

# Automotive Market: Federal Council makes ComCo's practice in the Motor Vehicle Trade legally binding for the Courts

On 29 November 2023, the Federal Council adopted the Ordinance on the competition law assessment of vertical agreements in the motor vehicle sector ("Motor Vehicle Ordinance"), which will enter into force on 1 January 2024. Following the Pfister motion, the Ordinance will replace the Competition Commission's ("ComCo") Notice on the competition law assessment of vertical agreements in the motor vehicle sector ("Motor Vehicle Notice").

Published: 13 December 2023  
Updated: 14 December 2023

AUTHORS	Marcel Meinhardt Luzius Sidler	Partner, Head of Competition Associate
EXPERTISE	Competition and Regulated Markets	

Similar to the Motor Vehicle Notice, the new Motor Vehicle Ordinance aims to prevent unlawful agreements affecting competition and the isolation of the Swiss automotive market. It applies to vertical agreements regarding the distribution of new motor vehicles and spare parts as well as the provision of repair and maintenance services. The new Motor Vehicle Ordinance specifies the types of conduct that constitute qualitatively significant restrictions of competition in automotive distribution, which were previously recognised as such by the ComCo. These conducts have been adopted from the Motor Vehicle Notice without any significant changes in substance. Only a few minor adjustments have been made to take account of technical developments in the automotive industry. Unlike the previously applicable Motor Vehicle Notice, the new Motor Vehicle Ordinance is now legally binding for both the ComCo and the Swiss courts. On December 4, 2023, ComCo published the explanatory notes to the Motor Vehicle Ordinance, which will also enter into force on January 1, 2024. In principle, the explanatory notes follow those of the EU. ComCo comments on the restriction of parallel imports, access to spare parts and technical information for



independent garages, multibrand distribution by garages and cancellation modalities. The explanatory notes are for guidance only and are not legally binding for the Swiss courts.

Companies active in the automotive sector are advised to review their dealer contracts in the light of these changes. All the more so as the requirements go beyond those of EU antitrust law.

---

CONTACTS

Marcel Meinhardt

Partner, Head of Competition, Zurich  
marcel.meinhardt@lenzstaehelin.com  
Tel: +41 58 450 80 00

Astrid Waser

Partner, Zurich  
astrid.waser@lenzstaehelin.com  
Tel: +41 58 450 80 00

Benoît Merkt

Managing Partner, Head of Competition, Geneva  
benoit.merkt@lenzstaehelin.com  
Tel: +41 58 450 70 00

---