



Brussels, 17<sup>th</sup> of April 2008

**Commission Regulation (EC) No.2790/1999 on the application of Article 81 (3) of the Treaty to categories of vertical agreements and market practices (“Vertical Agreements Block Exemption Regulation”)**

**ACEM Position Paper**

ACEM understands that the European Commission is in the process of reviewing and assessing market experience with the Vertical Agreements Block Exemption Regulation prior to its expiry in 2010. ACEM is pleased to offer the following comments in support of the Commission’s review.

**ACEM Introduction**

ACEM/Association des Constructeurs Européens de Motocycles G.E.I.E. was founded in 1994 and represents all major motorcycle manufacturers in the European Union (European or producing in Europe) whose products marketed under 20 different brand names range from 50cc mopeds to the biggest cruiser and touring bikes. ACEM also represent 15 motorcycle industry associations in the member states (please see annex 4 setting out the names of manufacturers and industry associations member of ACEM).

Powered Two-Wheelers (PTW’s) are divided into different segments such as mopeds, scooters, super-sport, touring, commuter, custom, traditional and off-road bikes. This large range of products explains why we refer to them simply as Powered Two Wheelers.

The PTW sector employs over 200,000 people and represents a turn-over of 10 bn EURO in EU, of which ACEM members are responsible for 90% of the total production and up to 95% of the total market in Europe. This represented over 2.2 million PTWs in 2006.

**Experience of the Powered Two-Wheeler Industry regarding the “Vertical Agreements Block Exemption Regulation 2790/1999”**

After more than seven years of operational experience, the members of ACEM – manufacturers as well as national associations – wish to confirm their satisfaction with the competition law framework provided by the Vertical Agreements Block Exemption Regulation. They observe that PTW dealers as well as consumers largely benefit from the

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balanced approaches of the Vertical Agreements Block Exemption Regulation. Please note that PTW manufacturers have gained good experiences with both exclusive as well as selective distribution systems.

In particular ACEM wishes to draw the attention of the Commission to some beneficial concepts within regulation 2790/1999 :

- The ability of Motorcycle manufacturers to adopt both Selective and Exclusive distribution systems. This has provided a useful element of flexibility in determining the best system to use to achieve the most competitive business position.
- Use of non-compete clause (within the limits defined under the vertical agreements Block Exemption Regulation) at the manufacturer's discretion to achieve the most competitive position in certain markets and locations.
- The absence of a Location clause, which has enabled manufacturers to decide the optimum number and location of official dealers for not only customer convenience, but also to protect the dealers' significant investment.
- Link between distribution and after sales activities. It is clear from ACEM members experience that consumers expect their supplier to provide after sales service. Equally important is the fact that dealers need the financial contribution of sales service and parts business to achieve a level of viability and profitability.
- The application of minimum standards criteria as determined by the manufacturer has been to the benefit of the consumers, in terms of the quality and consistency of dealers' sales and aftersales service. In this regard ACEM wishes to stress the safety aspect of the requirement for a very high standard of the service capability at dealer level, both for checking the condition of new and used powered two-wheelers for sale, and for ensuring a high technical competence of service. From a customer, dealer and manufacturer's point of view safety must be paramount.

ACEM can confirm that the Vertical Agreements Block Exemption has worked well for manufacturers, dealers and customers alike. A very good measure of this is that ACEM members are not aware of any complaints, from dealer or consumer, arising from the operation of regulation 2790/1999.

ACEM also wishes to stress that its members and dealers are operating in an increasingly competitive PTW market in Europe. There have been many new entrants adding to the already strong competition over the last few years, especially from Chinese and Indian brands. Please see the significant growth of "others" on the annexes. ACEM expects the number of new entrants will continue to raise, making the European PTW market even more competitive, but at the same time offering even wider choice and benefit for the PTW consumers.

