

Position Paper

Franchise

Brussels, March 2018

ABOUT CECRA

CECRA is the European umbrella association of the motor trade and repair sector representing the interests of both, franchised vehicle and truck dealers and independent repairers. In Europe there is a total of 46,720 vehicle and truck dealers and 290,000 repairers. Those – predominantly small and medium-sized – companies employ approximately 2.9 million people being responsible for the sale of almost 16 million new vehicles a year as well as the repair and maintenance of the 228 million existing passenger vehicles and 38.5 million commercial vehicles. Thus it is ensured that vehicle users in Europe can rely on a network of qualified experts for the purchase and maintenance of their vehicles.

A European framework for franchising: a possible instrument to fix unbalances in the dealer contract

Existing unbalances in the automotive dealer contract

After the expiry of the MVBBER in May 2013 an increasing number of unfair contractual practices have been recorded in the relation between automotive dealers and their manufacturers. CECRA has been denouncing them to the European authorities over the past years, but no legislative initiatives have been taken by the European Commission.

European Parliament Resolution on the functioning of franchising in the retail sector

In September 2017, the European Parliament - under the impulse of the Dutch MEP, Dennis de Jong - adopted with a large majority a European Parliament resolution on the functioning of franchising in the retail sector. The aim of this initiative is to highlight the existing loopholes when it comes to franchising contracts in the EU, and to stress the need for more legal certainty and a better protection of both the franchisee and the franchisor all around Europe.

CECRA's standpoint

The European Parliament initiative as a political opportunity to highlight and possibly fix the unbalances in the automotive dealer contract. More precisely, CECRA's aim is to obtain rules and principles which render the contract between the OEM and the dealer more transparent and balanced, i.e.:

- no unilateral changes to the contract nor parts of it;
- obligation for the OEM not to stand in the way of a request by the dealer to close-down or transfer the business on unreasonable grounds;
- a transparent system allowing the dealer to exercise control on its own business without unnecessary and unjustified intrusion of the OEM in the business of the dealer.

Once informed about the initiative of the European Parliament, CECRA has opened a constructive discussion with the MEP promoting the resolution, Dennis de Jong. The dialogue held with the European Parliament has been an excellent opportunity to highlight, once again, some of the contractual practices that negatively affect the quality of the European automotive dealer's daily business.

The Way Forward

As a result of the Parliament resolution a public consultation should be launched by the European Commission to evaluate the European stakeholders' views on this topic, and an official answer to the points raised in the resolution should be given by the European Commission.

In the light of these upcoming events, CECRA took also the opportunity to provide more personal testimonies from automotive dealers who have recently been facing unfair practices in the relation with the manufacturer/importer. Moreover, CECRA is also trying to establish a dialogue with other European business associations who hold the same interests in regard to the franchise contract.