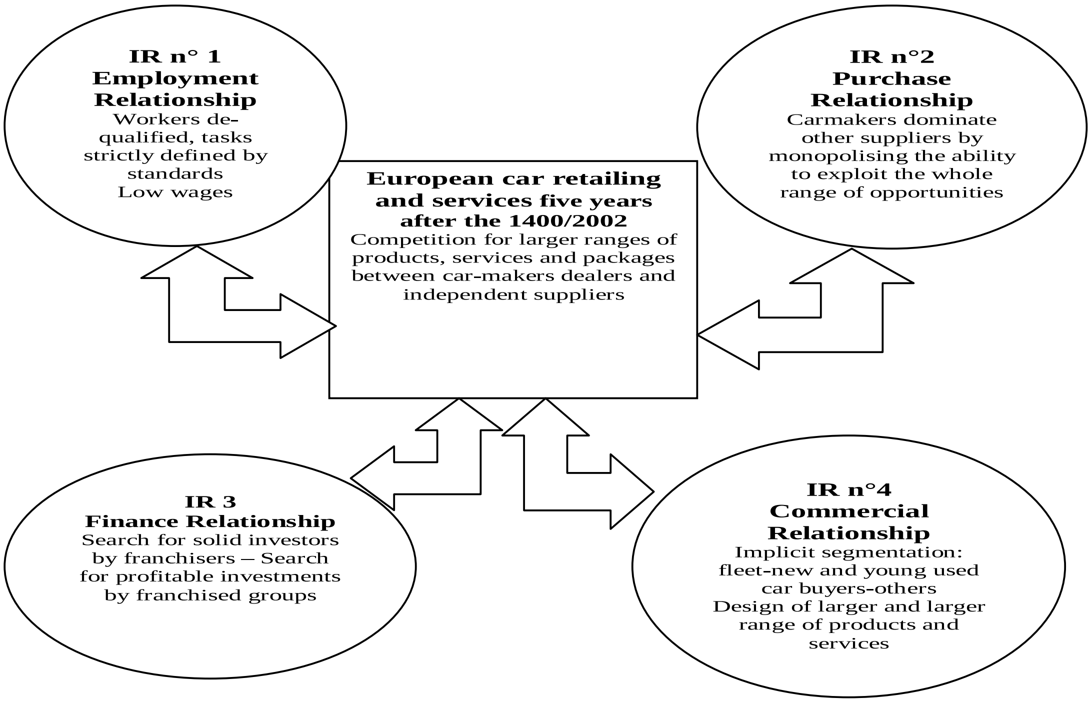
i) A franchise in the car industry is used to allow a manufacturer to control the conditions under which its products are distributed and/or repaired. As a result, the franchisor has a lot of room to manoeuvre and is mainly limited in what can be imposed by its ability to attract franchisees willing to sign up, rather than by the legal protection afforded to franchisees.

ii) As both parties are entirely free to choose to enter into the contract or not, the legislator does not see it as necessary to protect the interests of the weaker party against those of the franchisor.

In short, the regulatory framework of franchising appears more favourable to car manufacturers than the current block-exemption based regulatory framework.

In this scenario, because the law no longer has much to say, issues concerning distribution and servicing of automobiles will, more than ever before, be determined by the power-based relationships between manufacturers as franchisors and dealers, who in turn will have become managers of a portfolio of franchisees. From a French perspective, where even the largest emerging dealer groups are still dwarfed by manufacturers in terms of their size, the outcome is not hard to predict. All that remains uncertain in such a context is whether dealers will manage to come together in a structured fashion to negotiate collectively with regard to each clause in the franchise contracts that the manufacturers will propose. This potential for rebalancing the unequal distribution of power appears highly unlikely, however, given both the individualistic tendencies that dealer groups exhibit and the clearly divergent interests that certain groups have vis-à-vis others. From the perspective of the United Kingdom, the Netherlands, Belgium or Austria – countries without car manufacturers – things appear different. In these countries, dealer groups have emerged already who are capable of managing portfolios of franchises and of operating trade-offs between them based on their respective profitability levels. The franchises that manufacturers will be proposing in the future will not be easily imposed on these groups. Each manufacturer will have to build its own terms, defend them and adapt them in light of the competing proposals of other manufacturers, operators and of the dealer groups themselves.

