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FAS Russia Recommendations to Distributors and Producers of Automotive Components in the Russian Federation

Federal Antimonopoly Service of the Russian Federation (FAS Russia) has published on its Internet site in the section "Clarifications" (in Russian only) the Recommendations to Distributors and Producers of Automotive Components in the Russian Federation dated 7 September 2012.

By these Recommendations FAS Russia suggests to distributors and producers of automotive components to comply with the certain requirements in the process of establishing relationship with dealers and service centers. It is recommended, inter alia, the following:

- to conclude dealer agreements for a period of at least 5 years with the dealers having borne "substantial capital investments" in their business development;
- to provide a reasoning in writing in case of dealer agreements termination;
- to abstain from introducing discriminating conditions for dealers and independent service centers; as well as
- to elaborate internal policies outlining the criteria for dealers selection, as well as principles of interaction with dealers.

It should be noted, that the Recommendations per se do not have status of a normative document, and hence do not impose any binding obligations upon third parties. However, FAS Russia's authority to issue recommendations directly is provided by Regulation "On Federal Antimonopoly Service" (as approved by Resolution of the Russian Federation Government No. 331 dated 30 June 2004). Accordingly, FAS Russia acting within its competence has thereby notified the market players on criteria which will be applied by antimonopoly bodies in course of eventual administrative investigations, where actions of automobile producers and distributors aiming at restraint of competition become subject of examination.

It is obvious that the Recommendations represent aspiration of FAS Russia to establish rules of the game on competitive markets (one of which is market of automobiles and auto spares) being in process of consolidations, when major players may succumb to temptation to limit access to the market to smaller players. FAS Russia made attempts earlier to establish rules of the game in the case of "Novo-Nordisk" LLC in relation to pharmaceutical industry. Hence, we observe that the Recommendations referred to above go forward to development of that precedent (and repeat it considerably); at that FAS Russia takes proactive position, making a step to prevention of possible violations of antimonopoly legislation.