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The annexes to this paper bring an illustration of this conclusion through a series of graphs, which describe the evolution of the PTW market, and the evolution of manufacturers' volumes and market shares between 1999 and 2007. One can retain as main trend:

- Annex 1 - A market shift between mopeds and motorcycles to the benefit of the latter resulting in an increase of the market value;
- Annex 2 – A very open market with about one hundred different trade marks in competition.
- Annex 3 – Members of ACEM

In conclusion, the current Vertical Agreements Block Exemption Regulation has enabled ACEM members to substantially improve their PTW distribution systems, and to be more competitive in the market place. The PTW market in Europe which was already very competitive, is becoming even more competitive, providing consumers with wider choices, value and benefits.

However, overall, ACEM believes this current regulation works well for the benefit of all interested parties. ACEM would propose that this regulation remains unchanged after May 2010 for a further period of at least 10 years, in order to maintain continuity and legal certainty.

ACEM appreciates the opportunity to bring these issues, and its views, to the attention of the European Commission and looks forward to further detailing our position and experiences in dialogue with the Directorate General for Internal Market.

**Association des Constructeurs Européens de Motocycles**

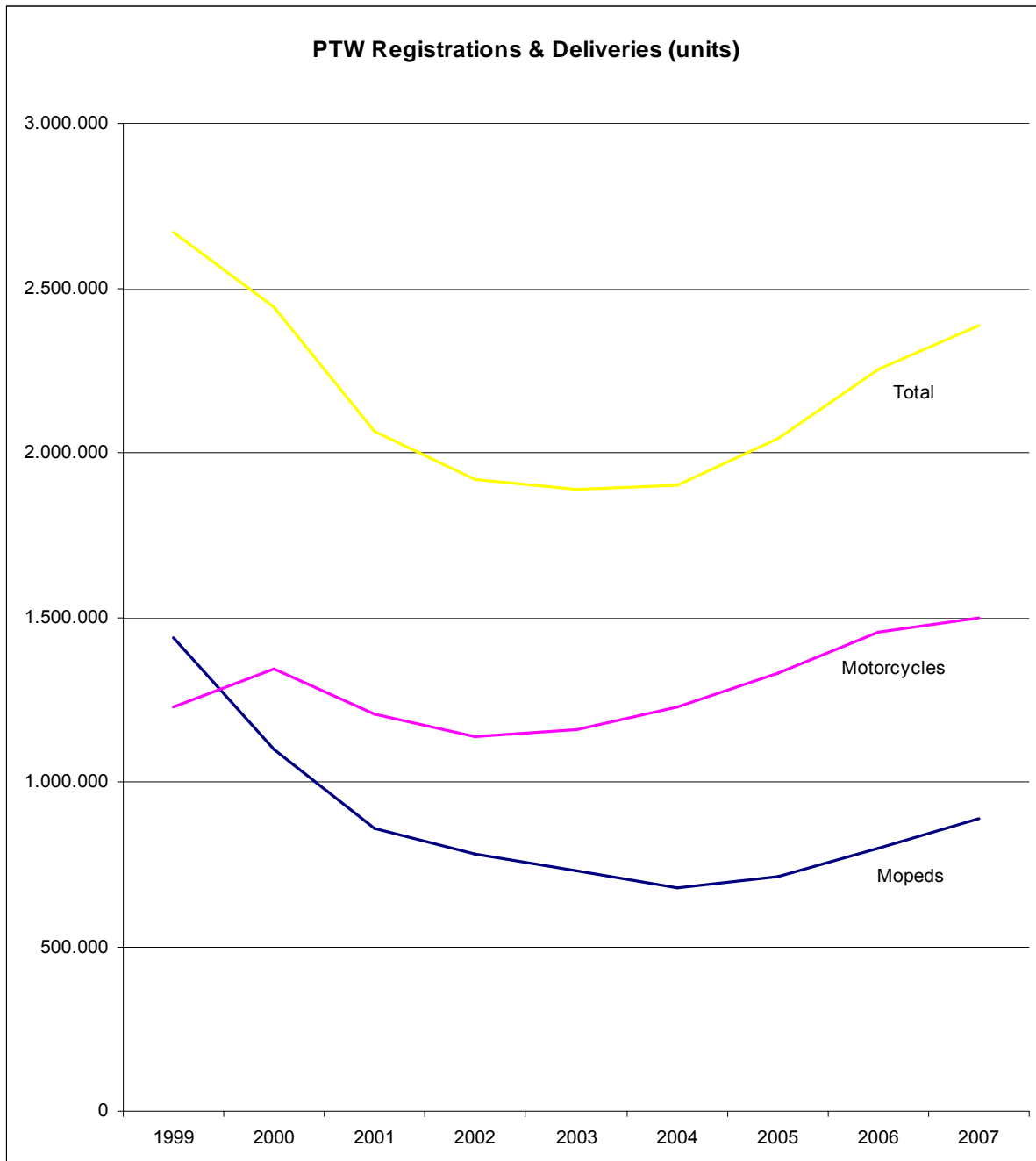
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**Annex 1 – Evolution of the Powered Two-Wheeler market in Europe (Moped 20 countries, Motorcycles 25 countries)**