Figure 2.7: European car retailing and services five years after the new BER



3. Conclusion

With respect to the questions we asked in the introduction, the examination of our industry allows us to outline how industrial actors and public policy makers responsible for regulating an industry interact during a phase of deinstitutionalisation-reinstitutionalisation. As we have seen, globalization has not had many direct impacts upon this process. However, through providing legitimizing impetus for the increased intervention of EU competition policy, globalization has been used as part of a liberalizing political project (Hay, 2006) which has had a number of indirect impacts which we synthesize below. More precisely, by applying the *Politics of Industry* approach, this chapter has generated four sets of insights upon this indirect relationship between globalization and change in Europe's automobile distribution industry.

i) Competition policy is obliged, whether or not its decision-makers so wish, to take into consideration problems not related to competition. This is particularly true when it has to judge whether exemptions are feasible for an entire sector. DG Competition has thus been called upon to seek compromises between the perspective that is dictated by its mandate and the – equally legitimate – perspectives of other actors and policy makers. In reality, competition policy (or what is presented as such) is also liable to play roles other than that of promoting competition or economic efficiency even when it needs to integrate these aspects into specific arguments. This has not improved debate either in terms of clarity or democratic efficiency. At least in the past, however, the effectiveness of public action has been improved whenever DG Competition has acted in a manner that has been economically and politically 'pragmatic' (ie. concerned with industrial organization and not just competition).

ii) Even when DG Competition has imposed a common regulatory framework on all member states, there is no guarantee that the outcome will be a harmonization of the industry that corresponds to the discovery of an efficient and 'liberalized' model. In relation to automobile distribution, this is because the European regulatory mechanism is incomplete and only covers one of the instituted relationships – the Purchase IR – and this only partially. The supply of automobile-related services requires the simultaneous regulation of both the overall competitive arena and the three other IRs. As these other relationships are not highly subject to European regulation, they are essentially instituted at national (Employment, Commercial) or global (Financial) levels. Consequently, the European automobile services sector operates as a grouping of national industries rather than as a European industry.

iii) When DG Competition has limited itself to the mandate of regulating competition in an industry, its vision of the latter has been very limited and relatively unrealistic. In part, this is because its approach is cognitively incomplete. Competition policy conceived in this way involves imposing a 'sectorised' and static perspective on productive practices and strategic behaviours. Firms, however, adopt new practices which adapt to the mobility in activity required by new competitive orders. It is hardly surprising that the outcome of this asymmetry is that the impact of regulatory changes does not confirm to the 'legislator's intentions'. It is as if the DG Competition were playing a war of position against industrial operators who are playing a war of movement. What is clear is that representatives of DG Competition believe they are regulating 'markets' whereas the competitive arenas in question do not in fact feature such characteristics.

iv) Nonetheless, and despite these fundamental inadequacies, European regulatory activity in a sector such as automobile distribution has had a major impact. It has operated as a catalysing force on the strategic activity of actors between 2000 and 2007. Threatened with imposed changes that the Commission was announcing as major, the principal groups of actors have engaged in political work and strategic initiatives, both in advance of and subsequent to the introduction of EU regulations. These initiatives themselves have operated as powerful forces for change and tended to be discussed and negotiated in the field rather than within DG Competition in Brussels. By lacking representation in the areas where change was actually occurring, the Commission has in fact been left out of much of the process of change.

Notes:

1) From the point of view of public authorities, the EU's dynamic of integration relies mainly on its competence in relation to the regulation of competition through the European Commission's DG Competition. The latter is nonetheless supported by DG Internal Market when issues related to the question of spare parts and related intellectual property rights are being considered.

2) Sloan in the U.S. initially presented General Motors as far more respectful of its dealers in the 1920s than its main competitor Ford (Tedlow, 1996), but he rapidly came to understand this basic principle (Jullien, 2003).

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