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## Annex 2 – Brands covered by the ACEM statistics

AJP	GIANTICO	LML	SHINERAY
APRILIA	GILERA	LONCIN	SKYTEAM
BAJAJ	HAOJIN	MAICO	SUMCO
BAOTIAN	HERO	MALAGUTI	SUZUKI
BENELLI	HARLEY	MASAI	SYM
BETA	HARTFORD	MBK	TGB
BIMOTA	HONDA	MODENAS	TM RACING
BMW	HUSABERG	MONDIAL	TOMOS
BUELL	HUSQVARNA	MOTO GUZZI	TRIUMPH
CAGIVA	HYOSUNG	MOTO MORINI	URAL
CANNONDAL	ITALJET	MOTORHISPANA	VICTORY
CF MOTO	JAWA	MV AGUSTA	VOR
CCM	JIALING	MZ	VOXAN
CONFEDERATE	JINCHENG	NORTON	YAMAHA Group
CPI	JMSTAR	PEUGEOT	YINXIANG
DEALIM	JONWAY	PGO	YUMBO
DAYTONA	KAWASAKI	PIAGGIO Group	ZHONGNENG
DERBI	KEEWAY	QINGQI	ZONGSHEN
DUCATI	KINROAD	RENAULT	
ENFIELD	KTM	RIEJU	
FACTORY BIKE	KYMCO	RIZZATO	
FISCHER	LAVERDA	SACHS	
FYM	LIFAN	SANYANG	
GARELLI	LINGKEN	SCORPA	
GAS GAS	LINHAI	SHERCO	

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**Annex 3 – Members of ACEM**

**Manufacturers**

**BMW AG - Motorcycle division**

**DUCATI Motor Holding S.p.A**

**Harley-Davidson Europe**

**HONDA Europe Motorcycle s.r.l.**

**KAWASAKI motors European.v.**

**KTM Sport Motorcycle AG**

**PEUGEOT Motorcycles**

**PIAGGIO & C. S.p.A.**

**SUZUKI International Europe GMBH**

**TRIUMPH Motorcycles Ltd.**

**YAMAHA Motor Europe n.v.**

**National Associations**

**AIA**

Automotive Industry Association of the Czech Republic

**AIMID**

Association of Irish Motorcycle Importers & Distributors & Distributors

**AMVIR**

Association of Greek Motor Vehicle Importers-Representatives

**CONFINDUSTRIA ANCMA a.s.**

Associazione Nazionale Ciclo Motociclo Accessori (Italy)

**ANESDOR**

Asociacion Nacional de Empresas del Sector de dos Ruedas

**C.S.I.A.M.**

Chambre Syndicale des Importateurs d'Automobiles et de Motocycles

**CSNM**

Chambre Syndicale Nationale du Motocycle

**EQUAL**

European Quadricycle League

**FEBIAC a.s.b.l.**

Fédération belge de l'Automobile et du Cycle

**FFÖ**

Fachverband der Fahrzeugindustrie Österreichs

**IVM e.V**

IndustrieVerband Motorrad Deutschland

**MCIA**

Motorcycle Industry Association Ltd

**McRF**

Moped & Motorcykelbranschens Riksförbund

**PZPM**

Polski Związek Przemysłu Motoryzacyjnego

**RAI**

Association Nederlandse Vereniging De Rijwiel en Automobiellindustrie

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